

HOUSE BILL 564

D4

2lr2718

By: **Delegates Cox, Arikan, Boteler, Hornberger, McComas, McKay, Parrott, and Wivell**

Introduced and read first time: January 31, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Custody and Visitation – Disease or Illness**

3 FOR the purpose of prohibiting a disease or an illness of a party that has not required
4 hospitalization from being considered by a court as a factor for denying the party
5 child custody or visitation in any custody or visitation proceeding; and generally
6 relating to child custody and visitation and disease or illness of a party.

7 BY repealing and reenacting, with amendments,

8 Article – Family Law

9 Section 9–107

10 Annotated Code of Maryland

11 (2019 Replacement Volume and 2021 Supplement)

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

14 **Article – Family Law**

15 9–107.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) (i) “Disability” means:

18 1. a physical or mental impairment that substantially limits
19 one or more of an individual’s major life activities;

20 2. a record of having a physical or mental impairment that
21 substantially limits one or more of an individual’s major life activities; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3. being regarded as having a physical or mental impairment
2 that substantially limits one or more of an individual's major life activities.

3 (ii) "Disability" shall be construed in accordance with the ADA
4 Amendments Act of 2008, P.L. 110-325.

5 (3) "Supportive parenting services" means services that may assist an
6 individual with a disability in the effective use of techniques and methods to enable the
7 individual to discharge the individual's responsibilities to a child as successfully as an
8 individual who does not have a disability, including nonvisual techniques for individuals
9 who are blind.

10 (b) (1) In any custody or visitation proceeding, the disability of a party is
11 relevant only to the extent that the court finds, based on evidence in the record, that the
12 disability affects the best interest of the child.

13 (2) The party alleging that the disability of the other party affects the best
14 interest of the child bears the burden of proving that the disability of the other party affects
15 the best interest of the child.

16 (3) If the burden of proof is met, the party who has a disability shall have
17 the opportunity to prove that supportive parenting services would prevent a finding that
18 the disability affects the best interest of the child.

19 (4) If the court finds that the disability of a party affects the best interest
20 of the child and denies or limits custody or visitation, the court shall specifically state in
21 writing:

22 (i) the basis for the finding; and

23 (ii) the reason that the provision of supportive parenting services is
24 not a reasonable accommodation to prevent the finding.

25 **(C) IN ANY CUSTODY OR VISITATION PROCEEDING, A DISEASE OR AN**
26 **ILLNESS OF A PARTY, INCLUDING THE CORONAVIRUS KNOWN AS COVID-19 OR**
27 **2019-NCOV AND THE SARS-COV-2, THAT HAS NOT REQUIRED HOSPITALIZATION**
28 **MAY NOT BE A FACTOR THE COURT MAY CONSIDER TO DENY THE PARTY CHILD**
29 **CUSTODY OR VISITATION.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2022.