

# ENROLLMENT(S)

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# COUNCIL OF THE DISTRICT OF COLUMBIA

## D.C. LAW 11-112

### "Joint Custody of Children Act of 1996".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 11-26 on first and second readings, December 5, 1995 and January 4, 1996 respectively. Following the signature of the Mayor on January 31, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-202 and published in the February 9, 1996, edition of the D.C. Register (Vol. 43 page 574) and transmitted to Congress on February 22, 1996 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-112, effective April 18, 1996.

  
DAVID A. CLARKE  
Chairman of the Council

#### Dates Counted During the 30-day Congressional Review Period:

Feb.	22,23,26,27,28,29
March	1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25,26, 27,28,29
April	15,16,17

AN ACT  
D.C. ACT 11-202

*Codification  
District of  
Columbia  
Code  
1996 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 31, 1996

To amend title 16 of the District of Columbia Code to permit the Superior Court of the District of Columbia to make an order of custody of a minor child to one or both parents.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Joint Custody of Children Act of 1996".

Sec. 2. Title 16 of the District of Columbia Code is amended as follows:

(a) Section 16-911 is amended as follows:

(1) Subsection (a)(5) is amended to read as follows:

"(5) determine who shall have the care and custody of a minor child or children pending the proceedings, without conclusive regard to the race, color, national origin, political affiliation, sex or sexual orientation, in and of itself, of a party according to procedures set forth in this section. The court may award joint or sole custody according to the best interest of the child. In determining the care and custody of a minor child, the best interest of the child shall be the primary consideration. Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code § 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code § 16-1021 through § 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of

**Section  
16-911**

**ENROLLED ORIGINAL**

the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code § 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code § 16-1021 through § 16-1026 has occurred. To determine the best interest of the child, for the purpose of making a joint or sole custody determination, the court shall consider all relevant factors, including, but not limited to:

- "(A) the wishes of the child as to his or her custodian, where practicable;
- "(B) the wishes of the child's parent or parents as to the child's custody;
- "(C) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest;
- "(D) the child's adjustment to his or her home, school, and community;
- "(E) the mental and physical health of all individuals involved;
- "(F) the capacity of the parents to communicate and reach shared decisions affecting the child's welfare;
- "(G) the willingness of the parents to share custody;
- "(H) the prior involvement of each parent in the child's life;
- "(I) the potential disruption of the child's social and school life;
- "(J) the geographical proximity of the parental homes as this relates to the practical considerations of the child's or children's residential schedule;
- "(K) the demands of parental employment;
- "(L) the age and number of children;
- "(M) the sincerity of each parent's request;
- "(N) the parent's ability to financially support a custody arrangement;
- "(O) the impact on Aid to Families with Dependent Children and medical assistance;
- "(P) the benefit to the parents; and
- "(Q) evidence of an intrafamily offense as defined in section 16-1001(5)."

(2) A new subsection (a-2) is added to read as follows:

"(a-2)(1) A custody order may include:

- "(A) sole legal custody;
- "(B) sole physical custody;
- "(C) joint legal custody;
- "(D) joint physical custody; or
- "(E) any other custody arrangement the court may determine is in the best interest of the child.

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"(2)(A) In any custody proceeding under this subsection, the court may order each parent to submit a detailed parenting plan which shall delineate each parent's position with respect to the scheduling and allocation of rights and responsibilities that will best serve the interest of the minor child or children. The parenting plan may include, but shall not be limited to, provisions for:

- "(i) the residence of the child or children;
- "(ii) the financial support based on the needs of the child or children and the actual resources of the parent;
- "(iii) visitation;
- "(iv) holidays, birthdays, and vacation visitation;
- "(v) transportation of the child or children between the residences;
- "(vi) education;
- "(vii) religious training, if any;
- "(viii) access to the child's or children's educational, medical, psychiatric, and dental care records;
- "(ix) except in emergencies, the responsibility for medical, psychiatric, and dental treatment decisions;
- "(x) communication between the child and the parents; and
- "(xi) resolving conflict such as a recognized family counseling or mediation service before application to the court to resolve a conflict.

"(B) The court shall consider the parenting plans submitted by the parents in evaluating the factors set forth in this subsection and in fashioning a custody order.

"(C) "The court shall designate the parent who will make the major decisions concerning the health, safety, and welfare of the child that need immediate attention.

"(D) The court may also order either or both parents to attend parenting classes.

"(3) Joint custody shall not eliminate the responsibility for child support in accordance with the applicable child support guideline as set forth in section 16-916.1.

"(4)(A) An award of custody may be modified or terminated upon the motion of one or both parents, or on the court's own motion, upon a determination that there has been a substantial and material change in circumstances and that such modification or termination is in the best interest of the child.

"(B) When a motion to modify custody is filed, the burden of proof is on the party seeking a change, and the standard of proof shall be by a preponderance of the evidence.

"(C) The provision of this act shall apply to motions to modify or terminate any award of custody filed after the enactment date of this act.

