

CFH SB365 Testimony.pdf

Uploaded by: Adam Rosenberg

Position: FAV



Date: February 7, 2024

To: Chair Smith, Vice Chair Waldstreicher and the Judicial Proceedings Committee

Reference: Senate Bill 365

Position: FAVORABLE

Dear Chair Smith and Judicial Proceedings Committee Members:

On behalf of LifeBridge Health's Center for Hope we thank you for this opportunity to provide information on Senate Bill 365. Center for Hope provides intervention and prevention for: child abuse, domestic violence, community violence, and elder justice for survivors, caregivers, and communities. At LifeBridge Health, we recognize the devastating impact of violence in our communities, and the growing number of victims of all ages. This is a public health issue and we need to help our communities by partnering with the people in them, to break the cycle of violence. We need to partner alongside community leaders, stand shoulder to shoulder with parents and caregivers, and help provide survivors of violence and crime with support and healing, in order to grow a collective hope for a better city and a better world.

The Center for Hope **strongly supports SB 365 – Family Law - Child Custody Evaluators – Qualifications and Training**. Key components of the legislation include: (1) Required credentialing of custody evaluators; (2) Required clinical experience for appointment as a custody evaluator (e.g., in family systems, domestic violence, child abuse, child development, childhood trauma, short and long-term impacts of parental separation, and protective factors); (3) Required participation in initial and ongoing training; (4) Required sharing of information by the court to involved parties about the role, availability and cost of custody evaluators; and (5) Required written provision of policies, procedures, fees, and costs by custody evaluators to involved parties prior to engagement.

SB 365 was developed from 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. Over the course of 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 report¹ 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

¹http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport_Workgroup_to_Study_Child_Custody_Court_Proceedings_Involving_Child_Abuse_or_Domestic_Violence.pdf (hereinafter "Report").

and that custody evaluators, depending upon their training and expertise, may focus on and/or give weight to irrelevant factors.² Additionally, custody evaluators in Maryland are granted quasi-judicial immunity, shielding them from malpractice lawsuits.³ This makes holding evaluators accountable to specific educational, experiential, and training standards even more important.⁴

Ensuring proper qualifications, experience and training of custody evaluators – on childhood development, trauma, various types of child abuse 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 preventive measures to mitigate abuse. These are the same topics that the Legislature previously mandated that judges receive.

Exposure to adverse childhood experiences such as child abuse and domestic violence increase a child’s risk of long-term physical and mental health problems. These risks can be mitigated by the presence of supportive adults and protection from those that are abusive. Determining what is in the best interest of the child requires deep understanding of family dynamics, child development, adverse and positive childhood experiences, and other issues. Passage of this bill will ensure that children caught in the middle of custody disputes where abuse is alleged have high quality assessments by court evaluators and recommendations that place children in safe, stable and nurturing environments and allow them to flourish.

For all the above stated reasons, we request a favorable report for Senate Bill 365.

If information only does not request an action on the bill, take statement out above. (Customize based on urgency, position, and action)

For more information, please contact:

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Jennifer Witten, M.B.A.

Vice President of Government Relations & Community Development, LifeBridge Health

Jwitten2@lifebridgehealth.org

² Report at 35.

³ 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.”).

⁴ Timothy M. Tippins, *New York Law Journal*, “The Bar Won’t Raise Itself: The Case for Evaluation Standards,” July 8, 2013.

Ally Toyos' Testimony in Support of SB 365.pdf

Uploaded by: Allison Toyos

Position: FAV

My name is Ally Toyos and I am a child survivor of the family court system and the founder of the youth advocacy initiative, Center for Judicial Excellence Youth Speak. I am submitting my testimony in the hope that, through it, you will see why passing SB 365 is a necessary step toward protecting children in family court and preventing life-long trauma.

My parents divorced when I was eight years old and I watched as my father quickly transformed into a different person. He hated my mom for leaving him and as time went by, my father became violent and he waged a war against my mom using me and my younger sister as pawns. When my mom remarried and moved out of the state, my sister and I expressed to the guardian ad litem our desire to move with her. Our father's anger boiled over and his physical, sexual, and emotional abuse of me and my sister worsened.

For years I had been silent about the abuse that I endured, not understanding why my father was doing this to me and terrified of making him angrier, but I couldn't stand by while the court condemned me and my sister to live with our abuser. So I reported my father's abuse, believing that once the court knew what was happening, they would protect us. Instead, our guardian ad litem refused to address our abuse and then my father began defending his actions in court by falsely claiming that our mom had alienated my sister and I from him. Instead of investigating or acting to protect me and my sister, the court ordered that my sister and I be subjected to intensive reunification therapy and no contact with our mom. When my sister and I refused to live with our father out of sheer terror of what he would do to us, our court-appointed case manager threatened us with rape as well as with being separated and sent to juvenile detention and foster care. This "therapy" was ineffective because the problem in the relationship with my father wasn't that my sister and I were brainwashed into hating him, it was that he repeatedly hurt us and we feared for our lives in his home.

A year later, the court again refused to prioritize mine and my sister's safety above the wants of our father and, with the help of our case manager, the judge ordered that we be trafficked into our father's custody through a reunification camp called Family Bridges and be completely cut off from our mom and anyone associated with her for an indefinite period of time. Transport agents were hired to kidnap me and my sister from a courthouse in Kansas and take us across the country to Bozeman, Montana where the camp was run out of a hotel room. We didn't eat, we didn't sleep, but this weakened state allowed the reunification camp leaders to more effectively threaten us into submission. My sister and I were interrogated and threatened relentlessly during the camp. If we refused to live with our abuser, we would be separated and sent to wilderness camp, institutionalized, or sent to foster care where it was guaranteed that we would be separated from each other and our mom until we each turned 18. We were forced to say that our mother was abusive and that our father was a victim and forced to say that we loved our abusive father. Worst of all, we were punished for trying to protect ourselves and speaking out about our father's abuse which was allowed to continue well after the camp had ended. In fact, the constant threat of being sent away or extending the no contact order with our mom ensured that my sister and I were the perfect, silent victims for our father.

It has been more than four years since I was able to escape my father's abuse by aging out of the family court system, but I continue to struggle with the effects of this trauma. I have been diagnosed with post traumatic stress disorder which permeates every aspect of my life including school, work, and relationships. Not only was this precipitated by the years of abuse I endured at the hands of my father, but also by the trauma of being ignored by the court professionals who were supposed to protect me, being told I was lying about my abuse, that I was problematic for speaking up. The subliminal rhetoric that even the institution charged with protecting children did not deem me and my sister worthy of safety, was drilled into me over and over again throughout our ten year long experience in the family courts. Before this experience, I would have never believed that the family court system would condone and encourage my abuse, much less participate in their own form. My sister and I were kidnapped, trafficked across the country, and threatened into our abusers home all while court officials ignored our abuse and made money off of catering to our abuser. Unfortunately, our case is not unique and children across the country are forced into their abuser's custody through reunification therapies and camps recommended by custody evaluators and ordered by courts that do not have adequate training to protect children in abuse situations. Please pass SB 365 to protect children in family court.

SB365 Custody Evaluators Qualifications & Training

Uploaded by: Annie Kenny

Position: FAV

Senator William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

RE: SB365 – Family Law – Custody Evaluators – Qualifications & Training

Chairman Smith,

My name is Annie Kenny, and I am a protective parent of three daughters from St. Mary's County. Several years ago, I discovered that my now ex-husband was abusing our oldest daughter. He was indicted on felony child sex abuse charges and is now a Tier III Registered Sex Offender for life. It took seven months in criminal court for my children's father to be convicted. It took four years in family court for me to get a no-contact order in place, protecting my children from him.

It's important to understand that the father of my children was already convicted and a registered sex offender BEFORE I ever stepped foot in family court. Our case involved complex issues of child sexual abuse, grooming, signs of childhood trauma, and the long-term effects of trauma on children, just to name a few, but not a single individual in the courtroom during our numerous hearings was trained on any of these topics. It wasn't until our fourth court appearance that the term "abuse" was even used, and to this day, the term "sexual abuse" has never been spoken in the courtroom.

Supervised visitation was granted for my ex-husband, to be conducted on weekends at his mother's house, supervised by her. A year into the visitation, after months of behavioral concerns with one of my daughters, she made disclosures to several members of her mental health team, all of which immediately filed a report with Child Protective Services. Child Protective Services and the police questioned my children, and ultimately came to the conclusion that it was completely a civil issue, as no laws had been broken, and my girls were not disclosing any sexual abuse at the time.

