

SENATE BILL 383

D4
SB 924/20 – JPR

3lr2745
CF HB 267

By: **Senator McKay**

Introduced and read first time: February 1, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Custody and Visitation – Notice of Intent to Travel**
3 **(Maryland Child Abduction Prevention Act)**

4 FOR the purpose of authorizing a court in a custody or visitation proceeding to require a
5 party to provide certain notice of the intent to travel internationally with a child;
6 authorizing a court to order child abduction prevention measures in certain child
7 custody proceedings; authorizing certain parties to petition the court for child
8 abduction prevention measures; authorizing certain custody settlements to be
9 amended to permit international travel in limited circumstances; requiring a
10 traveling parent to disclose certain information to a nontraveling parent at the
11 request of the nontraveling parent under certain circumstances; applying this Act
12 retroactively; and generally relating to child abduction and the Maryland Child
13 Abduction Prevention Act.

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 9–106
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Family Law
21 Section 9.5–101(a), (d), (e), and (g)
22 Annotated Code of Maryland
23 (2019 Replacement Volume and 2022 Supplement)

24 BY adding to
25 Article – Family Law
26 Section 9.7–101 through 9.7–108 to be under the new title “Title 9.7. Maryland Child
27 Abduction Prevention Act”
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2019 Replacement Volume and 2022 Supplement)

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

Article – Family Law

9–106.

(a) (1) Except as provided in subsection (b) of this section, in any custody or visitation proceeding the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least 90 days to the court, the other party, or both, of the intent to:

(I) relocate the permanent residence of the party or the child either within or outside the State; **OR**

(II) **TRAVEL OUTSIDE THE UNITED STATES WITH THE CHILD.**

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

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

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

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

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

(1) relocation **OR TRAVEL** was necessary due to financial or other extenuating circumstances; and

(2) the required notice was given within a reasonable time after learning of the necessity to relocate **OR TRAVEL.**

(d) The court may consider any violation of the notice requirement as a factor in determining the merits of any subsequent proceeding involving custody or visitation.

1 9.5–101.

2 (a) In this title the following words have the meanings indicated.

3 (d) (1) “Child custody determination” means a judgment, decree, or other order
4 of a court providing for the legal custody, physical custody, or visitation with respect to a
5 child.

6 (2) “Child custody determination” includes a permanent, temporary,
7 initial, and modification order.

8 (3) “Child custody determination” does not include an order relating to
9 child support or other monetary obligation of an individual.

10 (e) (1) “Child custody proceeding” means a proceeding in which legal custody,
11 physical custody, or visitation with respect to a child is an issue.

12 (2) “Child custody proceeding” includes a proceeding for divorce,
13 separation, neglect, abuse, dependency, guardianship, paternity, termination of parental
14 rights, and protection from domestic violence, in which the issue may appear.

15 (3) “Child custody proceeding” does not include a proceeding involving
16 juvenile delinquency, contractual emancipation, or enforcement under Subtitle 3 of this
17 title.

18 (g) “Court” means an entity authorized under the law of a state to establish,
19 enforce, or modify a child custody determination.

20 **TITLE 9.7. MARYLAND CHILD ABDUCTION PREVENTION ACT.**

21 **9.7–101.**

22 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 **(B) “ABDUCTION” MEANS:**

25 **(1) A TAKING OF A CHILD THAT BREACHES RIGHTS OF CUSTODY OR**
26 **VISITATION PROVIDED OR RECOGNIZED UNDER THE LAWS OF THE STATE; OR**

27 **(2) A KEEPING OR CONCEALING OF A CHILD THAT BREACHES RIGHTS**
28 **OF CUSTODY OR VISITATION PROVIDED OR RECOGNIZED UNDER THE LAWS OF THE**
29 **STATE.**

30 **(C) “CHILD” MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.**

1 (D) "CHILD CUSTODY DETERMINATION" HAS THE MEANING STATED IN §
2 9.5-101 OF THIS ARTICLE.

3 (E) "CHILD CUSTODY PROCEEDING" HAS THE MEANING STATED IN §
4 9.5-101 OF THIS ARTICLE.

5 (F) "COURT" HAS THE MEANING STATED IN § 9.5-101 OF THIS ARTICLE.

6 (G) "PETITION" INCLUDES A MOTION OR ITS EQUIVALENT.

7 (H) (1) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
8 OF COLUMBIA, PUERTO RICO, THE U.S. VIRGIN ISLANDS, OR ANY TERRITORY OR
9 INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

10 (2) "STATE" INCLUDES A FEDERALLY RECOGNIZED NATIVE
11 AMERICAN NATION OR TRIBE.

