

SENATE BILL 978

D4
SB 550/15 – JPR

6lr1271
CF HB 1232

By: **Senator Lee**

Introduced and read first time: February 12, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody – Legal Decision Making and Parenting Time**

3 FOR the purpose of repealing references to the terms “child custody” and “visitation” in
4 certain instances and substituting the terms “legal decision making” and “parenting
5 time” in certain instances; requiring the court, in determining the appropriate
6 allocation of legal decision making or parenting time between the parties, to consider
7 certain factors; authorizing the court to consider certain factors; specifying that
8 certain factors are not relevant, except under certain circumstances; requiring the
9 court to articulate certain findings of fact on the record; authorizing the court to
10 award joint legal decision making to both parties under certain circumstances;
11 prohibiting a party from changing certain circumstances of a child without
12 agreement of the other party or order of the court under certain circumstances;
13 authorizing the court to modify a child custody or visitation order or a legal decision
14 making or parenting time order under certain circumstances; specifying that a
15 party’s proposal to relocate the residence of the party or the child in a certain manner
16 constitutes a material change in circumstances for purposes of a modification of an
17 order; specifying the purposes of this Act; repealing certain provisions relating to a
18 petition for visitation of a grandchild by a grandparent; authorizing a certain de facto
19 parent and a certain individual who has established an ongoing personal
20 relationship with a child to file a certain petition or motion in certain proceedings
21 under certain circumstances; requiring a court to determine whether it is in the best
22 interest of a child to grant legal decision making or parenting time to a de facto
23 parent under certain circumstances, or visitation rights to a certain individual who
24 has established an ongoing personal relationship with a child under certain
25 circumstances; authorizing the court to consider certain factors in determining
26 whether a certain decision of a legal parent is contrary to the best interest of the
27 child and whether it is in the best interest of the child to grant certain relief to a
28 certain individual; requiring the court to make certain findings of fact under certain
29 circumstances; repealing certain provisions relating to the relevancy of a disability
30 of a party in a child custody or visitation proceeding; making certain clarifying and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 conforming changes; defining certain terms; and generally relating to child custody,
2 visitation, legal decision making, and parenting time.

3 BY repealing

4 Article – Family Law

5 Section 5–203(d), 9–102, and 9–107

6 Annotated Code of Maryland

7 (2012 Replacement Volume and 2015 Supplement)

8 BY adding to

9 Article – Family Law

10 Section 9–101, 9–102, and 9–106 to be under the amended title “Title 9. Custodial
11 Arrangements for Children” and the amended subtitle “Subtitle 1. Definitions;
12 General Provisions”; and 9–201 through 9–204 to be under the new subtitle
13 “Subtitle 2. Legal Decision Making and Parental Responsibility – Judicial
14 Determinations”

15 Annotated Code of Maryland

16 (2012 Replacement Volume and 2015 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Family Law

19 Section 9–101, 9–101.1, 9–101.2, 9–103, 9–104, 9–105, 9–106, and 9–108

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2015 Supplement)

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

24 **Article – Family Law**

25 5–203.

26 [(d) (1) If the parents live apart, a court may award custody of a minor child to
27 either parent or joint custody to both parents.

28 (2) Neither parent is presumed to have any right to custody that is superior
29 to the right of the other parent.]

30 Title 9. [Child Custody and Visitation] **CUSTODIAL ARRANGEMENTS FOR CHILDREN.**

31 Subtitle 1. [In General] **DEFINITIONS; GENERAL PROVISIONS.**

32 **9–101.**

33 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

1 (B) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

2 (C) "DISABILITY" MEANS A PHYSICAL OR MENTAL IMPAIRMENT THAT
3 SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN
4 INDIVIDUAL, A RECORD OF THAT IMPAIRMENT, OR BEING REGARDED AS HAVING
5 THAT IMPAIRMENT, CONSISTENT WITH THE FEDERAL AMERICANS WITH
6 DISABILITIES ACT AMENDMENTS ACT OF 2008, 42 U.S.C. § 12102.

7 (D) (1) "LEGAL DECISION MAKING" MEANS THE RIGHT AND OBLIGATION
8 TO MAKE DECISIONS INVOLVING HEALTH, EDUCATION, RELIGION AND CULTURE,
9 MEDICAL CARE, AND OTHER MATTERS OF MAJOR SIGNIFICANCE CONCERNING THE
10 CHILD'S LIFE AND WELFARE.

11 (2) "LEGAL DECISION MAKING" IS ALSO KNOWN AS LEGAL CUSTODY.

