

SENATE BILL 438

D4
SB 566/23 – JPR

4r1980
CF 4r1981

By: **Senators Ready, Bailey, Carozza, Corderman, Folden, Gallion, Hershey,
Jennings, Mautz, McKay, Salling, Simonaire, Watson, and West**

Introduced and read first time: January 22, 2024

Assigned to: Judicial Proceedings

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; and generally relating to fundamental parental rights.

9 BY adding to

10 Article – Family Law

11 Section 5–2B–01 through 5–2B–03 to be under the new subtitle “Subtitle 2B.
12 Fundamental Parental Rights”

13 Annotated Code of Maryland

14 (2019 Replacement Volume and 2023 Supplement)

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

17 **Article – Family Law**

18 **SUBTITLE 2B. FUNDAMENTAL PARENTAL RIGHTS.**

19 **5–2B–01.**

20 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS**
21 **SUBTITLE APPLIES TO ALL STATE AND LOCAL LAWS AND ORDINANCES, WHETHER**
22 **STATUTORY OR OTHERWISE, EFFECTIVE BEFORE, ON, OR AFTER OCTOBER 1, 2024.**

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 AN 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 **5-2B-02.**

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 A**
9 **RIGHT 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 **5-2B-03.**

18 **THIS SUBTITLE DOES NOT AUTHORIZE A PARENT OF A MINOR CHILD IN THE**
19 **STATE TO ENGAGE IN CONDUCT THAT IS UNLAWFUL OR TO ABUSE OR NEGLECT THE**
20 **PARENT'S MINOR CHILD IN VIOLATION OF STATE LAW.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
22 **October 1, 2024.**