12 9.7-102.

13 (A) EXCLUDING § 101(C) OF THE FEDERAL ELECTRONIC SIGNATURES IN
14 GLOBAL AND NATIONAL COMMERCE ACT, THIS TITLE MODIFIES, LIMITS, AND
15 SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
16 COMMERCE ACT.

17 (B) THIS TITLE DOES NOT AUTHORIZE DELIVERY OF ANY OF THE NOTICES
18 DESCRIBED IN § 103(B) OF THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL
19 AND NATIONAL COMMERCE ACT.

20 9.7-103.

21 (A) A COURT ON ITS OWN MOTION MAY ORDER ABDUCTION PREVENTION
22 MEASURES IN A CHILD CUSTODY PROCEEDING IF THE COURT FINDS THAT THE
23 EVIDENCE ESTABLISHES A CREDIBLE RISK OF ABDUCTION OF THE CHILD.

24 (B) A PARTY TO A CHILD CUSTODY DETERMINATION OR ANOTHER
25 INDIVIDUAL OR ENTITY HAVING A RIGHT UNDER THE LAW OF A STATE TO SEEK A
26 CHILD CUSTODY DETERMINATION FOR THE CHILD MAY FILE A PETITION SEEKING
27 ABDUCTION PREVENTION MEASURES TO PROTECT THE CHILD UNDER THIS TITLE.

28 9.7-104.

29 (A) A PETITION UNDER THIS TITLE MAY BE FILED ONLY IN A COURT THAT

1 HAS JURISDICTION TO MAKE A CHILD CUSTODY DETERMINATION WITH RESPECT TO
2 THE CHILD AT ISSUE UNDER THE UNIFORM CHILD CUSTODY JURISDICTION AND
3 ENFORCEMENT ACT UNDER TITLE 9.5 OF THIS ARTICLE.

4 (B) (1) A PETITION UNDER THIS TITLE SHALL BE VERIFIED AND INCLUDE
5 A COPY OF ANY EXISTING CHILD CUSTODY DETERMINATION, IF AVAILABLE.

6 (2) THE PETITION SHALL SPECIFY THE RISK FACTORS FOR
7 ABDUCTION AND SHALL INCLUDE ANY INFORMATION RELATED TO THE LIKELIHOOD
8 OF ABDUCTION OR THE DIFFICULTY OF RETURNING THE CHILD AND ANY OTHER
9 RELEVANT INFORMATION AS DETERMINED BY THE U.S. CUSTOMS AND BORDER
10 PROTECTION'S PREVENT ABDUCTION PROGRAM AND THE U.S. DEPARTMENT OF
11 STATE.

12 (C) SUBJECT TO § 9.5-209(E) OF THIS ARTICLE, IF REASONABLY
13 ASCERTAINABLE, THE PETITION SHALL CONTAIN:

14 (1) THE NAME, DATE OF BIRTH, AND GENDER OF THE CHILD;

15 (2) THE CUSTOMARY ADDRESS AND CURRENT PHYSICAL LOCATION
16 OF THE CHILD;

17 (3) THE IDENTITY, CUSTOMARY ADDRESS, AND CURRENT PHYSICAL
18 LOCATION OF THE RESPONDENT;

19 (4) A STATEMENT OF WHETHER A PRIOR ACTION TO PREVENT
20 ABDUCTION OR DOMESTIC VIOLENCE HAS BEEN FILED BY A PARTY OR OTHER
21 INDIVIDUAL OR ENTITY HAVING CUSTODY OF THE CHILD AND THE DATE, LOCATION,
22 AND DISPOSITION OF THE ACTION;

23 (5) A STATEMENT OF WHETHER A PARTY TO THE PROCEEDING HAS
24 BEEN ARRESTED FOR A CRIME RELATED TO DOMESTIC VIOLENCE, STALKING, OR
25 CHILD ABUSE OR NEGLECT AND THE DATE, LOCATION, AND DISPOSITION OF THE
26 CASE; AND

27 (6) ANY OTHER INFORMATION REQUIRED TO BE SUBMITTED TO THE
28 COURT FOR A CHILD CUSTODY DETERMINATION UNDER § 9.5-209 OF THIS ARTICLE.

29 9.7-105.

