

HOUSE BILL 1103

D4

0lr1627
CF SB 924

By: **Delegates Cardin, Dumais, Krebs, Rose, and Shoemaker**

Introduced and read first time: February 6, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Child Abduction Prevention Act**

3 FOR the purpose of authorizing a court in a custody or visitation proceeding to require a
4 party to provide a written notice of the intent to travel internationally with a child a
5 certain period of time prior to the planned travel; authorizing a court, on its own
6 motion, to order child abduction prevention measures in certain child custody
7 proceedings; authorizing certain parties to petition the court for child abduction
8 prevention measures; specifying certain procedures for the filing of a certain petition;
9 requiring a petition for child abduction prevention measures to include certain
10 information; authorizing mediated custody settlements to be amended to permit
11 international travel in limited circumstances; requiring the court to consider certain
12 information in a child abduction prevention hearing; authorizing a court to hear an
13 emergency petition on child abduction prevention if there are significant changed
14 circumstances; requiring a court to grant a petition for a rehearing on certain travel
15 permissions without requiring evidence of a significant change of circumstances;
16 requiring a traveling parent to disclose certain information to a nontraveling parent
17 at the request of the nontraveling parent under certain circumstances; requiring a
18 court to consider certain information before authorizing international travel;
19 prescribing the duration of a child abduction prevention order; providing for the
20 construction of this Act; defining certain terms; and generally relating to child
21 abduction and the Maryland Child Abduction Prevention Act.

22 BY repealing and reenacting, with amendments,
23 Article – Family Law
24 Section 9–106
25 Annotated Code of Maryland
26 (2019 Replacement Volume)

27 BY repealing and reenacting, without amendments,
28 Article – Family Law
29 Section 9.5–101(a), (d), (e), and (g)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to

Article – Family Law

Section 9.6–101 through 9.6–108 to be under the new title “Title 9.6. Maryland Child
Abduction Prevention Act”

Annotated Code of Maryland
(2019 Replacement Volume)

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.

9.5–101.

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

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

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

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

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

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

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

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

TITLE 9.6. MARYLAND CHILD ABDUCTION PREVENTION ACT.

9.6–101.

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

(B) “ABDUCTION” MEANS:

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

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

(C) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

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

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

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

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

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

(2) "STATE" INCLUDES A FEDERALLY RECOGNIZED INDIAN NATION OR TRIBE.
9.6–102.

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

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

9.6–103.

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

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

9.6–104.

(A) A PETITION UNDER THIS TITLE MAY BE FILED ONLY IN A COURT THAT HAS JURISDICTION TO MAKE A CHILD CUSTODY DETERMINATION WITH RESPECT TO THE CHILD AT ISSUE UNDER THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT, TITLE 9.5 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

9.6–105.

(A) MEDIATED CUSTODY SETTLEMENTS MAY NOT BE AMENDED TO PERMIT INTERNATIONAL TRAVEL UNLESS THE AMENDMENT IS UNDERSTOOD AND AGREED TO BY THE PARTIES OR UNLESS THERE HAS BEEN A SIGNIFICANT CHANGE OF CIRCUMSTANCES THAT MAKES THE AMENDMENT IN THE BEST INTEREST OF THE CHILD.

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

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

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

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

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

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

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

(III) THE PRESENT ADDRESS; AND

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

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

9.6-106.

IN DETERMINING WHETHER TRAVEL ABROAD MAY BE ALLOWED, THE COURT SHALL CONSIDER ANY INFORMATION RELATED TO THE LIKELIHOOD OF ABDUCTION OR THE DIFFICULTY OF RETURNING THE CHILD, AND ANY OTHER RELEVANT INFORMATION AS DETERMINED BY THE U.S. CUSTOMS AND BORDER PROTECTION'S PREVENT ABDUCTION PROGRAM AND THE U.S. DEPARTMENT OF STATE.

9.6-107.

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

(1) THE TIME STATED IN THE ORDER;

(2) THE EMANCIPATION OF THE CHILD;

(3) THE CHILD TURNS 18 YEARS OLD; OR

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

9.6-108.

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.