

# SENATE BILL 905

D4  
SB 962/16 – JPR

7lr2646

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By: **Senator Muse**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Legal Decision Making and Parenting Time – Shared Parenting Time for Family**  
3 **Equality Act**

4 FOR the purpose of creating a rebuttable presumption in certain legal decision making and  
5 parenting time proceedings that certain co-parenting arrangements are in the best  
6 interests of a child; authorizing a court to consider certain factors when determining  
7 the best interests of a child; authorizing the court to award primary legal decision  
8 making and parenting time under certain circumstances; requiring a court to enter  
9 certain information on the record under certain circumstances; requiring the court  
10 to award shared parenting time in a certain manner under certain circumstances;  
11 establishing a certain State policy; defining certain terms; and generally relating to  
12 child custody determinations.

13 BY adding to  
14 Article – Family Law  
15 Section 9–109  
16 Annotated Code of Maryland  
17 (2012 Replacement Volume and 2016 Supplement)

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

### Article – Family Law

20  
21 **9–109.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(2) (I) “LEGAL DECISION MAKING” MEANS THE RIGHT AND**  
2 **OBLIGATION TO MAKE DECISIONS INVOLVING HEALTH, EDUCATION, RELIGION AND**  
3 **CULTURE, MEDICAL CARE, AND OTHER MATTERS OF MAJOR SIGNIFICANCE**  
4 **CONCERNING THE CHILD’S LIFE AND WELFARE.**

5                   **(II) “LEGAL DECISION MAKING” IS ALSO KNOWN AS LEGAL**  
6 **CUSTODY.**

7           **(3) (I) “PARENTING TIME” MEANS:**

8                   **1. THE TIME THE CHILD IS IN A PARENT’S CARE**  
9 **ACCORDING TO AN AGREEMENT OR COURT-ORDERED SCHEDULE; AND**

10                   **2. THE RIGHT AND OBLIGATION OF A PARENT TO**  
11 **PROVIDE A HOME FOR THE CHILD, ADDRESS THE CHILD’S NEEDS, AND MAKE THE**  
12 **DAY-TO-DAY DECISIONS REQUIRED DURING THE TIME THE CHILD IS WITH THAT**  
13 **PARENT.**

14                   **(II) “PARENTING TIME” IS ALSO KNOWN AS PHYSICAL CUSTODY,**  
15 **VISITATION, OR ACCESS.**

16           **(B) IT IS THE POLICY OF THE STATE THAT THE LOVE, SUPPORT, AND**  
17 **INVOLVEMENT OF BOTH PARENTS IS UNQUESTIONABLY IN THE BEST INTERESTS OF**  
18 **A CHILD AND THAT PROMOTING JOINT LEGAL DECISION MAKING AND SHARED**  
19 **PARENTING TIME ALSO ENCOURAGES PARENTS TO SETTLE PARENTAL DISPUTES**  
20 **OUTSIDE THE LITIGATION PROCESS.**

21           **(C) IN AN INITIAL LEGAL DECISION MAKING OR PARENTING TIME**  
22 **PROCEEDING, WHETHER PENDENTE LITE OR PERMANENT, INVOLVING THE**  
23 **PARENTS OF A CHILD REGARDLESS OF A PARENT’S MARITAL STATUS OR GENDER,**  
24 **THERE IS A REBUTTABLE PRESUMPTION THAT:**

25                   **(1) JOINT LEGAL DECISION MAKING IS IN THE BEST INTERESTS OF**  
26 **THE CHILD; AND**

27                   **(2) SHARED PARENTING TIME FOR APPROXIMATELY EQUAL PERIODS**  
28 **OF TIME IS IN THE BEST INTERESTS OF THE CHILD.**

29           **(D) IN DETERMINING THE BEST INTERESTS OF THE CHILD, THE COURT MAY**  
30 **CONSIDER THE FOLLOWING FACTORS:**

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

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

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

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

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

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

11          **(E) (1) IF THE COURT DETERMINES BY A PREPONDERANCE OF THE**  
12 **EVIDENCE THAT A JOINT LEGAL DECISION MAKING AND EQUAL SHARED PARENTING**  
13 **TIME ARRANGEMENT IS NOT IN THE BEST INTERESTS OF THE CHILD, THE COURT:**

14                  **(I) MAY AWARD PRIMARY LEGAL DECISION MAKING AND EQUAL**  
15 **SHARED PARENTING TIME TO ONE PARENT; AND**

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

18          **(2) WHEN THE COURT DETERMINES IN ACCORDANCE WITH**  
19 **PARAGRAPH (1) OF THIS SUBSECTION THAT JOINT LEGAL DECISION MAKING AND**  
20 **EQUAL SHARED PARENTING TIME IS NOT IN THE BEST INTERESTS OF THE CHILD,**  
21 **THE COURT SHALL AWARD PARENTING TIME IN A MANNER THAT ENSURES**  
22 **FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD AND THE PARENT WHO**  
23 **WAS NOT AWARDED PRIMARY LEGAL DECISION MAKING AND PARENTING TIME.**

24          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25          October 1, 2017.