



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

Senate Bill 0327

Family Law – Child Custody - Determinations

In the Judicial Proceedings Committee

Hearing on February 13, 2024

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on SB 0327 at the request of bill sponsor Senator Chris West.

MLA asks that the Committee report **favorably** on Senate Bill 0327, which would codify the factors considered by a family court when determining what legal and physical custody arrangement is in the best interests of a child or children. MLA is Maryland’s largest private, civil non-profit law firm, providing free legal services to indigent Maryland residents. MLA assists low-income individuals and families in every Maryland county with a wide array of civil legal issues, including child custody cases that are high conflict and have an imbalance of power. Even when MLA is unable to provide full representation in these cases, our organization provides legal advice to parties who intend to proceed without an attorney.

Child custody decisions are driven by the “best interest of the child” legal standard. In Maryland, and in other states around the country, courts determine what custody arrangement is in a child’s best interest by considering a list of factors, each shedding light on whether a parent is equipped to have custody. In Maryland, however, this list of best interest factors is nowhere to be found in the Family Law Article of the Maryland Code. Instead, these factors are buried in decades-old case law. For low-income litigants who cannot afford an attorney, case law on custody is inaccessible and difficult to understand. SB 0327 seeks to change that by codifying the factors that have already been established by case law, thus ensuring that low-income Marylanders can access them. Having a clear and definite list of statutory best interest factors will empower both represented and unrepresented litigants to navigate the legal process. SB 0327 will clarify the best interest standard for litigants, attorneys, and the courts. This codification of existing case law makes the law more accessible for MLA’s clients.

Furthermore, codifying the best interest factors will provide uniformity in how custody decisions are made. Currently, the best interest factors are established across several court cases. Judges across the state do not refer to the same set of factors or cite the same cases when making best interest determinations, leading to varied case outcomes across the state. Thus, SB 0327 will provide consistency and clarity for the court in custody decisions.

Because this bill will ensure the public's access to justice by codifying child custody factors, **Maryland Legal Aid urges the Committee to issue a FAVORABLE report on SB 0327.** If you have any questions, please contact Brett Smoot, (410) 951-7812, bsmoot@mdlalab.org.