I chose to stop sending my children for their "supervised" visitation, and braced myself against numerous contempt charges and hearings. In my first contempt hearing, the magistrate refused to even discuss my ex's conviction, or his sexual abuse of my oldest daughter. He instead directed me to continue sending my children for their weekend visits at Grandma's house, with a stipulation that their father be told to leave the property at night and he not be allowed to sleep there while the children were present. Again, I couldn't bring myself to send my daughters. My non-compliance escalated my ex-husband's anger. I spent months required to be in daily contact with him, discussing all aspects of our children with him. He followed us, stalked our home, bought electronic devices for my children and harassed them constantly through them. The magistrate at one point even directed me to include my ex-husband in my daughter's mental health therapy. I was granted an unrestricted conceal carry gun permit by the Maryland State Police at the same time that I was meeting my ex-husband for supervised dinners weekly, and celebrating birthdays together at Chuck E Cheese.

Once I determined that the supervised visitation under his mother's watch was not actually supervised, and therefore unsafe, I tried numerous other routes in order to appease the court system. I tried in-house supervised visitation through Center for Children, but they stopped having a supervisor on staff. I supervised multiple visits MYSELF. He eventually hired an organization called Promise Resource Center that allowed for supervised visitations out in the community. We would meet at Burger King every

Friday after work. He violated his contract with Promise Resource Center numerous times, following me to my car after visits, attempting to get the children to walk to his car with him, encouraging one of them to find him on social media and change her device password, using the information he gained at the visits to follow us, and ultimately even touching my children in ways not prohibited by his contract. Promise Resource was under zero obligation to contact CPS, because his behavior didn't qualify as criminal. They were under zero obligation to give me details, because I was not their client, my ex-husband was. And they were under zero obligation to report to the courts, because we did not have a court order specifying this type of supervised visitation. Trying to maintain a relationship between my children and their father at any cost, exposed them to years of additional trauma. Not being within my own legal right to decide to STOP the relative supervised visitation when I discovered my daughters were not being protected cost me six months of court battles and over \$15,000.

I stopped having to communicate with and expose my children to my ex-husband in the spring of 2021, but not because a team of properly trained professionals recognized the trauma my children were being exposed to and opted to protect them. Our freedom came at the cost of other children, as my ex-husband has now been convicted of sexually abusing other, non-familial, children, and is currently serving his prison sentence. I am terrified of what will happen when he is released and starts his mission of accessing my daughters again. And I am angered by the prolonged suffering experienced by my daughters. My middle daughter, Nora, has been subjected to numerous psychiatric hospital stays, a suicide attempt, and even a long-term residential facility stay. Instead of starting her freshman year of high school like her peers, she was spending 2 ½ months facing her trauma and working on coping skills. Having family court professionals who are properly trained on the significant topics related to child trauma would greatly reduce the ongoing trauma that many families are subjected to as they spend years stuck in family court, forced into unsafe relationships and contact with an abuser.

Resistance to properly trained family court professionals is concerning, and certainly not aligned with the best interest of children. Please prioritize child safety at all costs. My daughter, Nora, is also submitting testimony this year, and will be testifying in person in the House Judiciary hearing. We both appreciate your consideration.

Sincerely,

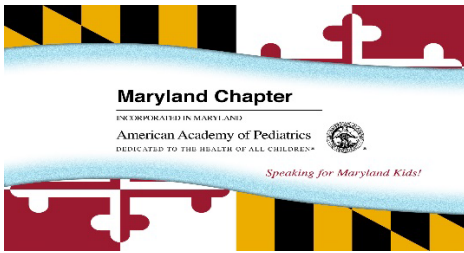
Annie Kenny

Protective Parent & Certified Victim/Child Safety Advocate

SB0365_FAV_MDAAP_Child Custody Evaluators.pdf

Uploaded by: Christine Krone

Position: FAV



TO: The Honorable William Smith, Chair
Members, Judicial Proceedings Committee

FROM: Wendy Lane, MD, MPH
Co-Chair, MDAAP Maltreatment and Foster Care Committee
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone
410-244-7000

DATE: February 8, 2024

RE: **SUPPORT** – Senate Bill 365 – *Family Law - Child Custody Evaluators – Qualifications and Training*.

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 365.

MDAAP strongly *supports SB 365 – Family Law - Child Custody Evaluators – Qualifications and Training*. Key components of the legislation include: (1) Required credentialing of custody evaluators; (2) Required clinical experience for appointment as a custody evaluator (e.g., in family systems, domestic violence, child abuse, child development, childhood trauma, short and long-term impacts of parental separation, and protective factors); (3) Required participation in initial and ongoing training; (4) Required sharing of information by the court to involved parties about the role, availability and cost of custody evaluators; and (5) Required written provision of policies, procedures, fees, and costs by custody evaluators to involved parties prior to engagement.

Senate Bill 365 was developed from recommendations of the *Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations* established by Senate Bill 567 (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. Over the course of 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 report¹ 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

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evaluators and that custody evaluators, depending upon their training and expertise, may focus on and/or give weight to irrelevant factors.² Additionally, custody evaluators in Maryland are granted quasi-judicial immunity, shielding them from malpractice lawsuits.³ This makes holding evaluators accountable to specific educational, experiential, and training standards even more important.⁴

Ensuring proper qualifications, experience and training of custody evaluators – on childhood development, trauma, various types of child abuse 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 preventive measures to mitigate abuse. These are the same topics that the Legislature previously mandated that judges receive.

Exposure to adverse childhood experiences such as child abuse and domestic violence increase a child’s risk of long-term physical and mental health problems. These risks can be mitigated by the presence of supportive adults and protection from those that are abusive. Determining what is in the best interest of the child requires deep understanding of family dynamics, child development, adverse and positive childhood experiences, and other issues. Passage of this bill will ensure that children caught in the middle of custody disputes where abuse is alleged have high quality assessments by court evaluators and recommendations that place children in safe, stable and nurturing environments and allow them to flourish.

For these reasons a favorable report is requested.

² Report at 35.

³ *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.”).

⁴ Timothy M. Tippins, *New York Law Journal*, “The Bar Won’t Raise Itself: The Case for Evaluation Standards,” July 8, 2013.

SB0365.pdf

Uploaded by: Hera McLeod

Position: FAV

My name is Hera McLeod and I'm writing in support of SB0365, "Family Law – Child Custody Evaluators – Qualifications and Trainings".

In October of 2012, my son Prince was murdered by his father. His murder came on the heels of a year in family court where my attorneys presented terrifying evidence pointing to the dangerousness of Prince's father Joaquin Rams. Our custody evaluator heard testimony from several witnesses from Rams' life to include a Virginia police officer, the grandmother of his older son, and one of his ex-girlfriends – who all believed he routinely abused his older son and that he'd killed two people prior, in hopes of profiting from life insurance death benefits.

Our custody evaluator understood that Joaquin was dangerous, and believed he was suffering from psychological issues that would pose a danger to Prince; however, when she got on the stand, Rams' attorney tore apart her testimony. The attorney pointed out that the evaluator didn't have the appropriate training or credentials that would qualify her to assess his psychological functioning or to evaluate his dangerousness.

Our courts often rely on custody evaluators to assess the dangerousness of a parent - yet don't give them the tools to stand behind their assessments. Having evaluators gives the court a false sense that someone has investigated claims and evaluated evidence. Without giving these hard-working professionals the tools that they need to authentically carry out what they are charged to do, we're rendering them useless and a waste of taxpayer dollars. Because all it takes its one attorney to question their qualifications before the court realizes they need to outsource and add someone *with* the proper training and qualifications to evaluate.

Imagine how it must've felt for that evaluator in my son's case when she learned he'd been murdered. She, along with many others in the Montgomery County, MD court must live with wondering whether there was something they could have done to save Prince's life. And in her case, I sincerely hope that she knows how much I appreciate that she tried. My heart goes out to her in the knowledge that when her credibility was challenged, she'd been unable to point to job training she'd received that would've allowed her to stand behind her findings.

Thank you for your thoughtful consideration. Please understand that for many children, family court is their last chance for safety and protection. I encourage you to vote in favor of SB0013 because I truly believe it will add an essential layer of protection for Maryland's children – and it could be just the thing that saves the life of the next child.

