

# SENATE BILL 775

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By: **Senator Lee**

Introduced and read first time: February 5, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Custody and Visitation – Abuse**

3 FOR the purpose of requiring a court that approves an arrangement for custody or  
4 visitation with a party who has committed abuse against the other parent of the  
5 party's child, the party's spouse, or any child residing within the party's household,  
6 to impose certain conditions on the custody arrangement; creating a rebuttable  
7 presumption that it is not in the best interest of a child for a court to grant certain  
8 custody to a party who has committed abuse against certain individuals and  
9 requiring the court to state its reasons for rebutting this presumption; requiring the  
10 court to make a certain analysis if it finds that both parties to a custody action have  
11 committed abuse against certain parties; and generally relating to abuse and child  
12 custody and visitation.

13 BY repealing and reenacting, with amendments,  
14 Article – Family Law  
15 Section 9–101.1  
16 Annotated Code of Maryland  
17 (2019 Replacement Volume and 2020 Supplement)

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

20 **Article – Family Law**

21 9–101.1.

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

23 (b) In a custody or visitation proceeding, the court shall consider, when deciding  
24 custody or visitation issues, evidence of abuse by a party against:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) the other parent of the party's child;
- 2 (2) the party's spouse; or
- 3 (3) any child residing within the party's household, including a child other  
4 than the child who is the subject of the custody or visitation proceeding.

5 (c) (1) **[If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** the court  
6 finds that a party has committed abuse against the other parent of the party's child, the  
7 party's spouse, or any child residing within the party's household, the court shall make  
8 arrangements for custody or visitation that best protect:

9 [(1)] (I) the child who is the subject of the proceeding; and

10 [(2)] (II) the victim of the abuse.

11 (2) **AN ARRANGEMENT FOR CUSTODY OR VISITATION APPROVED BY**  
12 **THE COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL IMPOSE ONE OR**  
13 **MORE OF THE FOLLOWING CONDITIONS, AS APPROPRIATE:**

14 (I) **MANDATING THAT THE EXCHANGE OF A CHILD TAKE PLACE**  
15 **IN A PROTECTED SETTING OR REQUIRING SUPERVISED EXCHANGES OR VISITATION**  
16 **IN THE PRESENCE OF AN APPROPRIATE THIRD PARTY WHO AGREES TO ASSUME**  
17 **RESPONSIBILITY, IS ASSIGNED BY THE COURT, AND IS ACCOUNTABLE TO THE**  
18 **COURT;**

19 (II) **REQUIRING THE ABUSIVE PARTY TO PAY THE COSTS OF**  
20 **SUPERVISED VISITATION;**

21 (III) **REQUIRING THE ABUSIVE PARTY TO ATTEND AND**  
22 **COMPLETE AN APPROPRIATE ABUSER INTERVENTION PROGRAM AS A CONDITION OF**  
23 **VISITATION;**

24 (IV) **REQUIRING THE ABUSIVE PARTY TO ABSTAIN FROM**  
25 **ALCOHOL OR OTHER CONTROLLED SUBSTANCES DURING, AND FOR A PERIOD OF**  
26 **TIME BEFORE, EACH VISITATION;**

27 (V) **PROHIBITING AN ABUSIVE PARTY FROM HAVING**  
28 **OVERNIGHT VISITATION;**

29 (VI) **REQUIRING THE ABUSIVE PARTY TO POST A BOND FOR THE**  
30 **RETURN AND SAFETY OF THE CHILD; AND**

31 (VII) **ANY OTHER CONDITION THAT THE COURT DETERMINES IS**

1 NECESSARY FOR THE SAFETY AND WELL-BEING OF THE CHILD AND THE SAFETY OF  
2 THE VICTIM OF THE ABUSE.

3 (D) (1) THERE IS A REBUTTABLE PRESUMPTION THAT IT IS NOT IN THE  
4 BEST INTEREST OF A CHILD FOR A COURT TO GRANT SOLE OR JOINT LEGAL OR  
5 PHYSICAL CUSTODY TO A PARTY WHO HAS COMMITTED ABUSE AGAINST THE OTHER  
6 PARENT OF THE PARTY'S CHILD, THE PARTY'S SPOUSE, OR ANY CHILD RESIDING  
7 WITHIN THE PARTY'S HOUSEHOLD.

8 (2) IF THE COURT GRANTS SOLE OR JOINT LEGAL OR PHYSICAL  
9 CUSTODY TO A PARTY WHO HAS COMMITTED ABUSE AGAINST THE OTHER PARENT  
10 OF THE PARTY'S CHILD, THE PARTY'S SPOUSE, OR ANY CHILD RESIDING WITHIN THE  
11 PARTY'S HOUSEHOLD, THE COURT MUST STATE THE REASONS FOR THE REBUTTAL  
12 OF THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS SECTION.

13 (3) (I) IF THE COURT FINDS THAT BOTH PARTIES HAVE  
14 COMMITTED THE ABUSE DESCRIBED UNDER SUBSECTION (B) OF THIS SECTION, THE  
15 COURT SHALL:

16 1. ATTEMPT TO DETERMINE WHETHER ONE PARTY WAS  
17 THE PRIMARY PHYSICAL AGGRESSOR; AND

18 2. APPLY THE REBUTTABLE PRESUMPTION UNDER  
19 PARAGRAPH (1) OF THIS SUBSECTION AGAINST THE PRIMARY PHYSICAL  
20 AGGRESSOR.

21 (II) TO DETERMINE IF A PARTY IS A PRIMARY AGGRESSOR, THE  
22 COURT SHALL CONSIDER RELEVANT FACTORS, INCLUDING:

23 1. THE RELATIVE SEVERITY OF INJURIES;

24 2. THE LIKELIHOOD THAT A PARTY MAY COMMIT  
25 FUTURE ABUSE;

26 3. WHETHER ANY ACTS OF DOMESTIC VIOLENCE WERE  
27 COMMITTED IN SELF-DEFENSE; AND

28 4. THE HISTORY OF DOMESTIC VIOLENCE BETWEEN THE  
29 PARTIES AND WHETHER ONE PARTY HAS EXHIBITED COERCIVE CONTROL TOWARD  
30 THE OTHER PARTY.

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