

# SENATE BILL 620

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CF HB 715

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By: **Senators Raskin, Astle, Benson, Brochin, Colburn, Currie, Forehand, Frosh, Garagiola, Jacobs, Jennings, Jones–Rodwell, Kelley, King, Klausmeier, Madaleno, Manno, Middleton, Montgomery, Muse, Peters, Pinsky, Pugh, Ramirez, Robey, Rosapepe, Shank, Stone, Young, and Zirkin**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Denial of Paternity, Custody, and Visitation**

3 FOR the purpose of excluding as a father of a child a man who has committed a  
4 certain sexual crime against the child’s mother for purposes of certain  
5 provisions relating to the paternity of a child in a guardianship or adoption  
6 proceeding under certain circumstances; requiring a court to consider a certain  
7 statement when making a certain finding; prohibiting a court from requiring  
8 publication of certain information under certain circumstances; requiring that a  
9 certain hearing be held within a certain period of time; authorizing a court to  
10 order a man to provide financial support to a child under certain circumstances;  
11 prohibiting a court from awarding custody of or visitation with a child to a  
12 parent who has committed a certain sexual crime against the other parent  
13 under certain circumstances; requiring a court to consider the safety and  
14 well-being of the child’s other parent or guardian in approving supervised  
15 visitation; and generally relating to adoption, guardianship, custody, and  
16 visitation.

17 BY repealing and reenacting, with amendments,  
18 Article – Family Law  
19 Section 5–306, 5–3A–06, 5–3B–05, and 9–101.2  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2012 Supplement)

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

24 **Article – Family Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-306.

2 (a) Unless a court excludes a man as the father of a child, a man is the father  
3 if:

4 (1) the man was married to the child's mother at the time of the child's  
5 conception;

6 (2) the man was married to the child's mother at the time of the child's  
7 birth;

8 (3) the man is named as the father on the child's birth certificate and  
9 has not signed a denial of paternity;

10 (4) the child's mother has named the man as the child's father and the  
11 man has not signed a denial of paternity;

12 (5) the man has been adjudicated to be the child's father;

13 (6) the man has acknowledged himself, orally or in writing, to be the  
14 child's father and the mother agrees; or

15 (7) on the basis of genetic testing, the man is indicated to be the child's  
16 biological father.

17 **(B) (1) ON MOTION OF THE CHILD'S MOTHER, AND AFTER SERVICE**  
18 **OF THE MOTION THAT IS IN ACCORDANCE WITH THE MARYLAND RULES AND IS**  
19 **REASONABLY CALCULATED TO GIVE ACTUAL NOTICE, AND AFTER A HEARING, A**  
20 **COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE COURT:**

21 **(I) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

22 **1. A. THE MAN HAS COMMITTED AN ACT AGAINST**  
23 **THE CHILD'S MOTHER THAT IS PROHIBITED BY § 3-303, § 3-304(A)(1) OR (2), OR**  
24 **§ 3-323 OF THE CRIMINAL LAW ARTICLE OR, IF THE MOTHER IS UNDER THE**  
25 **AGE OF 16 YEARS AT THE TIME OF THE ACT, § 3-602 OF THE CRIMINAL LAW**  
26 **ARTICLE; OR**

27 **B. THE MAN HAS COMMITTED AN ACT IN ANOTHER**  
28 **JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE THAT**  
29 **ACT; AND**

30 **2. THE CHILD WAS CONCEIVED AS A RESULT OF THE**  
31 **ACT; AND**

1                   **(II) FINDS THAT IT IS IN THE BEST INTERESTS OF THE CHILD**  
2 **FOR THE MAN TO BE EXCLUDED AS THE CHILD'S FATHER.**