SB365-MKB.pdf

Uploaded by: Jared Ross

Position: FAV

Submitted by: Father of MKB (Maddie, Katie, Blake)

MKB had to endure a situation which could have been prevented, should have been prevented.

- Overview:
 - The system only has one chance to get it right.
 - An evaluator and the court system know evaluators carry a lot of weight in a courtroom.
 - The evaluator seems to be looked at as “the answer”
 - If an evaluation is right, life is good. If an evaluation is wrong, the pain carries through the rest of a child’s life.
- Events:
 - Both evaluators in my case would not take in to account what addiction of a parent did to MKB.
 - Even though well known, how addiction affected the relationship with MKB was not factored.
 - MKB were transferred to their mom with complete control (red flags prior to the switch and after the switch)
 - MKB were moved twice in two years (against orders and MD law) shortly after the moment their mom got full custody.
 - An abusive figure (boyfriend) moved in immediately the moment their mom gained full custody. Against a court order.
 - References to Parental Alienation were everywhere in the evaluation, even though it is not recognized in the DSM and is well known to be used as an angle in the court room.
 - First evaluator found to be bias by the judge.
 - Second evaluator was selected by the judge. Judge knew this specific evaluator was not selected by father as a rebuttal expert. Conflict of interest.
- Aftermath:
 - 4 years later and a million dollars in the hole, MKB got their life back.
 - The evaluators were proven wrong.
 - Proven wrong by MKB and their voice.
 - MKB were muted, and words manipulated, kids overcame.
 - MKB testified and took control of their own life path forward.
 - MKB lost most of their childhood which can never come back.
 - MKB lost money resources which were for them but taken by the system which is there to “look out for them”
- An evaluator should not have “free rein” with no oversight.
 - MKB lost almost 5 years. A big chunk of their childhood.
 - There is no recourse for the false they were forced to live.
 - There is no look back at the actions of the Evaluators (BIA or Court) to prevent future similar outcomes.
 - There is only hope via a bill like this can help prevent negative outcomes.
- Specifying certain qualifications and training necessary for an individual to be appointed or approved by a court as a custody evaluator is a must to prevent the pain of errors which can’t be reversed.
- Specifying certain expert evidence is admissible in certain child custody and visitation proceedings under certain circumstances is also a must to prevent fringe theories or just personal thoughts of an evaluator from entering a court setting.

SB365 2024 Written Testimony_Senate.pdf

Uploaded by: Kathryn Spearman

Position: FAV

Testimony
of
Kathryn J. Spearman, MSN, RN, PhD candidate
In support of Maryland SB 13
Baltimore, MD

Thank you for the opportunity to testify in support of SB365. I'm a parent who has been through Maryland's family court system. I'm also now a pediatric nurse and a PhD candidate at the Johns Hopkins School of Nursing researching the impact of domestic violence, child abuse, and legal systems involvement on children's health outcomes.

When the custody evaluator in my own case was asked under oath about her qualifications:

Q. Did you take any course only focused on any type of sexual or domestic violence?

CE: No.

Q. Did you ever evaluate a child to see if he or she was a victim of any type of abuse?

CE: No.

Q. ... Have you ever been qualified as an expert in any type of child abuse?

CE: No.

Q. Have you ever been qualified as an expert in domestic violence?

CE: No.

Yet, the judge in his oral ruling said: "*I know that there was testimony suggesting that [the custody evaluator] did not have the requisite knowledge, training and skills to perform this evaluation. **I disagree**... I do find [the custody evaluator's] testimony credible and afford it great weight.*"

Custody evaluators are tasked with making life altering decisions that will impact a child for the rest of their life. And their training – or lack thereof - influences the lens through which they view the dynamics of the families they evaluate.

Child safety, health, and well-being must be the priority lens.

Family court judicial decisions are a profound social determinant of health for children. A judge decides where a child will live, with whom, who can decide their schooling and community, who can consent for medical and mental health care.

In an expose published by Propublica on the broken custody evaluation system in Colorado, one custody evaluator was quoted: "sometimes the judge just cuts and pastes all my recommendations and puts it into the court order."

In the state of Maryland, custody evaluators operate with little to no professional oversight and currently no mandated training on the nuances of domestic violence, coercive control, and the impact of child maltreatment on children's development. This bill would be a start to fix that.

In my research with survivors at the Johns Hopkins School of Nursing, the single most common policy change survivors say they want for the sake of their children is training. Training for family court professionals on the nuances of intimate terrorism, domestic abuse, and child abuse. Training is simply information. Information that can help professionals make informed decisions. Lack of training in itself creates a bias, and can lead to flawed or inadequate decision making.

Custody evaluators need training on these issues because when abuse and intimate terrorism are conflated with “conflict”, custody evaluators may make recommendations that place children and/or their protective parents in unsafe – and potentially lethal – situations.

Training on “high conflict” is not sufficient: family court professionals must learn to differentiate between abuse and conflict, so the wrong interventions are not applied.

I urge you to please pass this bill for the sake of the best interests of children in the state of Maryland. Had custody evaluators had this training, it would have made a meaningful difference in the lives of many children, including my own.

References

- Dreyfus, H. (2022). A custody evaluator who disbelieves 90% of abuse allegations recommended a teen stay under her abusive father’s control. ProPublica. Retrieved from <https://www.propublica.org/article/parental-responsibility-evaluators-colorado>
- Haselschwerdt, M. L., Hardesty, J. L., & Hans, J. D. (2011). Custody Evaluators’ Beliefs About Domestic Violence Allegations During Divorce: Feminist and Family Violence Perspectives. *Journal of Interpersonal Violence*, 26(8), 1694-1719. <https://doi.org/10.1177/0886260510370599>
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- Spearman, K. J., Vaughan-Eden, V., Hardesty, J. L., & Campbell, J. (2023). Post-separation abuse: A literature review connecting tactics to harm. *Journal of Family Trauma, Child Custody & Child Development*, 1-20.

SB365 - Written Submittal - Kennan 02 07 2024 .pdf

Uploaded by: Kelly Kennan

Position: FAV

February 7, 2024

Maryland General Assembly
Annapolis, Maryland

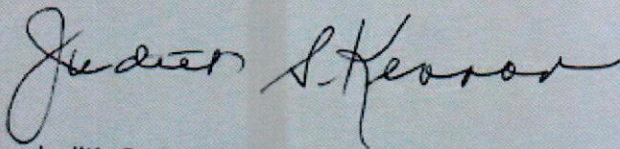
Dear Members:

As a lifetime resident of the state of Maryland, I implore you to move on and to please pass state bill 365 supporting the professional training of child custody evaluators. It is imperative that the courts see these persons as fully credentialed, unbiased, neutral, not manipulated or bribed in any way. In the past, unqualified evaluators have wrecked havoc on the lives of not only the children of these cases, but their families and extended families as well! In some cases careers and businesses have been directly affected. The stigma surrounding these families involved had also had negative repercussions.

As the writer of this plea, I speak from the experience of my daughter, her children and my beautiful family. Child custody evaluators must be professionally trained individuals. I am a retired adjunct faculty member of Salisbury University's Department of Education with my Masters Degree in education from the University of Maryland. Having professionally trained persons involved with all aspects of the lives of our children is essential.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Judith S. Kennan". The signature is written in dark ink and is positioned above the typed name and address.

Judith S. Kennan
404 Forest Lane
Salisbury, Maryland

February 7, 2024

Senator Will Smith
Senator Mary Beth Carozza

Senator Jeff Waldstreicher
Senator Chris West

Senate Judicial Proceedings Committee
Maryland General Assembly
Annapolis, MD 21401

RE: **SB365/HB405 - Family Law - Child Custody Evaluators - Qualifications and Training**

I am a General Dentist in Wicomico County. I was abused by a prior spouse. I am on the Credentialing team for Blue Cross and Blue Shield Dental of Maryland and I am constituent of Senator Mary Beth Carozza District 38 (Business Add:1820 Sweetbay Dr #104, Salisbury, MD 21804) and Senator Johnny Mautz District 37 (Home Add: 5677 N Nithsdale Dr, Salisbury, MD 21801).

I am in Support of Senate Bill 365/ HB405 passing through for the State of Maryland. I am an Example of where the Judicial System in our County did not have proper Custodial Evaluation of my custody case in 2021. The court systems utilized custodial opinions of two Social Workers, who were not trained in Custodial Evaluations and they were not our Court Ordered Custody Evaluator. They were not Neutral, Unbiased, and were Not Trained in Coercive/Manipulation of an Abused Parent and Children.

