

HOUSE BILL 1242

D4

0lr3438

By: **Delegate Cox**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Fundamental Parental Rights**

3 FOR the purpose of establishing that a parent has the fundamental right to direct the
4 upbringing, education, care, and welfare of the parent’s child; prohibiting the State
5 or a political subdivision from infringing on a parent’s fundamental right to direct
6 the upbringing, education, care, and welfare of the parent’s child unless the State or
7 political subdivision can demonstrate by clear and convincing evidence certain
8 factors; providing for the construction of this Act; providing for the application of this
9 Act; and generally relating to fundamental parental rights.

10 BY adding to

11 Article – Family Law

12 Section 5–2A–101 through 5–2A–103 to be under the new subtitle “Subtitle 2A.
13 Fundamental Parental Rights”

14 Annotated Code of Maryland

15 (2019 Replacement Volume)

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

18 **Article – Family Law**

19 **SUBTITLE 2A. FUNDAMENTAL PARENTAL RIGHTS.**

20 **5–2A–101.**

21 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS**
22 **SUBTITLE APPLIES TO ALL STATE AND LOCAL LAWS AND ORDINANCES, WHETHER**
23 **STATUTORY OR OTHERWISE, EFFECTIVE BEFORE, ON, OR AFTER OCTOBER 1, 2020.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) THE GENERAL ASSEMBLY MAY EXEMPT A LAW OR ORDINANCE FROM**
2 **THE REQUIREMENTS OF THIS SUBTITLE ONLY IF THE EXEMPTION EXPLICITLY**
3 **STATES THAT THE LAW OR ORDINANCE IS EXEMPTED FROM THIS SUBTITLE AND**
4 **INCLUDES A CITATION TO THIS SUBTITLE.**

5 **5-2A-102.**

6 **(A) A PARENT HAS THE FUNDAMENTAL RIGHT TO DIRECT THE UPBRINGING,**
7 **EDUCATION, CARE, AND WELFARE OF THE PARENT'S CHILD.**

8 **(B) THE STATE OR A POLITICAL SUBDIVISION MAY NOT INFRINGE ON THE**
9 **RIGHTS OF A PARENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION UNLESS THE**
10 **STATE OR POLITICAL SUBDIVISION DEMONSTRATES BY CLEAR AND CONVINCING**
11 **EVIDENCE THAT THE STATE'S OR POLITICAL SUBDIVISION'S INFRINGEMENT IS:**

12 **(1) NECESSARY TO ACHIEVE A COMPELLING GOVERNMENT INTEREST;**

13 **(2) NARROWLY TAILORED TO ACHIEVE THE COMPELLING**
14 **GOVERNMENT INTEREST; AND**

15 **(3) THE LEAST RESTRICTIVE MEANS TO ACHIEVE THE COMPELLING**
16 **GOVERNMENT INTEREST.**

17 **5-2A-103.**

18 **THIS SUBTITLE MAY NOT BE CONSTRUED TO AUTHORIZE A PARENT TO CAUSE**
19 **PHYSICAL HARM OR LONG-TERM EMOTIONAL HARM TO THE PARENT'S CHILD.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
21 **October 1, 2020.**