3                   **(2) IN MAKING A FINDING UNDER PARAGRAPH (1) OF THIS**  
4 **SUBSECTION, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, THE COURT**  
5 **SHALL CONSIDER A PRIOR STATEMENT REGARDING THE CIRCUMSTANCES OF**  
6 **THE CHILD'S CONCEPTION MADE BY THE CHILD'S MOTHER TO LAW**  
7 **ENFORCEMENT, CHILD PROTECTIVE SERVICES, OR ANY OTHER THIRD PARTY**  
8 **DEEMED RELIABLE BY THE COURT.**

9                   **(3) (I) FOR PURPOSES OF SERVICE OF THE MOTION**  
10 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY NOT**  
11 **REQUIRE PUBLICATION OF THE MOTHER'S NAME OR OTHER PERSONAL**  
12 **IDENTIFYING INFORMATION.**

13                   **(II) A HEARING UNDER PARAGRAPH (1) OF THIS**  
14 **SUBSECTION SHALL BE HELD WITHIN 30 DAYS AFTER SERVICE OF THE MOTION.**

15                   **(4) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD**  
16 **UNDER THIS SUBSECTION, THE COURT MAY ORDER THE MAN TO PROVIDE**  
17 **FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10 OF THIS**  
18 **ARTICLE OR OTHERWISE.**

19                   **[(b)] (C) (1) A petitioner under Part II or Part III of this subtitle shall**  
20 **give a juvenile court notice that a man who is not named in the petition and has not**  
21 **been excluded as a father claims paternity.**

22                   **(2) After a request of a party or claimant and before ruling on a**  
23 **petition under Part II or Part III of this subtitle, a juvenile court shall hold a hearing**  
24 **on the issue of paternity.**

25 5-3A-06.

26                   **(a) Unless a court excludes a man as the father of a child, a man is the father**  
27 **if:**

28                   **(1) the man was married to the child's mother at the time of the child's**  
29 **conception;**

30                   **(2) the man was married to the child's mother at the time of the child's**  
31 **birth;**

32                   **(3) the man is named as the father on the child's birth certificate and**  
33 **has not signed a denial of paternity;**

1 (4) the child's mother has named the man as the child's father and the  
2 man has not signed a denial of paternity;

3 (5) the man has been adjudicated to be the child's father;

4 (6) the man has acknowledged himself, orally or in writing, to be the  
5 child's father and the mother agrees; or

6 (7) on the basis of genetic testing, the man is indicated to be the child's  
7 biological father.

8 **(B) (1) ON MOTION OF THE CHILD'S MOTHER, AND AFTER SERVICE**  
9 **OF THE MOTION THAT IS IN ACCORDANCE WITH THE MARYLAND RULES AND IS**  
10 **REASONABLY CALCULATED TO GIVE ACTUAL NOTICE, AND AFTER A HEARING, A**  
11 **COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE COURT:**

12 **(I) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

13 **1. A. THE MAN HAS COMMITTED AN ACT AGAINST**  
14 **THE CHILD'S MOTHER THAT IS PROHIBITED BY § 3-303, § 3-304(A)(1) OR (2), OR**  
15 **§ 3-323 OF THE CRIMINAL LAW ARTICLE OR, IF THE MOTHER IS UNDER THE**  
16 **AGE OF 16 YEARS AT THE TIME OF THE ACT, § 3-602 OF THE CRIMINAL LAW**  
17 **ARTICLE; OR**

18 **B. THE MAN HAS COMMITTED AN ACT IN ANOTHER**  
19 **JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE THAT**  
20 **ACT; AND**

21 **2. THE CHILD WAS CONCEIVED AS A RESULT OF THE**  
22 **ACT; AND**

23 **(II) FINDS THAT IT IS IN THE BEST INTERESTS OF THE CHILD**  
24 **FOR THE MAN TO BE EXCLUDED AS THE CHILD'S FATHER.**

25 **(2) IN MAKING A FINDING UNDER PARAGRAPH (1) OF THIS**  
26 **SUBSECTION, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, THE COURT**  
27 **SHALL CONSIDER A PRIOR STATEMENT REGARDING THE CIRCUMSTANCES OF**  
28 **THE CHILD'S CONCEPTION MADE BY THE CHILD'S MOTHER TO LAW**  
29 **ENFORCEMENT, CHILD PROTECTIVE SERVICES, OR ANY OTHER THIRD PARTY**  
30 **DEEMED RELIABLE BY THE COURT.**

