

# SENATE BILL 444

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4r2229  
CF HB 68

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By: **Senators Colburn and Hershey**

Introduced and read first time: January 24, 2014

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Denial of Custody or Visitation – Sexual Abuse of a Minor**

3 FOR the purpose of prohibiting a court, except under certain circumstances, from  
4 awarding custody of a child or visitation with a child to a parent who has been  
5 found by a court to be guilty of a certain offense of sexual abuse of a minor;  
6 clarifying that certain provisions of law may not be construed to require a  
7 certain conviction of a certain party before a determination by the court  
8 regarding custody or visitation under certain circumstances; providing for the  
9 application of this Act; and generally relating to child custody and visitation.

10 BY repealing and reenacting, with amendments,  
11 Article – Family Law  
12 Section 9–101.2  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2013 Supplement)

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

17 **Article – Family Law**

18 9–101.2.

19 (a) **(1)** Except as provided in subsection (b) of this section, unless good  
20 cause for the award of custody or visitation is shown by clear and convincing evidence,  
21 a court may not award custody of a child or visitation with a child:

22 **[(1)] (I)** to a parent who has been found by a court of this State to be  
23 guilty of first degree or second degree murder of the other parent of the child, another

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 child of the parent, or any family member residing in the household of either parent of  
2 the child; or

3           **[(2)] (II)** to a parent who has been found by a court of any state or of  
4 the United States to be guilty of a crime that, if committed in this State, would be first  
5 degree murder or second degree murder of the other parent of the child, another child  
6 of the parent, or any family member residing in the household of either parent of the  
7 child.

8           **(2) NOTWITHSTANDING § 9-101 OR § 9-101.1 OF THIS SUBTITLE**  
9 **AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, UNLESS GOOD**  
10 **CAUSE FOR THE AWARD OF CUSTODY OR VISITATION IS SHOWN BY CLEAR AND**  
11 **CONVINCING EVIDENCE, A COURT MAY NOT AWARD CUSTODY OF A CHILD OR**  
12 **VISITATION WITH A CHILD:**

13           **(I) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF**  
14 **THIS STATE TO BE GUILTY OF SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF**  
15 **THE CRIMINAL LAW ARTICLE; OR**

16           **(II) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF**  
17 **ANY STATE OR OF THE UNITED STATES TO BE GUILTY OF A CRIME THAT, IF**  
18 **COMMITTED IN THIS STATE, WOULD BE SEXUAL ABUSE OF A MINOR UNDER §**  
19 **3-602 OF THE CRIMINAL LAW ARTICLE.**

20           (b) If it is in the best interest of the child, the court may approve a  
21 supervised visitation arrangement that assures the safety and the physiological,  
22 psychological, and emotional well-being of the child.

23           **(C) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A CONVICTION**  
24 **OF A PARTY FOR A CRIME BEFORE A DETERMINATION BY THE COURT**  
25 **REGARDING CUSTODY OR VISITATION UNDER § 9-101 OR § 9-101.1 OF THIS**  
26 **SUBTITLE.**

27           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
28 to offenses committed on or after the effective date of this Act.

29           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2014.