12 (E) (1) "PARENTING TIME" MEANS:

13 (I) THE TIME THE CHILD IS IN A PARENT'S CARE ACCORDING TO
14 AN AGREEMENT OR COURT-ORDERED SCHEDULE; AND

15 (II) THE RIGHT AND OBLIGATION OF A PARENT TO PROVIDE A
16 HOME FOR THE CHILD, ADDRESS THE CHILD'S NEEDS, AND MAKE THE DAY-TO-DAY
17 DECISIONS REQUIRED DURING THE TIME THE CHILD IS WITH THAT PARENT.

18 (2) "PARENTING TIME" IS ALSO KNOWN AS PHYSICAL CUSTODY,
19 VISITATION, OR ACCESS.

20 [9-102.

21 An equity court may:

22 (1) consider a petition for reasonable visitation of a grandchild by a
23 grandparent; and

24 (2) if the court finds it to be in the best interests of the child, grant
25 visitation rights to the grandparent.]

26 9-102.

27 (A) IF THE PARENTS LIVE APART, A COURT MAY AWARD LEGAL DECISION
28 MAKING OR PARENTING TIME TO EITHER PARENT OR JOINTLY TO BOTH PARENTS.

1 **(B) NEITHER PARENT IS PRESUMED TO HAVE ANY RIGHT TO LEGAL**
2 **DECISION MAKING OR PARENTING TIME THAT IS SUPERIOR TO THE RIGHT OF THE**
3 **OTHER PARENT.**

4 **[9–101.] 9–103.**

5 (a) In any [custody or visitation] **LEGAL DECISION MAKING OR PARENTING**
6 **TIME** proceeding, if the court has reasonable grounds to believe that a child has been
7 abused or neglected by a party to the proceeding, the court shall determine whether abuse
8 or neglect is likely to occur if [custody or visitation] **LEGAL DECISION MAKING OR**
9 **PARENTING TIME** rights are granted to the party.

10 (b) Unless the court specifically finds that there is no likelihood of further child
11 abuse or neglect by the party, the court shall deny [custody or visitation] **LEGAL DECISION**
12 **MAKING OR PARENTING TIME** rights to that party, except that the court may approve a
13 supervised [visitation] **PARENTING TIME** arrangement that assures the safety and the
14 physiological, psychological, and emotional well-being of the child.

15 **[9–101.1.] 9–104.**

16 (a) In this section, “abuse” has the meaning stated in § 4–501 of this article.

17 (b) In a [custody or visitation] **LEGAL DECISION MAKING OR PARENTING TIME**
18 proceeding, the court shall consider[, when deciding custody or visitation issues,] evidence
19 of abuse by a party against:

20 (1) the other parent of the party’s child;

21 (2) the party’s spouse; or

22 (3) any child residing within the party’s household, including a child other
23 than the child who is the subject of the [custody or visitation] proceeding.

24 (c) If the court finds that a party has committed abuse against the other parent
25 of the party’s child, the party’s spouse, or any child residing within the party’s household,
26 the court shall make arrangements for [custody or visitation] **LEGAL DECISION MAKING**
27 **OR PARENTING TIME** that best protect:

28 (1) the child who is the subject of the proceeding; and

29 (2) the victim of the abuse.

30 **[9–101.2.] 9–105.**

1 (a) Except as provided in subsection (b) of this section, unless good cause for the
2 award of [custody or visitation] **LEGAL DECISION MAKING OR PARENTING TIME** is
3 shown by clear and convincing evidence, a court may not award [custody of a child or
4 visitation with a child] **LEGAL DECISION MAKING OR PARENTING TIME**:

5 (1) to a parent who has been found by a court of this State to be guilty of
6 first degree or second degree murder of the other parent of the child, another child of the
7 parent, or any family member residing in the household of either parent of the child; or

8 (2) to a parent who has been found by a court of any state or of the United
9 States to be guilty of a crime that, if committed in this State, would be first degree murder
10 or second degree murder of the other parent of the child, another child of the parent, or any
11 family member residing in the household of either parent of the child.

12 (b) If it is in the best interest of the child, the court may approve a supervised
13 [visitation] **PARENTING TIME** arrangement that assures the safety and the physiological,
14 psychological, and emotional well-being of the child.

