

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 748
Family Law – Child Custody and Visitation
DATE: January 29, 2021
(2/18)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 748. This bill would 1) amend Md. Code, Family Law Art., § 9-101 to require judges to articulate reasons for finding that there is no likelihood of further child abuse or neglect in certain custody and visitation proceedings and alter the conditions of certain supervised visitation arrangements; 2) amend § 9-105 to add that certain efforts to protect a child or party would not be considered an unjustifiable denial or interference with visitation; and 3) add § 9-109, which would establish certain factors for the court to consider when determining which allocation of custody or visitation would be in the best interest of a child.

The Judiciary’s primary concern with this bill is that it would result in substantial changes in law, including changes in certain presumptions about custody, that would limit judicial decision-making and discretion. It would in effect impede a judge’s ability to adjudicate cases based on a family’s unique facts and circumstances.

The Judiciary also has concerns with the provisions in Family Law Article §9-109 that require the court to specifically articulate consideration of each factor, the **weight** given to each, and for the court to give “**extra weight**” to certain factors. While it is prudent for trial judges to articulate consideration of relevant factors, this provision micro-manages decision making and gives an independent basis for appeal on form, as opposed to substance of rulings.

Finally, the Judiciary notes that that language, “if a case *involves* domestic violence or child abuse,” in §9-109(d) is vague.

cc. Hon. Vanessa Atterbeary
Judicial Council
Legislative Committee
Kelley O’Connor