They breached the Ethics Rules for the Board of the State of Maryland for Social Works and the Board of the Psychiatric/ Psychology - by a DUAL ROLE breach. One individual was a CPS Evaluator, Individual/ Family Therapist, & Custodial Opinion by a Social Worker. The other was a Court Ordered Child Therapist, CPS Evaluator, Individual/ Family Therapist, & Custodial Opinion by a Social Worker. Both shared the same professional therapeutic office & common areas (full office is less than 600 square feet). They both continued with personal CPS evaluations of myself and my children for over three years after dismissal of our CPS case in 2018. (all without a signed consent for any legal therapeutic evaluation or therapeutic care of myself and my children). The mental and physical abuse still continues for my children at their other parents' residence.

I am requesting full support of SB Bill 365/ HB405 due to the failure of our Judicial System to create Professional Boundaries of all Custodial Evaluators/ Evaluations - and proper Safety of parents who have been Abused and the Safety of those children involved in Highly Contested Custody Cases.

Honorably and Respectfully -

Kelly S Kennan, DDS
Salisbury, MD 21801

CHILD JUSTICE LETTER.pdf

Uploaded by: KESHA JOHNSON

Position: FAV

Hello, I will make this quick.

I am begging this bill to be passed. I can tell you first hand, that when the non experienced attorney handles representing children, it can have a very detrimental negative long term effect on children.

As adults we see specialists as needed from orthodontists, car mechanics, doctors, etc. So we MUST protect children (our future) and be sure the right person (similar to a specialist) handles cases involving innocent children.

They need this from us and they deserve it.

Sincerely yours, Mrs Barker

SB365 Testimony.pdf

Uploaded by: Mercedes Fouts

Position: FAV

SB365

Testimony

Good afternoon.

My name is Mercedes Fouts and I am supporting this bill due to my personal experience with the failures it illustrates.

Though the court systems in Maryland may have the best of intentions for protecting the children that are directly affected by its decisions, too many fall through the cracks and are subjected to sometimes horrific consequences that are entirely preventable.

It has been shown that continuous education in the fields in which someone works improves that person's performance and helps to prevent errors and mistakes that are often paid by the innocent children they are ultimately responsible in protecting.

In my case, a Child Access Evaluator was assigned to determine the access that my child's father would have.

In my case, there are accusations of years of severe domestic violence and abuse against myself and my child. Documentation was submitted as evidence showing secret police reports that had been filed as a record just in case something happened. There was documentation submitted that showed proof that my child's father had searched for and downloaded underage pornography. This documentation consisted of computer logs that were created by an external company's key logger program that I could not have manufactured. The Child Access Evaluator acknowledged the receipt of these documents in her write-up of her recommendations.

Mental health and therapy records were provided by my child's therapists showing that my child was diagnosed with PTSD from the abuse he had witnessed and experienced. A letter from the treating forensic psychologist stated that it was his professional recommendation that the child not be forced to spend time with his father as the child had shown fear reactions when the subject of seeing his father was discussed in session. The letter also describes physical abuse that the child experienced and told in detail to the doctor, stating that it was the doctor's belief that the father was both emotionally and physically abusive.

After the evaluation, and with consideration of all the information provided to her, she recommended initial supervised visitation with eventual unsupervised visitation.

It is my belief based on my experiences with the courts and with this Child Access Evaluator that additional education and training would have been invaluable to her as she fulfilled her obligation to protect my child.

Not everyone has the same experiences in life and therefore cannot be expected to know everything. However when one is in the position where one's actions can and will directly affect the safety and lives of innocent children, it is imperative that they should be required to seek further education and knowledge to ensure that they have the best chance to not fail in their charge to protect the innocent.

SB365 Custody Evaluators Qualifications & Training

Uploaded by: Nora Kenny

Position: FAV

**Testimony of Nora Kenny, Age 14, in Support of
SB365 Family Law – Custody Evaluators – Qualifications & Training**

When I was around 8 years old, my family fell apart because my dad was arrested for abusing my older sister. My younger sister and I spent another year after that visiting him at my grandmother's house on certain days. However, my grandma didn't follow the given rules and allowed me and my sister to have unsupervised time with my father and even allowed us to sleep in the same room. The following year, me and my sister spent one evening a week at burger king with my dad, but this time it was supervised by a nice lady. When I was 10, I told my mom that I did not want to keep doing that and then I was finally free. I now know my mom spent two years after that battling in family court to keep me and my younger sister safe, that was until my dad was arrested for abusing other children. The court system did NOT protect me, my mom did. The person who knows how to deal with me best is my mom. If she is not given the responsibility to make decisions about my life, I AT LEAST want the person who is given that job to be trained specifically on these types of situations. I want them to be trained on how children's and teenager's brains develop, the facts about child abuse, signs of trauma in behaviors, and the long-term effects of childhood trauma. It makes me so mad to even think about the fact that the adults that could have been deciding my ENTIRE childhood have no idea how I feel, function, and what I need to heal and feel safe. I hate when people talk about what's fair to my mom or to my dad, what should matter in situations like mine is what's fair to ME. My childhood is made from so many small and large decisions, it feels insulting to know a COMPLETE STRANGER could be the one making those decisions instead of someone close to me. But what makes me even more angry is that the person that is given the job to make my childhood decisions isn't trained on child development, child abuse, trauma, and other important topics. I hope I will be aged out of the family court system by the time my dad gets out of jail, but my little sister will not be 18 before he is out of jail. I'm so scared for what could happen when my mom goes back to family court. The long term effects of trauma, which happens when these decisions are made incorrectly with poor judgment, are so incredibly horrific. I have been hospitalized multiple times since everything happened with my dad, I have struggled with mental illnesses such as anxiety and PTSD as well.

Child Justice Support for SB0365 - Custody Evaluat

Uploaded by: Paul Griffin

Position: FAV

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.

DV Photo to accompany Child Justice Written Testim

Uploaded by: Paul Griffin

Position: FAV



tabbies
**PLAINTIFF'S
EXHIBIT**
/

2024 LCPCM SB 365 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



Committee: Senate Judicial Proceedings Committee

Bill: Senate Bill 365 - Family Law - Child Custody Evaluators - Qualifications and Training

Hearing Date: February 8, 2024

Position: Support

The Licensed Clinical Professional Counselors of Maryland (LCPCM) supports *Senate Bill 365 - Family Law - Child Custody Evaluators - Qualifications and Training*. The bill establishes parameters for who is qualified to evaluate children to advise the court in custody determinations. The bill stems from the recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, which was established by SB 567 in the 2019 session.

We strongly support this bill because custody evaluators need to be qualified and have specific training in the subject matter. Maryland's children deserve and need competent professionals to help guide the courts.

We ask for a favorable report on the legislation. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

SB 365 - Carozza Testimony_FINAL.pdf

Uploaded by: Senator Mary Beth Carozza

Position: FAV

MARY BETH CAROZZA
Legislative District 38
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Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 8, 2024

The Senate Judicial Proceedings Committee

SB 365 Family Law – Child Custody Evaluators – Qualifications and Training

Statement of Support by Bill Sponsor Senator Mary Beth Carozza

Thank you Chair Smith, Vice Chair Waldstreicher, and members of the distinguished Senate Judicial Proceedings Committee for this opportunity to present Senate Bill 365, Child Custody Evaluators – Qualifications and Training, and to respectfully ask for your support for this bill which would help ensure the safety and well-being of children involved in child custody court proceedings involving child abuse or domestic violence allegations.

Serving on the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations has been one of my most important public service assignments, given the magnitude of the trauma that many children and their protective parents experience when child abuse or domestic violence is alleged during court custody proceedings. I have continued working on domestic violence issues and advocating for children with my appointment to the Governor’s Family Violence Council in 2021.

This priority legislation, co-sponsored by Vice-Chair Jeff Waldstreicher and Senator Chris West, would require that Child Custody Evaluators have basic qualifications and receive basic training before being appointed or approved by a court to perform a custody evaluation. Courts follow the recommendations of the custody evaluator in over 90 percent of custody cases. After hearing from parents, advocates, and legal child custody experts over the past five years, it has become clear that there is a distinct need for custody evaluators to have consistent qualifications and training before being appointed or approved to one of these most sensitive court cases. This bill is all about putting the child first.