15 **9-106.**

16 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
17 **INDICATED.**

18 (2) **“DE FACTO PARENT” MEANS AN INDIVIDUAL WHO HAS A**
19 **RELATIONSHIP WITH A CHILD THAT:**

20 (I) **EXISTED BEFORE THE FILING OF A PETITION OR MOTION**
21 **UNDER THIS SECTION, IN WHICH THE INDIVIDUAL PROVIDED FOR THE PHYSICAL**
22 **NEEDS OF THE CHILD BY SUPPLYING FOOD, SHELTER, AND CLOTHING AND**
23 **PROVIDED THE CHILD WITH NECESSARY CARE, EDUCATION, AND DISCIPLINE;**

24 (II) **EXISTED ON A DAY-TO-DAY BASIS THROUGH INTERACTION,**
25 **COMPANIONSHIP, AND MUTUALITY THAT FULFILLED THE CHILD’S PSYCHOLOGICAL**
26 **NEED FOR A PARENT AND THE CHILD’S PHYSICAL NEEDS;**

27 (III) **MET THE CHILD’S NEED FOR CONTINUITY OF CARE BY**
28 **PROVIDING PERMANENCY OR STABILITY IN RESIDENCE, EDUCATION, AND**
29 **ACTIVITIES OUTSIDE THE HOME; AND**

30 (IV) **WAS FOSTERED, ENCOURAGED, OR CONSENTED TO BY A**
31 **LEGAL PARENT OF THE CHILD AS EVIDENCED BY AN EXPRESS AGREEMENT OF THE**
32 **LEGAL PARENT OR BY IMPLICATION FROM THE CIRCUMSTANCES AND CONDUCT OF**
33 **THE PARTIES.**

1 **(3) “ONGOING PERSONAL RELATIONSHIP” MEANS A RELATIONSHIP**
2 **BETWEEN AN INDIVIDUAL AND A CHILD WITH SUBSTANTIAL CONTINUITY FOR AT**
3 **LEAST 1 YEAR BEFORE THE FILING OF A PETITION OR MOTION UNDER THIS SECTION**
4 **CHARACTERIZED BY INTERACTION, COMPANIONSHIP, AND MUTUALITY THAT HAS**
5 **MET SIGNIFICANT EMOTIONAL OR PSYCHOLOGICAL NEEDS OF A CHILD.**

6 **(B) (1) AN INDIVIDUAL WHO ALLEGES THAT THE INDIVIDUAL IS A DE**
7 **FACTO PARENT MAY FILE A PETITION FOR LEGAL DECISION MAKING OR PARENTING**
8 **TIME OR A MOTION FOR INTERVENTION IN A LEGAL DECISION MAKING, PARENTING**
9 **TIME, OR VISITATION PROCEEDING CONCERNING THE CHILD.**

10 **(2) AN INDIVIDUAL WHO ALLEGES THAT THE INDIVIDUAL HAS**
11 **ESTABLISHED AN ONGOING PERSONAL RELATIONSHIP WITH A CHILD MAY FILE A**
12 **PETITION FOR VISITATION OR A MOTION FOR INTERVENTION IN A LEGAL DECISION**
13 **MAKING, PARENTING TIME, OR VISITATION PROCEEDING CONCERNING THE CHILD.**

14 **(C) (1) IF THE COURT DETERMINES BY CLEAR AND CONVINCING**
15 **EVIDENCE AFTER A FULL EVIDENTIARY HEARING THAT AN INDIVIDUAL IS A DE**
16 **FACTO PARENT AND THAT THE DECISION OF A LEGAL PARENT OF THE CHILD**
17 **CONCERNING LEGAL DECISION MAKING OR PARENTING TIME IS CONTRARY TO THE**
18 **BEST INTEREST OF THE CHILD, THE COURT SHALL DETERMINE WHETHER IT IS IN**
19 **THE BEST INTEREST OF THE CHILD TO GRANT LEGAL DECISION MAKING OR**
20 **PARENTING TIME TO THE INDIVIDUAL PENDENTE LITE OR PERMANENTLY IN**
21 **ACCORDANCE WITH THE PROVISIONS OF SUBTITLE 2 OF THIS TITLE.**

22 **(2) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF**
23 **THIS PARAGRAPH, IF THE COURT DETERMINES BY CLEAR AND CONVINCING**
24 **EVIDENCE AFTER A FULL EVIDENTIARY HEARING THAT AN INDIVIDUAL HAS**
25 **ESTABLISHED AN ONGOING PERSONAL RELATIONSHIP WITH A CHILD AND THAT THE**
26 **DECISION OF A LEGAL PARENT OF THE CHILD CONCERNING VISITATION IS**
27 **CONTRARY TO THE BEST INTEREST OF THE CHILD, THE COURT SHALL DETERMINE**
28 **WHETHER IT IS IN THE BEST INTEREST OF THE CHILD TO GRANT VISITATION RIGHTS**
29 **TO THE INDIVIDUAL IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE.**

