
BILL NO.: Senate Bill 327
TITLE: Family Law –Child Custody Determinations
COMMITTEE: Judicial Proceedings
DATE: February 13, 2024
POSITION: **SUPPORT**

Senate Bill 327 would codify the factors that courts use in determining what is in the best interests of the child in custody cases. The Women’s Law Center supports Senate Bill 327 as this would distill in one place all of the case law that has developed over decades in a multitude of cases, which would benefit the public and large number of self-represented litigants who go to court for custody determinations¹. SB 327 does not just import language from each of these cases. Instead, it combines and modernizes the case law to make it appropriate to today’s parenting styles and needs of families.

Currently, there is no statute that sets out the factors a court must consider in making a custody determination. Codifying case law, especially for self-represented litigants, would be of great benefit to our litigants and courts. No current statute clearly articulates all factors a Court may consider. Judges, lawyers, and litigants must interpret case law and do not have the benefit of a legislative description of the factors to be considered. This is particularly problematic for self-represented litigants who are hampered in their ability to appropriately present their case for custody and/or visitation without clear and accessible law. In some jurisdictions, as many as 80% of custody cases have one or both parties unrepresented by an attorney.

SB 327 requires the fact-finder in custody determinations to articulate its findings of fact on the record or in a written opinion, specifying each of the factors that were considered. This requirement will significantly assist litigants and lawyers to understand how a court reached its decision, and it would offer increased clarity and transparency in the legal process.

Senate Bill 327 would not preclude a court from ordering joint legal and/or shared physical “custody.” Instead, by focusing always on the impact of child access arrangements on the children involved in a case, SB 327 recognizes, as does current case law, that custody decisions should be child focused, and that each case is unique and requires an individualized evaluation of what is in the best interests of the child. The Women’s Law Center recognizes and deeply respects the benefits of having both parents actively involved in a child’s life. However, it is appropriate only when the parents are able to work together in the best interests of the child. Joint or shared custody can be damaging and dangerous in inappropriate situations, such as where there is domestic violence.

For these reasons, the Women’s Law Center urges a favorable report on Senate Bill 327.

The Women’s Law Center of Maryland is a private, non-profit, membership 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.

¹ SB 327 is a change from prior years efforts to also update language; it is a simpler bite at the apple as the legislature did not have the appetite for the larger proposed changes that arose from the Custody Commission recommendations some ten years or so ago.