31 **(3) (I) FOR PURPOSES OF SERVICE OF THE MOTION**  
32 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY NOT**

1 REQUIRE PUBLICATION OF THE MOTHER'S NAME OR OTHER PERSONAL  
2 IDENTIFYING INFORMATION.

3 (II) A HEARING UNDER PARAGRAPH (1) OF THIS  
4 SUBSECTION SHALL BE HELD WITHIN 30 DAYS AFTER SERVICE OF THE MOTION.

5 (4) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD  
6 UNDER THIS SUBSECTION, THE COURT MAY ORDER THE MAN TO PROVIDE  
7 FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10 OF THIS  
8 ARTICLE OR OTHERWISE.

9 [(b)] (C) (1) A petitioner under this subtitle shall give a court notice that  
10 a man who is not named in the petition and has not been excluded as a father claims  
11 paternity.

12 (2) After a request of a party or claimant and before ruling on a  
13 petition for guardianship or adoption under this subtitle, a court shall hold a hearing  
14 on the issue of paternity.

15 5-3B-05.

16 (a) Unless a court excludes a man as the father of a child, a man is the father  
17 if:

18 (1) the man was married to the child's mother at the time of the child's  
19 conception;

20 (2) the man was married to the child's mother at the time of the child's  
21 birth;

22 (3) the man is named as the father on the child's birth certificate and  
23 has not signed a denial of paternity;

24 (4) the child's mother has named the man as the child's father and the  
25 man has not signed a denial of paternity;

26 (5) the man has been adjudicated to be the child's father;

27 (6) the man has acknowledged himself, orally or in writing, to be the  
28 child's father and the mother agrees; or

29 (7) on the basis of genetic testing, the man is indicated to be the child's  
30 biological father.

31 (B) (1) ON MOTION OF THE CHILD'S MOTHER, AND AFTER SERVICE  
32 OF THE MOTION THAT IS IN ACCORDANCE WITH THE MARYLAND RULES AND IS

1 REASONABLY CALCULATED TO GIVE ACTUAL NOTICE, AND AFTER A HEARING, A  
2 COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE COURT:

3 (I) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

4 1. A. THE MAN HAS COMMITTED AN ACT AGAINST  
5 THE CHILD'S MOTHER THAT IS PROHIBITED BY § 3-303, § 3-304(A)(1) OR (2), OR  
6 § 3-323 OF THE CRIMINAL LAW ARTICLE OR, IF THE MOTHER IS UNDER THE  
7 AGE OF 16 YEARS AT THE TIME OF THE ACT, § 3-602 OF THE CRIMINAL LAW  
8 ARTICLE; OR

9 B. THE MAN HAS COMMITTED AN ACT IN ANOTHER  
10 JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE THAT  
11 ACT; AND

12 2. THE CHILD WAS CONCEIVED AS A RESULT OF THE  
13 ACT; AND

14 (II) FINDS THAT IT IS IN THE BEST INTERESTS OF THE CHILD  
15 FOR THE MAN TO BE EXCLUDED AS THE CHILD'S FATHER.

16 (2) IN MAKING A FINDING UNDER PARAGRAPH (1) OF THIS  
17 SUBSECTION, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, THE COURT  
18 SHALL CONSIDER A PRIOR STATEMENT REGARDING THE CIRCUMSTANCES OF  
19 THE CHILD'S CONCEPTION MADE BY THE CHILD'S MOTHER TO LAW  
20 ENFORCEMENT, CHILD PROTECTIVE SERVICES, OR ANY OTHER THIRD PARTY  
21 DEEMED RELIABLE BY THE COURT.

