

# HOUSE BILL 648

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CF SB 679

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By: **Delegates Dumais, Ali, Barnes, Barve, Benson, Bobo, Bronrott, Doory, Feldman, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Haddaway, Hecht, Hucker, Ivey, Jones, Kaiser, N. King, Kramer, Krysiak, Kullen, Lawton, Lee, Manno, McComas, McIntosh, Mizeur, Montgomery, Nathan-Pulliam, Oaks, Pena-Melnyk, Rice, Schuler, Shank, Shewell, Simmons, and Smigiel**

Introduced and read first time: February 8, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

### 2 **Family Law – Denial of Paternity, Custody, and Visitation**

3 FOR the purpose of excluding as a father of a child a man who has committed a  
4 certain sexual crime against the child's mother for purposes of certain  
5 provisions relating to guardianship and adoption of a child under certain  
6 circumstances; authorizing the court to order a man to provide financial support  
7 to a child under certain circumstances; prohibiting a court from awarding  
8 custody or visitation of a child to a parent who has committed a certain sexual  
9 crime against the other parent under certain circumstances; requiring the court  
10 to consider the safety and well-being of the child's other parent or guardian in  
11 approving supervised visitation; making a conforming change; and generally  
12 relating to paternity, custody, and visitation.

13 BY repealing and reenacting, with amendments,

14 Article – Family Law

15 Section 5–306, 5–318(a)(1), 5–3A–06, 5–3B–05, and 9–101.2

16 Annotated Code of Maryland

17 (2006 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Family Law

2 5-306.

3                   (a) Unless a court excludes a man as the father of a child, a man is the father  
4 if:

5 (1) the man was married to the child's mother at the time of the child's  
6 conception;

7 (2) the man was married to the child's mother at the time of the child's  
8 birth;

11 (4) the child's mother has named the man as the child's father and the  
12 man has not signed a denial of paternity;

13 (5) the man has been adjudicated to be the child's father;

14 (6) the man has acknowledged himself, orally or in writing, to be the  
15 child's father and the mother agrees; or

16 (7) on the basis of genetic testing, the man is indicated to be the child's  
17 biological father.

18                   **(B) ON MOTION OF THE CHILD'S MOTHER, AND AFTER NOTICE AND A  
19 HEARING, A COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE  
20 COURT:**

22 (I) THE MAN HAS COMMITTED AN ACT PROHIBITED BY §  
23 3-303, § 3-304(A)(1) OR (2), § 3-323, OR § 3-602 OF THE CRIMINAL LAW  
24 ARTICLE AGAINST THE CHILD'S MOTHER OR HAS COMMITTED AN ACT IN  
25 ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD  
26 CONSTITUTE THAT ACT; AND

1 (II) THE CHILD WAS CONCEIVED AT THE TIME OF THE ACT;  
2 AND

6 (C) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER  
7 SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO  
8 PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10  
9 OF THIS ARTICLE OR OTHERWISE.

10           **[(b)] (D)**    (1)    A petitioner under Part II or Part III of this subtitle shall  
11    give a juvenile court notice that a man who is not named in the petition and has not  
12    been excluded as a father claims paternity.

16 5-318.

21 5-3A-06.

22 (a) Unless a court excludes a man as the father of a child, a man is the father  
23 if:

24 (1) the man was married to the child's mother at the time of the child's  
25 conception;

26 (2) the man was married to the child's mother at the time of the child's  
27 birth;

28 (3) the man is named as the father on the child's birth certificate and  
29 has not signed a denial of paternity;

(4) the child's mother has named the man as the child's father and the man has not signed a denial of paternity;

3 (5) the man has been adjudicated to be the child's father;

4 (6) the man has acknowledged himself, orally or in writing, to be the  
5 child's father and the mother agrees; or

6 (7) on the basis of genetic testing, the man is indicated to be the child's  
7 biological father.

8                   **(B) ON MOTION OF THE CHILD'S MOTHER, AND AFTER NOTICE AND A  
9 HEARING, A COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE  
10 COURT:**

11 (1) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

12 (I) THE MAN HAS COMMITTED AN ACT PROHIBITED BY §  
13 3-303, § 3-304(A)(1) OR (2), § 3-323, OR § 3-602 OF THE CRIMINAL LAW  
14 ARTICLE AGAINST THE CHILD'S MOTHER OR HAS COMMITTED AN ACT IN  
15 ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD  
16 CONSTITUTE THAT ACT; AND

17 (II) THE CHILD WAS CONCEIVED AT THE TIME OF THE ACT;  
18 AND

19 (2) FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS IN  
20 THE BEST INTERESTS OF THE CHILD FOR THE MAN TO BE EXCLUDED AS THE  
21 CHILD'S FATHER.

22 (C) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER  
23 SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO  
24 PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10  
25 OF THIS ARTICLE OR OTHERWISE.

26                   **(b) (D)**      (1)     A petitioner under this subtitle shall give a court notice that  
27 a man who is not named in the petition and has not been excluded as a father claims  
28 paternity.

(2) After a request of a party or claimant and before ruling on a petition for guardianship or adoption under this subtitle, a court shall hold a hearing on the issue of paternity.

4 5-3B-05.

7 (1) the man was married to the child's mother at the time of the child's  
8 conception;

9 (2) the man was married to the child's mother at the time of the child's  
10 birth;

11 (3) the man is named as the father on the child's birth certificate and  
12 has not signed a denial of paternity;

13 (4) the child's mother has named the man as the child's father and the  
14 man has not signed a denial of paternity;

15 (5) the man has been adjudicated to be the child's father;

16 (6) the man has acknowledged himself, orally or in writing, to be the  
17 child's father and the mother agrees; or

18 (7) on the basis of genetic testing, the man is indicated to be the child's  
19 biological father.

23 (1) **FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

(II) THE CHILD WAS CONCEIVED AT THE TIME OF THE ACT;  
AND

(2) FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS IN THE BEST INTERESTS OF THE CHILD FOR THE MAN TO BE EXCLUDED AS THE CHILD'S FATHER.

(C) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10 OF THIS ARTICLE OR OTHERWISE.

**[(b)] (D) (1)** A petitioner under this subtitle shall give a court notice that a man who is not named in the petition and has not been excluded as a father claims paternity.

(2) After a request of a party or claimant and before ruling on a petition for adoption under this subtitle, a court shall hold a hearing on the issue of paternity.

16 9-101.2.

(a) Except as provided in subsection (b) of this section, unless good cause for the award of custody or visitation is shown by clear and convincing evidence, a court may not award custody of a child or visitation with a child:

24 (2) to a parent who has been found by a court of any state or of the  
25 United States to be guilty of a crime that, if committed in this State, would be first  
26 degree murder or second degree murder of the other parent of the child, another child  
27 of the parent, or any family member residing in the household of either parent of the  
28 child; OR

29 (3) TO A PARENT, IF THE COURT FINDS BY CLEAR AND  
30 CONVINCING EVIDENCE THAT:

6 (II) THE CHILD WAS CONCEIVED AT THE TIME OF THE ACT.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2007.