



## State Council on Child Abuse and Neglect (SCCAN)

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SCCAN is an advisory body required by Maryland Family Law Article (Section 5-7A) “to make recommendations annually to the Governor and General Assembly on matters relating to the prevention, detection, prosecution, and treatment of child abuse and neglect, including policy and training needs.”

### TESTIMONY IN SUPPORT OF SB 13:

#### FAMILY LAW – CUSTODY EVALUATORS – QUALIFICATIONS AND TRAINING

**\*\*SUPPORT\*\***

TO: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial Proceedings Committee

FROM: Wendy Lane, MD, MPH, Chair, State Council on Child Abuse & Neglect (SCCAN)

DATE: January 30, 2023

SCCAN, an advisory body to the Governor and General Assembly on matters relating to the prevention, detection, prosecution, and treatment on issues of child abuse and neglect, strongly supports SB 336 and other recommendations of the Workgroup to Study Custody Proceedings Involving Child Abuse or Domestic Violence Allegations. Divorce and separation, all forms of child abuse and neglect, and domestic violence are all experienced by a child as adverse childhood experiences (ACEs) which may have profound lifelong consequences on all learning, behavior, and health to follow. ***How courts address allegations of child abuse and domestic violence in the context of custody hearings is not only critical to the child’s well-being across his/her lifespan, but to the prosperity of our state as a whole.***<sup>1</sup>

SCCAN strongly supports SB 13, Custody Evaluators – Qualifications and Training and its five key components: (1) Ensures appropriate credentialing of custody evaluators; (2) Requires mental health professionals have certain clinical experience (e.g., in family systems, domestic violence, child abuse, child development, childhood trauma, short and long-term impacts of parental separation, protective factors that promote recovery from childhood trauma) before being appointed as custody evaluators by the court ; (3) Requires professionals participate in an initial 20 hours of training prior to appointment as custody evaluators and 5 hours of training during each 2 year period thereafter; (4) Requires the court to provide parties information about the role, availability and cost of custody evaluators; and (5) Requires custody evaluators to provide policies, procedures, fees, and costs to parties in writing prior to engagement.

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<sup>1</sup> As, child abuse and neglect costs Maryland taxpayers an estimated \$1.7 billion each year, reducing children’s exposure to ACEs makes good economic sense. For every \$1 invested in prevention, it is estimated that the state would save \$15 on treating its long-term effects. See, “An Environmental Scan of Maryland’s Efforts to Prevent Child Maltreatment”, Terry V. Shaw, Ph.D., MSW, MPH, University of Maryland, School of Social Work, 2014.

SB 13 was developed out of the work of and recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations established by SB567 (2019). The Workgroup consisted of subject-matter experts and advocates with vast experience in child-custody cases, child abuse, adverse childhood experiences (ACEs), and domestic violence. SCCAN's Executive Director served as a member of the Workgroup. Over the course of some 18 months, the Workgroup heard testimony from multiple experts as well as from parents who had gone through these contentious custody cases.

The Workgroup issued its 140-page report<sup>2</sup> in September 2020 adopting over 20 recommendations focused on better protecting children through such court proceedings. Testimony from experts and parents as well research before the Workgroup provided evidence that judges give extraordinary weight to custody evaluators and that custody evaluators, depending upon their training and expertise, may focus on and/or give weight to irrelevant factors.<sup>3</sup> Additionally, custody evaluators in Maryland are granted quasi-judicial immunity, shielding them from malpractice lawsuits.<sup>4</sup> This makes holding evaluators accountable to specific educational, experiential, and training standards even more important.<sup>5</sup>

Ensuring proper qualifications, experience and training of custody evaluators – on childhood development, trauma, various types of child and neglect and investigations, as well as the dynamics of domestic violence – is central to the very standard judges use to decide custody, i.e., “the best interest of the child”. The proposed training includes critical science about early childhood brain development, how traumatic events impacts this development, state-investigatory processes and their limits, interpersonal dynamics that contribute to abusive behavior, the validity of and need for risk assessments, and preventative measures to mitigate abuse.

Under SB 13, proposed custody evaluators would receive 20 hours of this initial training before they may undertake custody evaluations, followed by an additional five hours to be documented every two years. This is well below the 60 hours originally recommended by the Workgroup and would be a bare minimum to cover the critical subject matter enumerated in the bill.

The Workgroup also received testimony from parents that they were unaware of the existence, role, procedures, availability, and cost of custody evaluators. Especially considering the high number of *pro se* custody cases before the courts, it is critical that this information is shared both by the court and custody evaluators in writing prior to the engagement of custody evaluators.

***For these reasons, SCCAN urges a favorable committee report and passage of Senate Bill 13.***

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<sup>2</sup>[http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport\\_Workgroup\\_to\\_Study\\_Child\\_Custody\\_Court\\_Proceedings\\_Involving\\_Child\\_Abuse\\_or\\_Domestic\\_Violence.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport_Workgroup_to_Study_Child_Custody_Court_Proceedings_Involving_Child_Abuse_or_Domestic_Violence.pdf) (hereinafter “Report”).

<sup>3</sup> Report at 35.

<sup>4</sup> See *Williams v. Rappeport*, 699 F. Supp. 501, 508 (D. Md. 1988) (“Accordingly, [custody evaluators] Drs. Rappeport and Dvoskin are entitled to the protection of absolute immunity and the grant of summary judgment.”).

<sup>5</sup> Timothy M. Tippins, *New York Law Journal*, “The Bar Won’t Raise Itself: The Case for Evaluation Standards,” July 8, 2013.