

SENATE BILL 774

D4

1lr1619

By: **Senator Lee**

Introduced and read first time: February 5, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Custody and Visitation – Child’s Preference**

3 FOR the purpose of requiring a court in a custody or visitation proceeding to hear and
4 consider a child’s custody or visitation preference; requiring a court to explain the
5 court’s reasoning for issuing a custody or visitation order that is inconsistent with a
6 child’s stated preference; requiring a court to allow a child who is at least a certain
7 age to testify to the child’s custody or visitation preference in a certain manner;
8 requiring the court to allow a best interest attorney to explain why a child’s
9 preference is not in the best interest of the child under certain circumstances; and
10 generally relating to child custody and visitation.

11 BY adding to
12 Article – Family Law
13 Section 9–109
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2020 Supplement)

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

18 **Article – Family Law**
19 **9–109.**

20 **(A) (1) WHEN DETERMINING THE BEST INTEREST OF A CHILD IN A**
21 **CUSTODY OR VISITATION PROCEEDING, THE COURT SHALL HEAR AND CONSIDER**
22 **THE CHILD’S CUSTODY OR VISITATION PREFERENCE.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) IF THE COURT ISSUES A CUSTODY OR VISITATION ORDER THAT IS**
2 **INCONSISTENT WITH THE CHILD’S STATED PREFERENCE, THE COURT SHALL**
3 **EXPLAIN ITS REASONING.**

4 **(B) THE COURT SHALL ALLOW, BUT MAY NOT REQUIRE, A CHILD WHO IS AT**
5 **LEAST 8 YEARS OLD TO TESTIFY, IN OPEN COURT, ON THE CHILD’S CUSTODY OR**
6 **VISITATION PREFERENCE.**

7 **(C) IF A BEST INTEREST ATTORNEY APPOINTED TO REPRESENT A CHILD**
8 **DISAGREES WITH THE CHILD’S CUSTODY OR VISITATION PREFERENCE, THE COURT**
9 **SHALL ALLOW THE BEST INTEREST ATTORNEY TO EXPLAIN WHY THE CHILD’S**
10 **PREFERENCE IS NOT IN THE BEST INTEREST OF THE CHILD.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2021.