Two years 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. It only makes sense that child custody evaluators be trained along the same lines as the judges, especially given the heavy reliance of judges on the recommendations of child custody evaluators.

In an effort to work in good faith with the Maryland Judiciary, this bill is consistent with the qualifications and training requirements for custody evaluators in Kayden’s Law, which was part of the federal Violence Against Women Act of 2022, bringing Maryland closer to being able to receive federal funding for this training. The bill before you has been revised from last year to broaden the subject matters of the training for child custody evaluators and allows custody

evaluators to consult with additional experts on other subject matters, addressing a concern of the Maryland Judiciary regarding the availability of child custody evaluators while still enabling child custody evaluators to be accurate in their assessments.

Additionally, to accommodate the concerns of the Maryland Judiciary, this bill only requires 20 hours of initial training and not less than 15 hours of training every three years thereafter, which is significantly lower than the initial request of 60 hours of training. For reference, Court Appointed Special Advocate volunteers receive 40 hours of training and Animal Control officers receive 80 hours of initial training and six hours of continued training every two years.

A question was previously raised on whether the child custody evaluators qualifications and training requirements should be in a Rule or in a Statute. As all of you know, the legislative process is open to the public and legislators are heavily invested in listening to constituents and advocates on all sides of an issue. Over the course of being the lead author in sponsoring the child custody evaluators qualifications and training bill for the past three sessions, I, along with the increasing number of proponents for this legislation, have worked hard to advance this child protection bill.

Senate Bill 365 is a child protection bill when you think that 21 Maryland children have been killed since 2008 by a parent when divorce, separation, custody visitation, child support or court-involvement is a factor. Putting in statute that Maryland's child custody evaluators will be qualified and trained helps protect children in these most sensitive and potentially dangerous child custody cases involving allegations of child abuse and domestic violence.

When we think about the many qualifications and training bills that the Maryland General Assembly has passed into law over the years that impact positions NOT dealing with our most precious responsibility, our children, I believe we as legislators have a moral obligation to pass the child custody evaluators qualifications and training bill this session and ensure that it becomes law this year. It simply is long overdue.

I know this Committee recognizes that child custody evaluators have an important role in assisting family law courts in determining custody outcomes, especially in the most sensitive and difficult cases involving allegations of domestic violence and child abuse. I have heard testimonials from several protective parents and children who were put in danger due to an untrained, unqualified custody evaluator, some of which are included in your bill file.

- Annie Kenny, a protective parent from St. Mary's County, spent years trying to protect her daughters from her ex-husband, who was already a convicted and registered sex offender **before** family court proceedings began in June of 2017 (Case Number: 18-C-17-000720). Despite all of these efforts, it wasn't until their fourth court appearance that the term "abuse" was allowed, and the term "sexual abuse" has yet to be spoken in the courtroom. Due to the continued court-mandated visitations with the father, her daughter Nora has struggled with anxiety, PTSD, and attempted suicide. The only reason these visitations stopped was not that the family court finally took action to protect her daughters, but that her ex-husband was convicted of sexually abusing other children and currently is serving his prison sentence. In this instance, the Court was more interested in

finding a way for the children to live peaceably with parents who are combative, not **why** the parents were combative or in protecting these children.

- Jared Ross, a protective father from Howard County, learned just how much weight child custody evaluators are given when he began divorce court proceedings against his wife Jenny in 2017 (Case Number: 13-C-17-111078). Both child custody evaluators refused to take into account Jenny's addiction and the well-known impact that addiction can have on children. Jenny received full custody of their three daughters and despite court orders, moved twice and left them in close contact with a live-in abusive boyfriend. It was only in September of 2023, after the daughters were allowed to speak in court themselves, that Jared was granted 100 percent legal custody. His daughters lost five years of their childhood and were placed in a dangerous situation due to the weight the child custody evaluators were given in court.
- Hera McLeod's story firmly shows why consistent qualifications and training for child custody evaluators are desperately needed. Hera McLeod is a protective parent from Montgomery County whose separated from her child's father on July 17, 2011 (Case Number: Family Law 96093). The child custody evaluator assigned to her case understood that the father, Joaquin Rams, was dangerous to Hera and her son Prince, based on evidence presented by several witnesses in Rams' life who believed he routinely abused his older son and that he had already killed two people. Unfortunately, Rams' attorney was able to have the child custody evaluator's testimony disregarded due to the lack of training and credentials of the child custody evaluator. In October of 2012, Prince was murdered by his father when he was 15 months old. In the opinion of Paul Griffin, Child Justice, Inc. Legal Director, if child custody evaluators were required to have qualifications and training, Hera's case most likely would have had a different outcome and Prince would be alive today. I agree.

In Maryland, we know of at least 21 children who have been murdered by a parent since 2008. Five of those children were already involved in a family court-related proceeding and could have been saved if the system did not fail them. The purpose and essence of this bill is to protect children in vulnerable circumstances from further harm. I have heard too many stories like these where children were put in danger again and again because the court has ordered the child be in the presence of their abuser, and a majority of those decisions were based on the conclusions of an unqualified and untrained custody evaluator.

Now is the time to move forward on SB 365 to ensure that child custody evaluators meet certain qualifications and training requirements to better protect our children, many of whom are experiencing trauma, as they go through a custody court proceeding involving child abuse or domestic violence allegations.

Mr. Chair and Vice Chair, the time is now. I respectfully urge the Senate Judicial Proceedings Committee Members for a swift and favorable report on Senate Bill 365. Thank you for your kind attention and consideration.

SMC Testimony in Support of HB0365.pdf

Uploaded by: Susan Carrington

Position: FAV

Testimony in Support of HB0365

Imagine a psychologist, custody evaluator labeling as having a “formal thought disorder, not being able to distinguish the difference between reality and fantasy”. This is probably one of the most damaging labels given to a mother, In contested custody cases, Formal thought disorder Is psychological speak for one of the major hallmarks of schizophrenia.

Hi, I'm Susan Carrington. I'm a survivor of domestic violence. I'm here today and supportive House Bill 0365. I am going to share a brief portion of my story/custody casse having well over 800 docket entries in Montgomery County not to mention ones in other states.

I sharing with you my horrific experience, so it can be used to illustrate a very real and traumatic way how custody cases are currently handled. I want to make it clear that I'm not a disgruntled litigant, I am a mother, who, along with her children has been failed by the family court system, which could've all been prevented. Had these custody evaluators received the appropriate training in domestic violence and the dynamics that are present in custody cases, my daughters and I would've been able to have each other in our lives as they went through childhood to adulthood.

Instead, we've not seen each other in 10 years. One is a little over 20 years old one is a little under They have been manipulated to the point where to them I'm not their mother. This not only affects my daughter's relationship with me, but it extends much further. They have also been deprived of knowing my large very large, Successful, close-knit Montgomery County-based family. I can only hope one day they will Be curious enough to start questioning it all. That may or may not happen because if it does, that's a pretty heavy thing to digest. It would take years of therapy just to work through it all. Regardless, this is how far an abuser will go who wants to win at all costs And this is what can happen when the custody evaluator fails to recognize the dynamics of domestic violence in highly contested custody cases.

As I mentioned, I am a survivor of domestic violence. Two separate judges on two separate occasions, found by clearance mining evidence that my ex-husband placed me in fear of imminent bodily harm and physically assaulted me, much witnessed by our young children at the time.

At the time I filed for divorce, the court ordered both parties for a custody evaluation due to the findings of domestic violence, and a criminal history of substance abuse substantiated the evaluation was done by an LCSW within the Montgomery County Circuit Court. This social worker was the only one who understood the dynamics of the case not to mention it was free. Once the evaluation was completed. It was filed with the court as a result of the evaluation,

confirming the domestic violence and substance abuse issues. My ex was furious with the outcome as a result through his council, he filed several motions before the court order that a second custody evaluation be performed by a well-known highly respected private evaluator. Finally, his wish was granted, and his part of our divorce was that the court ordered that we participate in a second custody evaluation specifically with the private evaluator requested, which not to mention was very expensive.

Once this private evaluator completed the evaluation he submitted his findings via a deposition before our attorneys. During his deposition while sworn under oath the evaluator stated that he administered psychological testing in which in my case as a result of one of these tests, administered, he determined that I had a "formal thought disorder" and "couldn't distinguish the difference between reality and fantasy" he went on to great length as to how he administered the test send them out to be scored, gets the data back and interprets them. To anybody sitting or reading this deposition, you would be convinced that this test had been administered.