30 **(II) THE COURT SHALL DETERMINE WHETHER IT IS IN THE BEST**
31 **INTEREST OF THE CHILD TO GRANT VISITATION RIGHTS TO THE INDIVIDUAL UNDER**
32 **SUBPARAGRAPH (I) OF THIS PARAGRAPH ONLY IF THE COURT FINDS THAT THE**
33 **LEGAL PARENT IS UNFIT OR EXCEPTIONAL CIRCUMSTANCES EXIST.**

34 **(D) (1) IN DETERMINING WHETHER THE DECISION OF A LEGAL PARENT**
35 **CONCERNING LEGAL DECISION MAKING, PARENTING TIME, OR VISITATION IS**
36 **CONTRARY TO THE BEST INTEREST OF THE CHILD AND WHETHER IT IS IN THE BEST**
37 **INTEREST OF THE CHILD TO GRANT RELIEF TO AN INDIVIDUAL WHO FILED A**

1 PETITION OR MOTION UNDER THIS SECTION, IN ADDITION TO OTHER FACTORS THE
2 COURT CONSIDERS APPROPRIATE, THE COURT MAY CONSIDER WHETHER:

3 (I) THE INDIVIDUAL WHO FILED A PETITION OR MOTION UNDER
4 THIS SECTION IS OR RECENTLY HAS BEEN THE CHILD'S PRIMARY CARETAKER;

5 (II) CIRCUMSTANCES DETRIMENTAL TO THE CHILD EXIST IF
6 RELIEF IS DENIED TO THE INDIVIDUAL;

7 (III) A LEGAL PARENT HAS UNREASONABLY DENIED OR LIMITED
8 CONTACT BETWEEN THE CHILD AND THE INDIVIDUAL; OR

9 (IV) GRANTING RELIEF TO THE INDIVIDUAL WOULD
10 SUBSTANTIALLY INTERFERE WITH THE RELATIONSHIP BETWEEN THE CHILD AND A
11 LEGAL PARENT.

12 (2) IF THE COURT FINDS THAT A LEGAL PARENT'S DECISION IS
13 CONTRARY TO THE BEST INTEREST OF THE CHILD, THE COURT SHALL MAKE
14 FINDINGS OF FACT SUPPORTING ITS CONCLUSION.

15 [9-107.

16 (a) (1) In this section, "disability" means:

17 (i) a physical disability, infirmity, malformation, or disfigurement
18 that is caused by bodily injury, birth defect, or illness, including epilepsy;

19 (ii) a mental impairment or deficiency;

20 (iii) a record of having a physical or mental impairment as defined
21 under this subsection; or

22 (iv) being regarded as having a physical or mental impairment as
23 defined under this subsection.

24 (2) "Disability" includes:

25 (i) any degree of paralysis or amputation;

26 (ii) blindness or visual impairment;

27 (iii) deafness or hearing impairment;

28 (iv) muteness or speech impediment;

1 (v) physical reliance on a service animal or a wheelchair or other
2 remedial appliance or device; and

3 (vi) intellectual disability, as defined in § 7-101 of the Health –
4 General Article, and any other mental impairment or deficiency that may have necessitated
5 remedial or special education and related services.

6 (b) In any custody or visitation proceeding, a disability of a party is relevant only
7 to the extent that the court finds, based on evidence in the record, that the disability affects
8 the best interest of the child.]

9 [9-103.] **9-107.**

10 (a) A child who is 16 years old or older and who is subject to a custody order or
11 decree **OR A LEGAL DECISION MAKING OR PARENTING TIME ORDER OR DECREE** may
12 file a petition to change custody **OR LEGAL DECISION MAKING OR PARENTING TIME.**

13 (b) A petitioner under this section may file the proceeding in the petitioner's own
14 name and need not proceed by guardian or next friend.

15 (c) Notwithstanding any other provision of this article, if a petitioner under this
16 section petitions a court to amend a custody order or decree **OR A LEGAL DECISION**
17 **MAKING OR PARENTING TIME ORDER OR DECREE**, the court:

18 (1) shall hold a hearing; and

19 (2) may amend the order or decree and [place the child in the custody of]
20 **GRANT LEGAL DECISION MAKING OR PARENTING TIME TO** the parent designated by
21 the child.

22 [9-104.] **9-108.**

23 Unless otherwise ordered by a court, access to medical, dental, and educational
24 records concerning the child may not be denied to a parent [because the parent does not
25 have physical custody of the child].

