

February 7, 2024
The Senate Judicial Proceedings Committee
SB0365 Family Law- Custody Evaluators-Qualifications and Training
Statement of Support

Child Justice strongly supports SB0365, Custody Evaluators – Qualifications and Training. Of great import to Child Justice, this bill: (1) Ensures appropriate credentialing of custody evaluators; (2) Requires mental-health professionals have certain clinical experience before being appointed as custody evaluators by the court; (3) Requires that professionals participate in an initial 20 hours of training prior to appointment as custody evaluators and five hours of training during each two-year period thereafter.

SB0365, 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. Child Justice’s Legal Director, Paul Griffin, served as a member of the Workgroup. Over the course of some 18 months, the Workgroup heard testimony from multiple experts on a variety of topics germane to these custody cases.

The Workgroup issued a 140-page report in which it adopted 20 recommendations. Testimony as well research before the Workgroup provided compelling evidence that judges give extraordinary weight to custody evaluators and that custody evaluators too often focus on and/or give weight to irrelevant factors.

Two sessions ago, this Committee and the Maryland General Assembly approved Senate Bill 17 sponsored by Senator Chris West requiring training for judges and magistrates presiding over child custody cases involving child abuse or domestic violence. Child Justice strongly urges this Committee to extend its good work on judicial training and ensure that child-custody evaluators are as well trained as judges. This is particularly important given the outsized reliance judges tend to place on these evaluators.

We understand that the Maryland Judiciary and its supporters believe the scope of training should remain with the Judiciary and be instituted by Rule, instead of through legislation. While good in theory, we strongly disagree. Simply put, the Judiciary is not well suited to critique and reform its own program.

By way of example, I point to the attached photograph that evidences the effects of domestic violence. This photograph is from a current custody case before a Maryland court. The custody evaluator – who counsel for the victim here was assured by the judge appointing her that she was well trained in domestic violence and child abuse – refused to consider this photograph. She deemed it “irrelevant” because the domestic violence occurred prior to the current custody order. She took this position despite it being contrary to the law in Maryland, the science associated with family violence, and common sense.

In addition, the custody evaluator would not review a current danger assessment of mother or current forensic interview of child because she (wrongly) believed they were confidential. In addition, despite the court’s assurances, the custody evaluator said that she was not qualified as an expert in DV, child abuse, or even trauma. In short, we do not believe this important training can be left to the judiciary.

We respectfully urge the Senate Judicial Proceedings Committee Members for a favorable report on Senate Bill 0365. Thank you for your kind attention and consideration.