The evaluator recommended that primary custody be changed from me to my ex, also my ex would have final say over school and activities, and I would have the final say over their medical and mental health all this other. This was not before the court at the time, and without due process this evaluator was able to change custody. It wasn't until nine months later, when we did have a custody child that my ex-husband paid the cost for this evaluator to testify as his expert witness.

During that custody trial, the evaluator was on the stand sworn under oath and admitted that he never handled this case as a domestic violence case and he was unable to conclude or rule out domestic violence despite the fact that the Maryland Court had now already issued two final protective orders. This evaluator also admitted that psychological testing of victims could give invalid test results.

In addition, when questioned further, regarding the formal thought disorder, and the test administered gave him these results, he later admitted on the stand, that he only "thought he administered the test he could not find the results anywhere".

One can only imagine the emotions and feelings. I can't describe with words just how disturbing, depressing, helpless, and hopeless I was.

In the court's ruling, the court still put "great weight" to this evaluator's testimony and recommendations, even though he essentially committed perjury on the stand, and admitted that he never administered a psychological test, which was based on his scathing diagnosis of me.

You can imagine being the victim of what was nothing less than legal abuse. I wanted accountability but unfortunately, accountability is gonna have to start with the judges, not being allowed to delegate judicial powers to these evaluators I did file a complaint with the Maryland Psychological Licensing Board. Unfortunately, my complaint was simply not worth anything, other than a simple note in this evaluator file regarding my case. You would think something of this magnitude would have consequences but then again when your wife sits on the board of the very same licensing board it becomes obvious that that holding the evaluators accountable is a task that will require resources I don't have.

It is imperative that custody evaluators having to be required to have substantial training in domestic violence and the dynamics on child custody cases. The system has failed my daughters and me. We have become innocent victims of a flawed system, They have been denied a relationship with their mother through no choice of their own all because of a custody evaluator who labeled me as having "formal thoughts disorder". This set into motion years of litigation. The Time money and personal toll was extreme but the real tragedy is my daughter's missing out on what it's like to have a loving mother as well as the love and support of her family. You can't put a price tag on that.

Thank you for your time.

Susan Carrington

Written Testimony.pdf

Uploaded by: Eyal Rosenstock

Position: FWA

Greetings:

I am a Maryland-licensed Family Law Attorney with a family law practice in Maryland. I focus my practice on cases where a parent is using a child to commit domestic violence on the other parent. This legislation matters.

But beware – sometimes legislative proposals that seem well-intentioned – are not.

Yes, custody evaluators with more skills should add value to family court judges who need access to the information to help families, to access the truth – the whole truth.

But, placing odd or absurd requirements on custody evaluators may likely BLOCK the truth from reaching the one person – the judge - who can protect a child from child abuse, and protect a parent from domestic violence - where the child is being used to emotionally and psychologically hurt the other parent.

That would be a perversion of the system.

More qualifications and training for custody evaluators is helpful to a family court judge – yes. Specifically, when it comes to the behaviors of parents when they manipulate a child to reject their other parent. This behavior is detrimental to the welfare of the child. And it's a form of domestic violence.

More specifically, evaluators must be trained in administering the proper methods to identify, to administer the proper testing available, to ensure the proper detection, documentation of, and reporting of behaviors of parents who are manipulating children to reject their other parent.

The properly-trained custody evaluator can inform the court that manipulating a child to reject their other parent is really two separate and damaging phenomena: 1) it is **domestic violence** of one spouse perpetrated on the other. 2) It is the use of a child to perpetrate domestic violence on the other parent – which at its essence is **Emotional, Mental and Psychological Child Abuse**.

Specific language in the bill:

9-101.1 (D):

Yes, clinical experience, and a clinical approach, INSTEAD OF, a forensic approach, will help the judge protect child and parent victims of emotional or psychological violence.

This is because a clinical approach requires proper diagnosis, proper treatment, and a written treatment plan. In effect, a clinical approach to the problem helps solve the problem – a forensic approach does NOT.

The proposed legislation is good in this sense: improving custody evaluations by requiring a clinical approach, rather than a forensic one.

9-109 (B)(2):

Training:

In addition to bonding – the **clinical** term is attachment. This section should include the words “training in:

Attachment, Attachment Systems, Attachment Damage.”

Additionally, since they are evaluating a family, they should be trained in Family Systems Psychology and Family Systems Pathology.

9-109(D)(2)(I)(1)

These next paragraphs are problematic.

It is not the role of a custody evaluator to ASSIST victims of domestic violence or child abuse. Their role is to EVALUATE, ASSESS, IDENTIFY facts and problems to inform the court of potential victimization of children or their parents. IT IS NOT THE ROLE OF A CUSTODY EVALUATOR TO “ASSIST” the victim.

This implies a DUAL ROLE – which is UNETHICAL. An individual’s role is either as evaluator, or as an assistor. THEY CANNOT DO BOTH.

Furthermore, while the proposed legislation has an important and well-intentioned goal of enlightening a family court judge to the damages of EMOTIONAL child abuse and EMOTIONAL domestic violence – (something that is MISSING in family court currently) by requiring evaluators approach their evaluation with CLINICAL values as opposed to FORENSIC ones, this section of legislation **DEVIATES** from that stated and apparent goal:

This section requires evaluators to have experience NOT IN HAVING **CLINICAL TRAINING AND COMPETENCE IN EVALUATING, ASSESSING OR IDENTIFYING FACTS**, but shape-shifts into requiring evaluators to have experience in **ASSISTING** victims.

This appears to have the effect of a shell game for the legislators considering this bill. Was this a proposal to improve custody evaluations? Or was it to improve victim assistance? I sense ulterior motive here disguised as innocent intention.

9-109(D)(2)(I)(2)

It also requires an custody evaluator to have been a **VICTIM** themselves.

This is absurd and unprofessional.

Again, this appears to be a shell game disguised as well-intentioned.

Are oncologists required to have been diagnosed with cancer to be oncologists? Are endocrinologists required to have been diagnosed with diabetes to treat their diabetes patients?

This bills requires custody evaluators to have been survivors of child abuse or domestic violence in order to be a custody evaluator? THIS IS ABSURD. This could be detrimental to the child, to the victim of domestic violence, to the truth-finding process, to the judicial process.

9-109(D)(2)(II and III):

Emotional domestic violence, and emotional child abuse, where a parent is using the child to hurt the other parent, are emerging areas of peer-reviewed literature. These sections would LIMIT a court from hearing facts that could help the court understand clinical problems negatively affecting the child (emotional child abuse), and the parent (emotional domestic violence). Consider the example of Battered Wife Syndrome. If this standard was applied to the problem of Battered Wife Syndrome, in the early years, it may have barred real victims of domestic violence and abuse from being protected by a court.

The limitations in II and III run AGAINST various legal doctrines of family law such as *parens patriae* (the court stands in for the parents to protect the child), *Kadish v. Kadish*, 254 Md. App. 467, 274 A.3d 482 (Md. Ct. Spec. App. 2022) and *A.A. v. AB.D.*, 246 Md. App. 418, 228 A.3d 1210 (Md. Ct. Spec. App. 2020): "In assessing the child's best interests, " [a] trial court, acting under the State's *parens patriae* authority, is in the unique position to marshal the applicable facts, assess the situation, and determine the correct means of fulfilling a child's best interests." *Baldwin v. Baynard*, 215 Md. App. 82, 108, 79 A.3d 428 (2013) (quoting *In re Mark M.*, 365 Md. 687, 706, 782 A.2d 332 (2001)). Plainly, a child's best interests are best attained when the court's decision is as well-informed as possible." Emphasis Added.

This section aims to LIMIT information a court can consider. This section would bar a court from accessing information that could help the court determine the correct means of fulfilling a child's best interest.

This is absurd and runs counter to Maryland family law jurisprudence.

9-109(D)(2)(IV):

This section needs to include emotional and psychological abuse in children and intimate partners (spouses).

Miscellaneous:

9-109 (C):

court determination:

The standard should be if a party alleges – not if the court determines. Nevertheless 9-109 (c)(1) and 9-109 (c)(2) should include emotional abuse, in addition to psychological abuse.

9-109(D):

This paragraph should not limit the training to sexual violence and child abuse. It should include emotional and psychological violence - including child manipulation and using a child to hurt an intimate partner.