26 [9-105.] **9-109.**

27 [In any custody or visitation proceeding, if] **IF** the court determines that a party to
28 a custody or visitation order **OR LEGAL DECISION MAKING OR PARENTING TIME ORDER**
29 has unjustifiably denied or interfered with [visitation] **THE RIGHTS** granted by [a custody
30 or visitation] **THE** order, the court may, in addition to any other remedy available to the
31 court and in a manner consistent with the best interests of the child, take any or all of the
32 following actions:

1 (1) order that the [visitation] **PARENTING TIME** be rescheduled;

2 (2) modify the custody or visitation **OR LEGAL DECISION MAKING OR**
3 **PARENTING TIME** order to require additional terms or conditions designed to ensure future
4 compliance with the order; or

5 (3) assess costs or counsel fees against the party who has unjustifiably
6 denied or interfered with [visitation] **PARENTING TIME** rights.

7 **[9–106.] 9–110.**

8 (a) (1) Except as provided in subsection (b) of this section, in any [custody or
9 visitation] **LEGAL DECISION MAKING OR PARENTING TIME** proceeding the court [may]
10 **SHALL** include as a condition of a [custody or visitation] **LEGAL DECISION MAKING OR**
11 **PARENTING TIME** order a requirement that either party provide advance written notice of
12 at least 90 days to the court, the other party, or both, of the intent to relocate the permanent
13 residence of the party or the child either within or outside the State.

14 (2) The court may prescribe the form and content of the notice requirement.

15 (3) If the court orders that notice be given to the other party, a mailing of
16 the notice by certified mail, return receipt requested, to the last known address of the other
17 party shall be deemed sufficient to comply with the notice requirement.

18 (4) If either party files a petition regarding a proposed relocation within 20
19 days of the written notice of the relocation required by paragraph (1) of this subsection, the
20 court shall set a hearing on the petition on an expedited basis.

21 (b) On a showing that notice would expose the child or either party to abuse as
22 defined in § 4–501 of this article or for any other good cause the court shall waive the notice
23 required by this section.

24 (c) If either party is required to relocate in less than the 90–day period specified
25 in the notice requirement, the court may consider as a defense to any action brought for a
26 violation of the notice requirement that:

27 (1) relocation was necessary due to financial or other extenuating
28 circumstances; and

29 (2) the required notice was given within a reasonable time after learning
30 of the necessity to relocate.

31 (d) The court may consider any violation of the notice requirement as a factor in
32 determining the merits of any subsequent proceeding involving [custody or visitation]
33 **LEGAL DECISION MAKING OR PARENTING TIME.**

1 [9–108.] **9–111.**

2 (a) In this section:

3 (1) “deployment” means compliance with military orders received by a
4 member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National
5 Guard, or any other Reserve component to report for combat operations or other active
6 service for which the member is required to report unaccompanied by any family member
7 or that is classified by the member’s branch as remote; and

8 (2) “deployment” does not include National Guard or Reserve annual
9 training, inactive duty days, or drill weekends.

10 (b) Any order or modification of an existing child custody or visitation order **OR**
11 **LEGAL DECISION MAKING OR PARENTING TIME ORDER** issued by a court during a term
12 of a deployment of a parent shall specifically reference the deployment of the parent.

13 (c) (1) A parent who petitions the court for an order or modification of an
14 existing child custody or visitation order **OR LEGAL DECISION MAKING OR PARENTING**
15 **TIME ORDER** after returning from a deployment shall specifically reference the date of the
16 end of the deployment in the petition.

17 (2) (i) If the petition under paragraph (1) of this subsection is filed
18 within 30 days after the end of the deployment of the parent, the court shall set a hearing
19 on the petition on an expedited basis.

20 (ii) If the court finds that extenuating circumstances prohibited the
21 filing of the petition within 30 days after the end of the deployment of the parent, the court
22 may set a hearing on the petition on an expedited basis whenever the petition is filed.

23 (d) Any [custody or visitation] **LEGAL DECISION MAKING OR PARENTING TIME**
24 order issued based on the deployment of a parent shall require that:

25 (1) the other parent reasonably accommodate the leave schedule of the
26 parent who is subject to the deployment;

27 (2) the other parent facilitate opportunities for telephone and electronic
28 mail contact between the parent who is subject to the deployment and the child during the
29 period of deployment; and

30 (3) the parent who is subject to the deployment provide timely information
31 regarding the parent’s leave schedule to the other parent.

