

# SENATE BILL 402

D4

5r1962  
CF 5r2304

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By: **Senator Madaleno**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – De Facto Parent**

3 FOR the purpose of authorizing a court, on request of certain parties in certain judicial  
4 proceedings, to determine whether an individual is a de facto parent of a child;  
5 authorizing an individual who asserts that the individual is a de facto parent to  
6 initiate or intervene in certain judicial proceedings by filing a certain pleading;  
7 establishing a certain burden of proof and standard of proof; requiring that a judicial  
8 determination on de facto parent status be in writing; establishing that an individual  
9 who is judicially determined to be a de facto parent has the duties, rights, and  
10 obligations of a parent unless the court makes a certain determination; requiring  
11 that certain disputes regarding the allocation of child custody and visitation be  
12 resolved on the basis of the best interest of the child; defining a certain term; and  
13 generally relating to de facto parents.

14 BY adding to  
15 Article – Family Law  
16 Section 5–207  
17 Annotated Code of Maryland  
18 (2012 Replacement Volume and 2014 Supplement)

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

21 **Article – Family Law**

22 **5–207.**

23 **(A) IN THIS SECTION, “DE FACTO PARENT” MEANS AN INDIVIDUAL,**  
24 **INCLUDING A CURRENT OR FORMER SPOUSE OF A PARENT OF A CHILD, WHO:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(1) OVER A SUBSTANTIAL PERIOD OF TIME HAS:**

2                   **(I) BEEN TREATED AS A PARENT BY THE CHILD;**

3                   **(II) FORMED A MEANINGFUL PARENTAL RELATIONSHIP WITH**  
4 **THE CHILD; AND**

5                   **(III) LIVED WITH THE CHILD;**

6           **(2) HAS UNDERTAKEN FULL AND PERMANENT RESPONSIBILITIES AS**  
7 **A PARENT OF THE CHILD; AND**

8           **(3) HAS HELD THE INDIVIDUAL OUT AS A PARENT OF THE CHILD WITH**  
9 **THE AGREEMENT OF A PARENT OF THE CHILD, WHICH MAY BE EXPRESSED OR**  
10 **IMPLIED FROM THE CIRCUMSTANCES AND CONDUCT OF THE PARTIES.**

11           **(B) (1) IN A JUDICIAL PROCEEDING IN WHICH THE PARENTAGE OF A**  
12 **CHILD IS AT ISSUE, INCLUDING A JUDICIAL PROCEEDING CONCERNING CHILD**  
13 **CUSTODY, VISITATION, OR SUPPORT, THE COURT MAY DETERMINE WHETHER AN**  
14 **INDIVIDUAL IS A DE FACTO PARENT OF THE CHILD ON REQUEST OF THE INDIVIDUAL,**  
15 **THE CHILD, OR A PARENT OF THE CHILD.**

16           **(2) AN INDIVIDUAL WHO ASSERTS THAT THE INDIVIDUAL IS A DE**  
17 **FACTO PARENT OF A CHILD MAY INITIATE OR INTERVENE IN A JUDICIAL**  
18 **PROCEEDING IN WHICH THE PARENTAGE OF THE CHILD IS AT ISSUE BY FILING A**  
19 **VERIFIED PLEADING ALLEGING PRIMA FACIE EVIDENCE THAT THE INDIVIDUAL IS A**  
20 **DE FACTO PARENT OF THE CHILD.**

21           **(3) IN A JUDICIAL PROCEEDING IN WHICH THE PARENTAGE OF A**  
22 **CHILD IS AT ISSUE AND A REQUEST HAS BEEN MADE FOR A DETERMINATION OF**  
23 **WHETHER AN INDIVIDUAL IS A DE FACTO PARENT OF THE CHILD, THE COURT SHALL**  
24 **DETERMINE IN A WRITTEN FINDING ON THE RECORD WHETHER THE INDIVIDUAL IS**  
25 **A DE FACTO PARENT OF THE CHILD:**

26                   **(I) ON THE BASIS OF A PREPONDERANCE OF THE EVIDENCE;**

27                   **(II) WITH THE BURDEN OF PROOF PLACED ON THE PARTY**  
28 **ASSERTING THAT THE INDIVIDUAL IS A DE FACTO PARENT OF THE CHILD; AND**

29                   **(III) AT THE EARLIEST PRACTICABLE OPPORTUNITY IN THE**  
30 **PROCEEDING.**

1           **(c) (1) AN INDIVIDUAL WHO IS JUDICIALLY DETERMINED TO BE A DE**  
2 **FACTO PARENT OF A CHILD UNDER THIS SECTION SHALL HAVE ALL THE DUTIES,**  
3 **RIGHTS, AND OBLIGATIONS OF A PARENT OF THE CHILD, INCLUDING THE DUTIES,**  
4 **RIGHTS, AND OBLIGATIONS DESCRIBED IN § 5-203(B) OF THIS SUBTITLE, UNLESS**  
5 **THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT A**  
6 **CONTINUING PARENT-CHILD RELATIONSHIP BETWEEN THE DE FACTO PARENT AND**  
7 **THE CHILD IS NOT IN THE BEST INTEREST OF THE CHILD.**

8           **(2) IN A JUDICIAL PROCEEDING IN WHICH A PARENT OF A CHILD AND**  
9 **AN INDIVIDUAL WHO HAS BEEN JUDICIALLY DETERMINED TO BE A DE FACTO**  
10 **PARENT OF THE CHILD DISPUTE THE ALLOCATION OF CHILD CUSTODY AND**  
11 **VISITATION, THE COURT SHALL RESOLVE THE DISPUTE ON THE BASIS OF THE BEST**  
12 **INTEREST OF THE CHILD.**

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2015.