

# HOUSE BILL 1386

D4

6lr2736  
CF SB 962

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By: **Delegates Carter, Cluster, Jalisi, Rey, and C. Wilson**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody – Rebuttable Presumption of Joint Custody**

3 FOR the purpose of creating a rebuttable presumption in certain child custody proceedings  
4 that certain custodial arrangements are in the best interests of a child; authorizing  
5 a court to consider certain factors when determining the best interests of a child;  
6 authorizing the court to award sole custody under certain circumstances; requiring  
7 a court to enter certain information on the record under certain circumstances;  
8 requiring the court to award visitation in a certain manner under certain  
9 circumstances; and generally relating to child custody determinations.

10 BY adding to

11 Article – Family Law

12 Section 9–109

13 Annotated Code of Maryland

14 (2012 Replacement Volume and 2015 Supplement)

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

17 **Article – Family Law**

18 **9–109.**

19 **(A) IN AN INITIAL CHILD CUSTODY PROCEEDING, WHETHER PENDENTE LITE**  
20 **OR PERMANENT, INVOLVING THE PARENTS OF A CHILD REGARDLESS OF A PARENT’S**  
21 **MARITAL STATUS OR GENDER, THERE IS A REBUTTABLE PRESUMPTION THAT:**

22 **(1) JOINT LEGAL CUSTODY IS IN THE BEST INTERESTS OF THE CHILD;**  
23 **AND**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(2) JOINT PHYSICAL CUSTODY FOR APPROXIMATELY EQUAL PERIODS**  
2 **OF TIME IS IN THE BEST INTERESTS OF THE CHILD.**

3           **(B) IN DETERMINING THE BEST INTERESTS OF THE CHILD, THE COURT MAY**  
4 **CONSIDER THE FOLLOWING FACTORS:**

5           **(1) THE PREFERENCES OF THE CHILD IF THE COURT DETERMINES**  
6 **THAT THE CHILD IS OF A SUFFICIENT EMOTIONAL MATURITY AND MENTAL CAPACITY**  
7 **REGARDLESS OF THE AGE OF THE CHILD;**

8           **(2) THE DISTANCE BETWEEN THE RESIDENCES OF THE PARENTS;**

9           **(3) THE DISTANCE BETWEEN EACH PARENT'S RESIDENCE AND THE**  
10 **CHILD'S SCHOOL;**

11           **(4) THE FLEXIBILITY OF EACH PARENT'S WORK SCHEDULE;**

12           **(5) EACH PARENT'S ABILITY TO ASSIST WITH AFTER SCHOOL CARE;**  
13 **AND**

14           **(6) ANY OTHER FACTOR THE COURT FINDS RELEVANT.**

15           **(C) (1) IF THE COURT DETERMINES BY A PREPONDERANCE OF THE**  
16 **EVIDENCE THAT A JOINT CUSTODY ARRANGEMENT IS NOT IN THE BEST INTERESTS**  
17 **OF THE CHILD, THE COURT:**

18                   **(I) MAY AWARD SOLE CUSTODY TO ONE PARENT; AND**

19                   **(II) SHALL ENTER ON THE RECORD THE FACTORS CONSIDERED**  
20 **BY THE COURT IN REACHING ITS DECISION.**

21           **(2) WHEN THE COURT DETERMINES IN ACCORDANCE WITH**  
22 **PARAGRAPH (1) OF THIS SUBSECTION THAT JOINT CUSTODY IS NOT IN THE BEST**  
23 **INTERESTS OF THE CHILD, THE COURT SHALL AWARD VISITATION IN A MANNER**  
24 **THAT ENSURES FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD AND**  
25 **THE NONCUSTODIAL PARENT.**

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2016.