32 **SUBTITLE 2. LEGAL DECISION MAKING AND PARENTAL RESPONSIBILITY –**
33 **JUDICIAL DETERMINATIONS.**

1 **9-201.**

2 **THE PURPOSES OF THIS SUBTITLE ARE TO:**

3 **(1) PROMOTE STABILITY AND LONG-TERM HEALTH AND WELFARE**
4 **FOR CHILDREN BY:**

5 **(I) ASSURING THAT CHILDREN HAVE FREQUENT, REGULAR,**
6 **CONTINUING, AND EXTENDED CONTACT WITH PARENTS WHO HAVE THE ABILITY TO**
7 **ACT IN THE BEST INTERESTS OF THEIR CHILDREN;**

8 **(II) CREATING FAMILY AND CASE-SPECIFIC PARENTING TIME**
9 **SCHEDULES FOR DAY-TO-DAY ACCESS, SHARED HOLIDAYS, VACATIONS, CULTURAL**
10 **OR RELIGIOUS EVENTS, AND PARTICIPATION IN SPECIAL OCCASIONS WITH THE**
11 **EXTENDED FAMILY OF EITHER PARENT;**

12 **(III) ENCOURAGING PARENTS TO SHARE IN THE RIGHTS AND**
13 **RESPONSIBILITIES OF RAISING THEIR CHILDREN WHEN THE PARENTS DO NOT**
14 **RESIDE TOGETHER; AND**

15 **(IV) FOSTERING CHILDREN'S RELATIONSHIPS WITH SIBLINGS**
16 **AND WITH SIGNIFICANT ADULTS IN THE CHILDREN'S LIVES;**

17 **(2) PROVIDE CHILDREN WITH PHYSICAL AND EMOTIONAL SECURITY**
18 **AND PROTECTION FROM EXPOSURE TO CONFLICT AND VIOLENCE; AND**

19 **(3) PROVIDE FOR AN EXPEDITIOUS, THOUGHTFUL, AND CONSISTENT**
20 **PROCESS FOR DECISION MAKING BY COURTS TO PROTECT THE BEST INTERESTS OF**
21 **CHILDREN.**

22 **9-202.**

23 **(A) SUBJECT TO THE PROVISIONS OF §§ 9-103, 9-104, 9-105, AND 9-106 OF**
24 **THIS TITLE, IN DECIDING THE APPROPRIATE ALLOCATION OF LEGAL DECISION**
25 **MAKING OR PARENTING TIME BETWEEN THE PARTIES, THE COURT SHALL CONSIDER**
26 **THE FOLLOWING FACTORS:**

27 **(1) THE ABILITY OF EACH OF THE PARTIES TO MEET THE CHILD'S**
28 **DEVELOPMENTAL NEEDS, INCLUDING:**

29 **(I) ENSURING PHYSICAL SAFETY;**

1 (II) SUPPORTING EMOTIONAL SECURITY AND POSITIVE
2 SELF-IMAGE;

3 (III) PROMOTING INTERPERSONAL SKILLS; AND

4 (IV) PROMOTING INTELLECTUAL AND COGNITIVE GROWTH;

5 (2) THE RELATIONSHIP BETWEEN THE CHILD AND THE PARTIES, THE
6 CHILD'S SIBLINGS, OTHER RELATIVES, AND ANY OTHER PERSON WHO HAS A
7 SIGNIFICANT RELATIONSHIP WITH THE CHILD;

8 (3) THE ABILITY OF EACH PARTY TO MEET THE DAY-TO-DAY NEEDS
9 OF THE CHILD, INCLUDING:

10 (I) EDUCATION;

11 (II) SOCIALIZATION;

12 (III) CULTURE AND RELIGION;

13 (IV) FOOD;

14 (V) SHELTER;

15 (VI) CLOTHING; AND

16 (VII) MENTAL AND PHYSICAL HEALTH;

17 (4) THE ABILITY OF EACH PARTY TO:

18 (I) CONSIDER AND ACT ON THE NEEDS OF THE CHILD, AS
19 OPPOSED TO THE NEEDS OR DESIRES OF THE PARTY;

20 (II) PROTECT THE CHILD FROM THE ADVERSE EFFECTS OF ANY
21 CONFLICT BETWEEN THE PARTIES; AND

22 (III) MAINTAIN, FOSTER, AND FACILITATE RELATIONSHIPS WITH
23 THE OTHER PARTY, SIBLINGS, OTHER RELATIVES, OR OTHER INDIVIDUALS WHO
24 HAVE A SIGNIFICANT RELATIONSHIP WITH THE CHILD;

25 (5) THE HISTORY OF ANY EFFORTS BY A PARTY TO INTERFERE WITH
26 THE CHILD'S RELATIONSHIP WITH THE OTHER PARTY;