30 (A) MEDIATED CUSTODY SETTLEMENTS MAY NOT BE AMENDED TO PERMIT
31 INTERNATIONAL TRAVEL UNLESS THE AMENDMENT IS UNDERSTOOD AND AGREED
32 TO BY THE PARTIES OR UNLESS THERE HAS BEEN A SIGNIFICANT CHANGE OF

1 CIRCUMSTANCES THAT MAKES THE AMENDMENT IN THE BEST INTEREST OF THE
2 CHILD.

3 (B) THE COURT SHALL CONSIDER BOTH DOCUMENTARY AND TESTIMONIAL
4 EVIDENCE.

5 (C) THE COURT SHALL CONSIDER THE DIFFICULTY OF REGAINING CUSTODY
6 OF THE CHILD AND THE RISK OF ABDUCTION.

7 (D) THE COURT MAY CONSIDER EMERGENCY PETITIONS FOR A REHEARING
8 ON TRAVEL PERMISSION IF THERE IS A SIGNIFICANT CHANGE OF CIRCUMSTANCES,
9 INCLUDING THE DIFFICULTY OF REGAINING CUSTODY OF THE CHILD OR THE RISK
10 OF ABDUCTION.

11 (E) THE COURT SHALL GRANT PETITIONS FOR A REHEARING ON TRAVEL
12 PERMISSIONS EACH YEAR WITHOUT REQUIRING EVIDENCE OF A SIGNIFICANT
13 CHANGE OF CIRCUMSTANCES.

14 (F) (1) FOR DIVORCED PARENTS WHERE AT LEAST ONE PARENT HAS
15 HELD FOREIGN CITIZENSHIP, PRIOR TO THE TRAVELING PARENT REQUESTING
16 INTERNATIONAL TRAVEL CONSENT OF THE OTHER PARENT, THE FOLLOWING ARE
17 DISCOVERABLE AND SHALL BE PRESENTED BY THE TRAVELING PARENT TO THE
18 NONTRAVELING PARENT IF REQUESTED BY THE NONTRAVELING PARENT:

19 (I) THE PRESENT EMPLOYER'S NAME AND ADDRESS, TIME
20 WORKING FOR PRESENT EMPLOYER, SALARY, AND THE LAST W-2 AVAILABLE;

21 (II) A FINANCIAL STATEMENT WITH THE PREVIOUS 12 MONTHS
22 OF STATEMENTS FROM ALL ACCOUNTS AT ALL FINANCIAL INSTITUTIONS;

23 (III) THE PRESENT ADDRESS; AND

24 (IV) THE LEASE OR BOTH THE DEED AND 12 MONTHS OF
25 MORTGAGE STATEMENTS FOR THE PRIMARY PERMANENT RESIDENCE.

26 (2) A PARENT PROVIDING DOCUMENTS UNDER THIS SUBSECTION
27 SHALL DECLARE UNDER OATH THAT THE DOCUMENTS ARE FULL AND COMPLETE TO
28 THE BEST OF THE PARENT'S KNOWLEDGE.

29 **9.7-106.**

30 IN DETERMINING WHETHER TRAVEL ABROAD MAY BE ALLOWED, THE COURT
31 SHALL CONSIDER ANY INFORMATION RELATED TO THE LIKELIHOOD OF ABDUCTION

1 OR THE DIFFICULTY OF RETURNING THE CHILD AND ANY OTHER RELEVANT
2 INFORMATION AS DETERMINED BY THE U.S. CUSTOMS AND BORDER PROTECTION'S
3 PREVENT ABDUCTION PROGRAM AND THE U.S. DEPARTMENT OF STATE.

4 **9.7-107.**

5 AN ABDUCTION PREVENTION ORDER REMAINS IN EFFECT UNTIL THE
6 EARLIEST OF:

7 (1) THE TIME STATED IN THE ORDER;

8 (2) THE EMANCIPATION OF THE CHILD;

9 (3) THE CHILD TURNING 18 YEARS OLD; OR

10 (4) THE TIME THE ORDER IS MODIFIED, REVOKED, VACATED, OR
11 SUPERSEDED BY A COURT WITH JURISDICTION UNDER §§ 9.5-201 THROUGH
12 9.5-203 OF THIS ARTICLE.

13 **9.7-108.**

14 THIS TITLE MAY BE CITED AS THE MARYLAND CHILD ABDUCTION
15 PREVENTION ACT.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
17 apply retroactively and shall be applied to and interpreted to affect parents desiring to
18 travel internationally with their children and shall require parents desiring to travel
19 internationally to comply with the requirements of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2023.