"(5) The court, for good cause and upon its own motion, may appoint a guardian ad litem or an attorney or both to represent the minor child's or children's interests.

"(6)(A) The court shall enter an order for any custody arrangement which is

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agreed to by both parents unless clear and convincing evidence indicates that such arrangement is not in the best interests of the minor child or children.

"(B) An objection by one parent to any custody arrangement shall not be the sole basis for refusing the entry of an order that the court determines is in the best interest of the minor child or children.

"(C) The court shall place on the record the specific factors and findings which justify any custody arrangement not agreed to by both parents.

"(D) The mere enactment of this act does not, in and of itself, constitute a substantial and material change in circumstances and, therefore, may not constitute the sole basis for modifying or terminating a custody award."

(b) Section 16-914 is amended to as follows:

Section  
16-914

(1) Subsection (a) is amended to read as follows:

"(a)(1) After the issuance of a decree of divorce granting alimony and providing for the care and custody of children, the case shall still be considered open for any future orders relating to those matters. With respect to matters of custody and visitation, the race, color, national origin, political affiliation, sex, or sexual orientation, in and of itself, of a party shall not be a conclusive consideration.

"(2) Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code § 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code § 16-1021 through § 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code § 16-1001(5)), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code § 16-1021 through § 16-1026 has occurred.

"(3) In determining the care and custody of infant children, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court shall consider all relevant factors, including, but not limited to:

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- "(A) the wishes of the child as to his or her custodian, where practicable;
- "(B) the wishes of the child's parent or parents as to the child's custody;
- "(C) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest;
- "(D) the child's adjustment to his or her home, school, and community;
- "(E) the mental and physical health of all individuals involved;
- "(F) evidence of an intrafamily offense as defined in section 16-1001(5);
- "(G) the capacity of the parents to communicate and reach shared decisions affecting the child's welfare;
- "(H) the willingness of the parents to share custody;
- "(I) the prior involvement of each parent in the child's life;
- "(J) the potential disruption of the child's social and school life;
- "(K) the geographic proximity of the parental homes as this relates to the practical considerations of the child's or children's residential schedule;
- "(L) the demands of parental employment;
- "(M) the age and number of children;
- "(N) the sincerity of each parent's request;
- "(O) the parent's ability to financially support a joint custody arrangement;
- "(P) the impact on Aid to Families with Dependent Children and medical assistance; and
- "(Q) the benefit to the parents."

(2) A new subsection (a-2) is added to read as follows:

"(a-2) The mere enactment of the Joint Custody of Children Act of 1996 does not, in and of itself, constitute a substantial and material change in circumstances and, therefore, may not constitute the sole basis for modifying or terminating a custody award."

(c) A new section 16-916.3 is added to read as follows:

"§ 16-916.3. Proceedings in which child support matters may be considered.

"The court may consider child support matters, as it deems appropriate, in any proceeding to determine the care and custody of a minor child or children."

**New Section  
16-916.3**

**Sec. 3. Fiscal impact.**

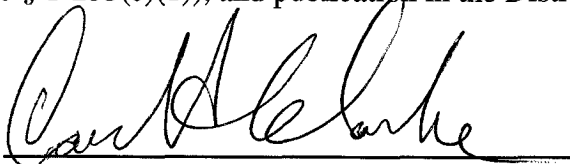
The administrative cost to the D.C. Superior Court to implement this legislation probably would not exceed \$30,000 per year. However, this estimate does not take into account the cost of developing and implementing an integrated, automated family case processing system to accommodate intrafamily offense searches.

**Sec. 4. Effective date.**

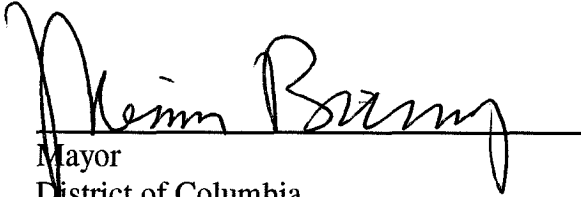
This act shall take effect following approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council of the District of Columbia to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(c)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: January 31, 1996





COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B11-26

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 12-05-95

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

PASSED

(7 6 0 0)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke	X				Jarvis	X				Smith, Jr.		X		
Brazil		X			Lightfoot	X				Thomas, Sr.	X			
Chavous		X			Mason	X				Whittington		X		
Cropp	X				Patterson	X								
Evans		X			Ray		X							

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]  
Secretary to the Council

January 17, 1996  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 01-04-96

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

PASSED

(7 6 0 0)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke		X			Jarvis		X			Smith, Jr.	X			
Brazil	X				Lightfoot		X			Thomas, Sr.	X			
Chavous	X				Mason		X			Whittington	X			
Cropp		X			Patterson		X							
Evans	X				Ray	X								

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

[Signature]  
Secretary to the Council

January 17, 1996  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date