1 **(6) ANY EVIDENCE OF EXPOSURE OF THE CHILD TO DOMESTIC**
2 **VIOLENCE, CHILD ABUSE, OR CHILD NEGLECT;**

3 **(7) THE AGE AND GENDER OF THE CHILD; AND**

4 **(8) MILITARY DEPLOYMENT OF A PARTY.**

5 **(B) SUBJECT TO THE PROVISIONS OF §§ 9–103, 9–104, 9–105, AND 9–106 OF**
6 **THIS TITLE, IN DECIDING THE APPROPRIATE ALLOCATION OF LEGAL DECISION**
7 **MAKING OR PARENTING TIME BETWEEN THE PARTIES, THE COURT MAY CONSIDER**
8 **THE FOLLOWING FACTORS:**

9 **(1) EVIDENCE OF ANY PRIOR COURT ORDERS OR AGREEMENTS**
10 **BETWEEN THE PARTIES, INCLUDING PRIOR AGREEMENTS CONCERNING THE**
11 **CHILD’S CUSTODIAL ARRANGEMENTS OR PARENTING RESPONSIBILITIES FOR THE**
12 **CHILD;**

13 **(2) THE PARENTAL RESPONSIBILITIES AND THE PARTICULAR**
14 **PARENTING TASKS CUSTOMARILY PERFORMED BY EACH PARTY, INCLUDING:**

15 **(I) TASKS AND RESPONSIBILITIES PERFORMED BEFORE THE**
16 **INITIATION OF LITIGATION;**

17 **(II) TASKS AND RESPONSIBILITIES PERFORMED DURING THE**
18 **PENDING LITIGATION;**

19 **(III) TASKS AND RESPONSIBILITIES PERFORMED AFTER THE**
20 **ISSUANCE OF ORDERS OF COURT; AND**

21 **(IV) THE EXTENT TO WHICH THE TASKS HAVE OR WILL BE**
22 **UNDERTAKEN BY THIRD PARTIES;**

23 **(3) THE PROXIMITY OF THE PARTIES’ HOMES AS IT RELATES TO THEIR**
24 **ABILITY TO COORDINATE PARENTING TIME, SCHOOL, AND ACTIVITIES;**

25 **(4) THE RELATIONSHIP BETWEEN THE PARTIES, INCLUDING:**

26 **(I) THE ABILITY OF EACH PARTY TO EFFECTIVELY**
27 **COMMUNICATE WITH THE OTHER PARTY; AND**

28 **(II) THE ABILITY OF EACH PARTY TO CO-PARENT THE CHILD**
29 **WITHOUT DISRUPTION TO THE CHILD’S SOCIAL AND SCHOOL LIFE;**

1 **(5) THE EXTENT TO WHICH EITHER PARTY HAS INITIATED OR**
2 **ENGAGED IN FRIVOLOUS OR VEXATIOUS LITIGATION, AS DEFINED IN THE**
3 **MARYLAND RULES;**

4 **(6) THE CHILD'S PREFERENCE IF:**

5 **(I) THE CHILD IS OF SUFFICIENT AGE AND CAPACITY TO FORM**
6 **A PREFERENCE; AND**

7 **(II) THE COURT CONSIDERS THE CHILD'S POSSIBLE**
8 **SUSCEPTIBILITY TO MANIPULATION BY A PARTY OR BY OTHERS; AND**

9 **(7) ANY OTHER FACTOR THAT THE COURT CONSIDERS APPROPRIATE**
10 **IN DETERMINING HOW TO BEST SERVE THE PHYSICAL, DEVELOPMENTAL, AND**
11 **EMOTIONAL NEEDS OF THE CHILD.**

12 **(C) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS**
13 **SUBSECTION, IN DECIDING THE APPROPRIATE ALLOCATION OF LEGAL DECISION**
14 **MAKING OR PARENTING TIME BETWEEN THE PARTIES, THE FOLLOWING ARE ONLY**
15 **RELEVANT IF THE COURT FINDS A RISK OF HARM TO THE CHILD:**

