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BILL NO: House Bill 748  
TITLE: Family Law- Child Custody and Visitation  
COMMITTEE: Judicial Proceedings  
HEARING DATE: January 26, 2021  
POSITION: **SUPPORT WITH AMENDMENTS**

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House Bill 748 would amend Family Law Section 9-101 to require the court to articulate its findings under this statute. It makes other alterations to that and other sections, and, in its original form also codifies factors a court must consider in hearings involving custody. Amendments have been drafted, removing the custody factors, which improves the bill substantially and the Women's Law Center of Maryland (WLC) supports the bill if amended, despite having remaining concerns.

House Bill 748 arises out of recommendations made by the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, constituted by statute in 2019. The Women's Law Center was appointed to this Workgroup. The Workgroup worked tirelessly, and delved deeply into how domestic violence, child abuse, and child sex abuse effects children and families and how courts manage cases with such allegations. There were many professional experts who presented to the Workgroup. After over 18 months of meetings the recommendations were finalized. The conclusion of the Workgroup, generally, was that stakeholders in child custody proceedings, including judges and magistrates, need more education of newer research, and that courts are not carefully and fully considering evidence of harm to victims when making custody decisions in the best interests of the child.

HB 748 is an effort to make courts be more deliberate in their approach to cases where such allegations are made. Anecdotally, the common view is that courts frequently completely disregard Family Law Code Section 9-101 and 9-101.1. The parts of HB 748 that address specifically these Code Sections, if passed, may reinforce to courts that they must address these allegations explicitly and articulate specific findings. This may help litigants, many of whom are unrepresented, to understand how a court came to its ruling, and may in turn increase faith in the court system. Detractors of HB 748 opine the court will just continue to not address allegations of domestic violence or child abuse, and that making the requirements for the court more stringent will have the opposite of the intended effect. The WLC supports requiring articulation by the court of why it has determined abuse is not likely to reoccur.

HB 748 also amends Section 9-105, to add "ANY REASONABLE EFFORT TO PROTECT A CHILD OR A PARTY TO A CUSTODY OR VISITATION ORDER FROM THE OTHER PARTY MAY NOT BE CONSIDERED AN UNJUSTIFIABLE DENIAL OR INTERFERENCE WITH VISITATION GRANTED BY A CUSTODY OR VISITATION ORDER," We appreciate the effort to make clear that a "protective parent" should not be penalized, but there may be a better way to do this. We are also concerned about potential for abuse of the very broad language in this section in high conflict cases.

As amended, HB 748 creates what is essentially a required threshold finding by the court to address §9-101 and §9-101.1 issues prior to addressing the other factors considered in custody determinations. Further, it would require the court to articulate its reasoning. We find no fault with these requirements and always think informing litigants of a court's reasoning to be beneficial.

Therefore, the Women's Law Center of Maryland, Inc. supports with amendments House Bill 748 and urges a favorable report, if the amendments are adopted.

*The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*