22 (3) (I) FOR PURPOSES OF SERVICE OF THE MOTION  
23 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY NOT  
24 REQUIRE PUBLICATION OF THE MOTHER'S NAME OR OTHER PERSONAL  
25 IDENTIFYING INFORMATION.

26 (II) A HEARING UNDER PARAGRAPH (1) OF THIS  
27 SUBSECTION SHALL BE HELD WITHIN 30 DAYS AFTER SERVICE OF THE MOTION.

28 (4) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD  
29 UNDER THIS SUBSECTION, THE COURT MAY ORDER THE MAN TO PROVIDE  
30 FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10 OF THIS  
31 ARTICLE OR OTHERWISE.

32 [(b)] (C) (1) A petitioner under this subtitle shall give a court notice that  
33 a man who is not named in the petition and has not been excluded as a father claims  
34 paternity.

1           (2) After a request of a party or claimant and before ruling on a  
2 petition for adoption under this subtitle, a court shall hold a hearing on the issue of  
3 paternity.

4 9–101.2.

5           (a) Except as provided in subsection (b) of this section, unless good cause for  
6 the award of custody or visitation is shown by clear and convincing evidence, a court  
7 may not award custody of a child or visitation with a child:

8           (1) to a parent who has been found by a court of this State to be guilty  
9 of first degree or second degree murder of the other parent of the child, another child  
10 of the parent, or any family member residing in the household of either parent of the  
11 child; [or]

12           (2) to a parent who has been found by a court of any state or of the  
13 United States to be guilty of a crime that, if committed in this State, would be first  
14 degree murder or second degree murder of the other parent of the child, another child  
15 of the parent, or any family member residing in the household of either parent of the  
16 child; OR

17           **(3) TO A PARENT, IF THE COURT FINDS BY CLEAR AND**  
18 **CONVINCING EVIDENCE THAT:**

19           **(I) 1. THE PARENT HAS COMMITTED AN ACT AGAINST**  
20 **THE OTHER PARENT THAT IS PROHIBITED BY § 3–303, § 3–304(A)(1) OR (2), OR §**  
21 **3–323 OF THE CRIMINAL LAW ARTICLE OR, IF THE OTHER PARENT IS UNDER**  
22 **THE AGE OF 16 YEARS AT THE TIME OF THE ACT, § 3–602 OF THE CRIMINAL LAW**  
23 **ARTICLE; OR**

24           **2. THE PARENT HAS COMMITTED AN ACT IN**  
25 **ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD**  
26 **CONSTITUTE THAT ACT; AND**

27           **(II) THE CHILD WAS CONCEIVED AS A RESULT OF THE ACT.**

28           (b) If it is in the best interest of the child, the court may approve a  
29 supervised visitation arrangement that assures the safety and the physiological,  
30 psychological, and emotional well-being of the child **AND OF THE CHILD’S OTHER**  
31 **PARENT OR GUARDIAN.**

32           **(C) (1) IN MAKING A FINDING UNDER SUBSECTION (A)(3) OF THIS**  
33 **SECTION, IN ADDITION TO ANY OTHER RELEVANT EVIDENCE, THE COURT SHALL**  
34 **CONSIDER A PRIOR STATEMENT REGARDING THE CIRCUMSTANCES OF THE**

1 CHILD'S CONCEPTION MADE BY THE CHILD'S MOTHER TO LAW ENFORCEMENT,  
2 CHILD PROTECTIVE SERVICES, OR ANY OTHER THIRD PARTY DEEMED RELIABLE  
3 BY THE COURT.

4 (2) UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION  
5 (A)(3) OF THIS SECTION:

6 (I) FOR PURPOSES OF SERVICE OF PROCESS, THE COURT  
7 MAY NOT REQUIRE PUBLICATION OF THE OTHER PARENT'S NAME OR OTHER  
8 PERSONAL IDENTIFYING INFORMATION; AND

9 (II) A HEARING SHALL BE HELD WITHIN 30 DAYS AFTER  
10 SERVICE OF PROCESS.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2013.