16 **(I) THE SEX, SEXUAL ORIENTATION, OR GENDER IDENTITY OF A**
17 **PARTY;**

18 **(II) THE AGE OF A PARTY;**

19 **(III) THE RACE, COLOR, OR NATIONAL ORIGIN OF A PARTY;**

20 **(IV) THE RELIGIOUS AFFILIATION, BELIEF, CREED, OR OPINION**
21 **OF A PARTY;**

22 **(V) THE MARITAL STATUS OF A PARTY;**

23 **(VI) THE MENTAL OR PHYSICAL DISABILITY OF A PARTY;**

24 **(VII) THE PARTIES' RELATIVE ECONOMIC CIRCUMSTANCES; OR**

25 **(VIII) THE EXTRAMARITAL SEXUAL CONDUCT OF A PARTY.**

26 **(2) THE PARTIES' RELATIVE ECONOMIC CIRCUMSTANCES ARE**
27 **RELEVANT IF:**

1 **(I) THE COMBINED FINANCIAL RESOURCES OF THE PARTIES**
2 **SET PRACTICAL LIMITS ON THE CUSTODIAL ARRANGEMENTS;**

3 **(II) A PARTY IS VOLUNTARILY IMPOVERISHED; OR**

4 **(III) A PARTY IS NOT IN COMPLIANCE WITH A COURT ORDER FOR**
5 **ECONOMIC SUPPORT AND THE NONCOMPLIANCE AFFECTS THE WELFARE OF THE**
6 **CHILD.**

7 **(D) THE COURT SHALL ARTICULATE ITS FINDINGS OF FACT ON THE**
8 **RECORD, INCLUDING:**

9 **(1) THE CONSIDERATION OF EACH FACTOR LISTED IN SUBSECTION**
10 **(A) OF THIS SECTION;**

11 **(2) THE CONSIDERATION OF ANY FACTOR LISTED IN SUBSECTION (B)**
12 **OF THIS SECTION;**

13 **(3) THE CONSIDERATION OF ANY OTHER FACTOR THAT THE COURT**
14 **CONSIDERED; AND**

15 **(4) THE WEIGHT THE COURT GAVE TO EACH FACTOR THAT THE COURT**
16 **CONSIDERED.**

17 **9-203.**

18 **(A) IF THE COURT DETERMINES THAT THE PARTIES ARE ABLE TO**
19 **COMMUNICATE AND REACH JOINT DECISIONS CONCERNING SOME OR ALL OF THE**
20 **CHILD'S NEEDS DESCRIBED IN § 9-202(A) OF THIS SUBTITLE, THE COURT MAY**
21 **AWARD:**

22 **(1) JOINT LEGAL DECISION MAKING TO BOTH PARTIES;**

23 **(2) JOINT LEGAL DECISION MAKING TO BOTH PARTIES, DESIGNATING**
24 **ONE PARTY TO MAKE FINAL DECISIONS IF THE PARTIES ARE UNABLE TO AGREE**
25 **AFTER A THOROUGH DISCUSSION OF THE ISSUES; OR**

26 **(3) JOINT LEGAL DECISION MAKING TO BOTH PARTIES, ALLOCATING**
27 **RESPONSIBILITY FOR SPECIFIC ISSUES TO EACH PARTY, IF THE PARTIES ARE**
28 **UNABLE TO AGREE AFTER A THOROUGH DISCUSSION OF THE ISSUES.**

29 **(B) IF THE COURT AWARDS JOINT LEGAL DECISION MAKING AUTHORITY**
30 **UNDER SUBSECTION (A)(1) OF THIS SECTION, NEITHER PARTY, WITHOUT**

1 AGREEMENT OF THE OTHER PARTY, OR ORDER OF THE COURT, MAY UNILATERALLY
2 CHANGE THE CHILD'S:

3 (1) EDUCATIONAL ARRANGEMENTS;

4 (2) RELIGION;

5 (3) HEALTH CARE OR HEALTH CARE PROFESSIONALS; OR

6 (4) DAY CARE PROVIDER.

7 **9-204.**

8 (A) THE COURT MAY MODIFY, IN ACCORDANCE WITH THE PROVISIONS OF
9 THIS SUBTITLE, A CHILD CUSTODY OR VISITATION ORDER OR A LEGAL DECISION
10 MAKING OR PARENTING TIME ORDER IF THE COURT DETERMINES THAT THERE HAS
11 BEEN A MATERIAL CHANGE IN CIRCUMSTANCES SINCE THE ISSUANCE OF THE
12 ORDER THAT RELATES TO THE NEEDS OF THE CHILD OR THE ABILITY OF THE
13 PARTIES TO MEET THOSE NEEDS.

14 (B) A PARTY'S PROPOSAL TO RELOCATE THE RESIDENCE OF THE PARTY OR
15 THE CHILD IN A WAY THAT WOULD CAUSE PARENTING TIME TO BE IMPRACTICABLE
16 CONSTITUTES A MATERIAL CHANGE IN CIRCUMSTANCES.

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