In Conclusion:

The first part of this bill can help family court judges protect children and parents – by improving custody evaluators to be sensitive to emotional and psychological child abuse and domestic violence – using clinical approaches, not forensic ones – because clinical approaches lead to TREATMENT AND PREVENTION.

The latter part of this bill would HAMPER a court from protecting a child or their parent from emotional or psychological child abuse or intimate partner violence where the child is the vehicle for that abuse.

Lastly, I hope to inform my voting Maryland clients that the legislators analyzing this legislation followed my counsel so as to protect child and adult victims of emotional and psychological abuse in family litigation – it's a public health problem and it needs to be addressed – correctly.

/S/ Eyal Rosenstock

Rosenstock Law Firm LLC

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0412150233

Letter to MD about SB 365 - Serious Issues with SB

Uploaded by: Joan Kloth-Zanard

Position: FWA



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OPPOSED to SB 365 and HB 405 in the present condition

There are serious issues with SB 365 and HB 405.

The following are issues with various areas of MD SB 365. As an expert and professional with over 35 years of experience related to Domestic Violence and 25 Specific to Parental Alienation, the following are concerns:

1. Section 9-109 D Ignores other experts that are material, probative and relevant such as experts in family dynamics, personality disorders, forensic science, suggestibility of children and others. False allegations do exist, and courts need knowledge about these considerations. In fact, back in 1998, when I spoke with several Family Court Supervisors related to abuse allegations, these people admitted that only 10% of the allegations made were true and that the false allegations were gumming up the works for the true victims of abuse. Thus, making it impossible for true victims to actually get help in a timely manner. The federal government agrees that 90% of allegations are false and unsubstantiated. The DV Advocates also admit that 73% of all allegations are unsubstantiated and false.

By way of example, how about the John Mast Case where the father was shot dead by his father-in-law who had been falsely convinced by his daughter and mother of his grandchildren that their father was no good, despite the courts finding otherwise and awarding the Father joint Custody. This has long term effects on the children knowing that their mother caused the death of their father through their maternal grandfather. Or how about the Rod McCall cases where the mother was found undeniably guilty of custodial interference and filing false allegations, and when she lost custody, she killed the child and herself.

2. The Training Section under Parent Child Bond needs to include unhealthy attachments extensive training specific to abandonment and attachment issues. When there is custodial interference, a child's abandonment and attachment security is affected in a highly dysfunctional format that leads to self-harm, Suicidal Ideation and other issues including but not limited to Gender Identity issues.
3. The training section under Section C needs to include including parent child contact issues undersections 2 and 3. When custodial interference, which is a felony federal and in all states is allowed to occur, it impedes with the natural child and parent relationship

by blocking contact. Even in an intact family where there is true abuse going on, the children's relationship is not severed with the offending parent. Instead, specialized therapy is put into place for the offending parent and for the children and the other parent.

4. Children do not have the emotional and mental maturity to decide to permanently remove one parent from their lives. In fact, the human brain does not stop growing until age 25 and does not stop maturing until about age 35. It is why our federal and state governments listened to the scientific research and studies and decided that children are not allowed to vote until they are 18, Drink or Smoke until they are 21 or rent a car until age 25. If the federal and state governments using scientific research and evidence, have made these laws. Then it stands to reason that children should not be allowed to make such a momentous decision as to remove one parent and their extended family from their lives.
5. Under Section D of the Training area for emotional abuse and coercive control, it needs to including parent child contact issues. Even inmates in the prisons have more visitation rights than when a parent deliberately impedes and coercively controls another person from having a healthy relationship with the children. Without specialized training to recognize the difference between coercive control and emotional abuse and a true verified substantiated need for protection, the children and parent need to be allowed to rekindle their relationship and in fact, someone who is not trained properly can cause more harm than good because they use the wrong form of Medical protocol. For example, Traditionally family therapy has been scientifically shown to not work in cases such as these, which includes Stockholm syndrome, Patti Hearst Syndrome, Debunking after a kidnapping and religious cults issue. Furthermore, custodial interference and coercive control are forms of brainwashing and thus the proper treatment protocol has been in place for decades to deal with these kinds of cases. To ignore decades of research and study, is to turn a blind eye to the truth.
6. Long-term and Short-term impacts needs to include psychological abuse and parent child contact issues. Just look at the Adam Lanza case with Sandy Hook. Adam was alienated from his father and older brother for years. This compounded his already fragile mental state and is believed to be the leading impetus for his anger and rage at his mother and all other children who had both parents in their lives. And what about the Michelle Neurater case where the father convinced his daughter to help him kill her mother.
7. In the section on who should be providing this, the following is dangerous: This is a myopic pool of instructors. Evaluators need training in many areas that these people do not have. Preference for a survivor also adds a built-in bias to give credence to false allegations.
8. Again, the evidence-based area is fraught with issues. For example, DV advocates say that the research for PA is weak. This is a false statement. There is over 35 years of evidenced based research on parental alienation. It is actually the DV advocates who are putting forth a false and misleading information based on research that has now been

proven to be false and unreliable as it cannot be replicated from the Meyers and Mercer's works.

9. Same with the section on Unsupported Research. The research on PA is beyond impeccable. In fact, it seems that this is referring to parental alienation and is trying to create a science denial of the last 35 years of research and study by some of the top scientists around the world. If we are to throw out the concept because they do not want to accept the science that is a huge issue. Much like cancer treatment, it might work for the majority of the patients prescribed a particular type of treatment for their particular form of cancer. It does not mean that we throw out the diagnosis or it's treatment because a small percentage did not respond well. It does not mean that because a small percentage could not be helped with this treatment, that we toss out the diagnosis or ban the treatment and remove it from the medical books. It does not mean that this form of cancer does not exist and that that this particular form of treatment is invalid.
10. As to the section IV 1 and 2, claims for the courts ability to recognize DV of children, it needs to include psychological. Parental Alienation is rarely related to physical abuse. It has, however, related to mental and psychological abuse. In fact, psychological abuse encompasses the following areas that are seen in all cases of parental alienation.
 - Rejecting (spurning)
 - Terrorizing
 - Corrupting
 - Denying essential stimulation, emotional responsiveness, or availability
 - Unreliable and inconsistent parenting
 - Mental health, medical, or educational neglect
 - Degrading/devaluing (spurning)
 - Isolating
 - Exploiting

Regards from a very concerned mental health expert,

A handwritten signature in black ink, appearing to read 'Joan T. Kloth-Zanard', with a stylized flourish at the end.

Joan T. Kloth-Zanard
Southbury, CT
Info@pas-intervention.org

SB 365 Cocozzella testimony.pdf

Uploaded by: Laura Cocozzella

Position: FWA

SB 0365 Cocozzella, L. G.

SB 0365 L. G. Cocozzella Written Testimony

SB 0365 Session Family Law-Custody Evaluations-Qualifications and Training Support with Amendments

Laura G. Cocozzella
18 Bankbarn Circle Middletown, MD 21769
Frederick County, MD
301-908-7587
Support with Amendments

My name is Laura Cocozzella, and I am addressing Senate Bill 365 – Family Law – Child Custody Evaluators – Qualifications and Training. Thank you for allowing me to share my perspective and personal experiences - all applicable to the current bill.

Although training is necessary to ensure children have safe access to their parents, this bill, if passed with its current language, omits the research criteria under the Daubert Standard used by trial courts to assess experts' methodologies and opinions. Furthermore, if peer-reviewed methodologies are ignored by custody evaluators, the bill fails to address the long-lasting emotional damages, which include unhealthy attachments, parent-child contact issues, and physical and psychological abuse and well-being. Therefore, I support the bill with amendments.

Regarding the Daubert Standard, I will refer to items from the following lines: 13-15, page 2; 1-8, page 5. These sections must be bolstered by the addition of Daubert criteria which include the following 5 standards:

- 1) Whether the technique or theory in question can be, and has been tested;
- 2) Whether it has been subjected to publication and peer review;
- 3) Its known or potential error rate;
- 4) The existence and maintenance of standards controlling its operation; and
- 5) Whether it has attracted widespread acceptance within a relevant scientific community.

The current bill emphasizes professional expertise and clinical experience for custody evaluators while failing to mention methodologies that have been peer reviewed, as referenced above. From a personal standpoint, my therapist lacked awareness of the specific family dynamics that had created an imbalance in my relationship with my children. During a family reunification session, the family therapist referred to me in front of my son and former spouse as “the animal abandoned by the pack.” My former spouse attended prior sessions with my son, whereas I was not permitted to participate. That unprofessional analogy further exacerbated the imbalanced family dynamics.

In a 2022 article titled “The Truth About Parental Alienation” in *Psychology Today*, Dr. Harper references a 2019 study where “. . . 22 million Americans . . . having a non-reciprocated alienated relationship with their offspring.” Furthermore, he adds that about 4 million children are alienated from a parent. My children and I fall under both groups. Without reliable expertise, custody evaluators will lack skills to observe these insidious behaviors and patterns, and the statistics will grow. Relying on research – tested and peer-reviewed – will enhance skill level of evaluators to ensure innocent parents, victims of abuse themselves, have access to their children.

Once such expert, Dr. Jennifer Harman, is the author of 21 peer-reviewed publications ([Publications | Jennifer J. Harman, PhD \(jenniferjillharman.com\)](#)). In the following study, “Power Dynamics in Families Affected by Parental Alienation,” published in 2021, Harman includes an assessment of the dynamic that destroyed the fabric of my family: asymmetric dependence, which is characterized by the following: “. . . gatekeeping, loyalty-inducing behaviors, and the strategic use of money and technology to control the targeted parent.” Had a trained therapist recognized the imbalance, I might not be in my current situation.

Relying on the use of the five criteria under Daubert will ensure evaluators are trained in research methods that allow a judge to assess a custody situation fairly and accurately.

Inadequately trained experts can prolong emotional damage in children, resulting in unhealthy attachments stemming from psychological abuse. Items in the bill to be amended to address the lasting effects of trauma are found in the following lines: 15, page 3; 26-27, page 3; 19-20, page 25, page 4; and 13-15, 16-18, page 5. These sections must reference the following: unhealthy attachments, parent-child contact issues, and physical and psychological abuse and well-being.

Asymmetric dependence is one of many situations affecting the following: custody arrangements, parent-child contact issues, and the physical and emotional abuse and well-being of children in divorce cases. Please read Harman's peer-reviewed study, referenced above, and advocate for its use in training sessions. A key component related to custody issues is the unhealthy attachment between child and coercive parent. Coercive measures, as stated by Harman, maintain dominance over the targeted parent. Dr. Amy Baker, in her co-authored article titled "Bonded to the Abuser: How and Why Children Form and Maintain Attachments with Abusive Caregivers," states: "It is common knowledge among those working with maltreated children that despite the abuse and/or neglect experienced at the hand of a parent, children generally want to maintain a relationship with the abuser." This is NOT the case for alienated children, which should be alarming to any well-trained therapist/evaluator, as it is the most prominent behavior in children who turn against a loving parent.

Many adult children awaken from this nightmare after having lost decades with a parent whose only fault was to become a victim of narcissistic abuse. Please visit the Anti-Alienation Project ([The Anti-Alienation Project - YouTube](#)), spearheaded by a young woman, Madison, who lost 20 years with her own father. These heartbreaking stories are told from the viewpoint of adult children who recognized they were weaponized by a coercive parent to harm the targeted parent.

I have shared custody with my former spouse. Yet despite our 50-50 arrangement, Christmas 2023 marked a year when I last spent time with my two children. I have nothing to lose in sharing my perspective, as I've already lost the two most precious people in my life, my teenage son and my college-aged daughter. I only wish to strengthen a bill that could potentially ensure the term, targeted parent, is erased.

Thank you again for your time.

M. Krawczyk_SB365 2024_Written Testimony.pdf

Uploaded by: Laurie Krawczyk

Position: FWA

SB365
2024 Maryland General Assembly Session
Melissa Krawczyk
Jarrettsville, MD
Favorable with Amendments

SB365 is intended to improve training of custody evaluators and prevent legitimate cases of domestic violence from being recognized due to a lack of training. There is no doubt this bill is well-intended. Unfortunately, SB365 also has critical errors that will ultimately harm children. By limiting the breadth and scope of experts permissible in family court, by ignoring a very serious form of child psychological abuse known as parental alienation, and by not training on parent-child contact issues and psychological abuse, children will be left in abusive homes.

SB365 will limit experts to only those experienced in domestic violence, excluding those experts in personality disorders, attachment, trauma, and other experts who may be of benefit to family court cases. Maryland has adopted the Daubert Standard and that should be applied in SB365.

SB365 also limits who is qualified to provide the training curriculum to a very narrow and specific range of trainers and domestic violence issues. While this sounds common sense in a custody evaluator bill, the below the surface reality is that there is implicit bias by having trainers who are described on page 5, line 5 "...a survivor of domestic violence or child physical or sexual abuse." Of important note is that survivors of child psychological abuse are not included as eligible trainers. Not including survivors of child psychological abuse is a deliberate omission by stakeholders, who are not only *not* concerned with child psychological abuse, but contend in part that child psychological abuse is "code for parental alienation," that it is just parents acting like "jerks," and claim it is difficult to prove. These are incorrect understandings of psychological abuse.

Finally, SB365 seeks to limit any claims of parental alienation. This is the underlying text of page 5, line 7-10, reading in part, "Not include theories, concepts, or belief systems unsupported by the research described [above]." Bill authors are referring to parental alienation. Stakeholders discredit parental alienation by claiming the science behind it is "junk science." Further, it is claimed that no credible organization acknowledges parental alienation. However, not only are there over one thousand peer reviewed journal articles, book chapters, books, and articles on PA, the American Psychological Association does recognize parental alienation in its 2022 publication [Guidelines for](#)

[*Child Custody Evaluations in Family Law Proceedings*](#)¹. While there is no doubt that false claims of parental alienation have been levied in court cases, so too are other false claims of abuse. That doesn't mean an allegation is discredited because it is deemed not a form of abuse by some.

Proposed amendments to SB365:

1. Expand expert list according to the Daubert Standard.
2. Remove negative references to parental alienation.
3. Psychological abuse and parent/child contact issues added at various places in the bill (page 3, lines 15, 26- 27; page 4 lines 19- 20, 25; page 5 lines 14 and 17.)

This writer urges readers to consider the work on a survivor of parental alienation. The Anti-Alienation Project can be found on [Youtube](#) at Anti-Alienation Project².

There is no disagreement that improved and standardized training is desperately needed in Maryland's Family Courts for custody evaluators. SB365 is a well-intended bill that seeks to improve custody evaluator training. However, that training must include a wide breadth of experts as permitted by Daubert Standard, include all types of abuse including psychological abuse/parental alienation and parent-child contact issues. All children suffering from all forms of abuse deserve protection.

¹ Association, American Psychological . 2022. "APA GUIDELINES for Child Custody Evaluations in Family Law Proceedings." Apa.org. 2022. <https://www.apa.org/about/policy/child-custody-evaluations.pdf>.

²"What Is Parental Alienation? (Adult Child POV)." n.d. Wwww.youtube.com. Accessed February 7, 2024. https://youtu.be/PS5k_VAiZHA?si=2XVhHLMkONbzGIOS.

SENATE BILL 365

D4
SB 13/23 – JPR

4lr1171
CF 4lr1547

By: **Senators Carozza, Waldstreicher, and West**
Introduced and read first time: January 17, 2024
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Custody Evaluators – Qualifications and Training**

3 FOR the purpose of specifying certain qualifications and training necessary for an
4 individual to be appointed or approved by a court as a custody evaluator; specifying
5 that certain expert evidence is admissible in certain child custody and visitation
6 proceedings under certain circumstances; and generally relating to child custody and
7 visitation.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 9–101.1
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2023 Supplement)

13 BY adding to
14 Article – Family Law
15 Section 9–109
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

Article – Family Law

20 9–101.1.

22 (a) In this section, “abuse” has the meaning stated in § 4–501 of this article.

23 (b) In a custody or visitation proceeding, the court shall consider, when deciding
24 custody or visitation issues, evidence of abuse by a party against:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



- 1 (1) the other parent of the party's child;
- 2 (2) the party's spouse; or
- 3 (3) any child residing within the party's household, including a child other
4 than the child who is the subject of the custody or visitation proceeding.

5 (c) If the court finds that a party has committed abuse against the other parent
6 of the party's child, the party's spouse, or any child residing within the party's household,
7 the court shall make arrangements for custody or visitation that best protect:

- 8 (1) the child who is the subject of the proceeding; and
- 9 (2) the victim of the abuse.

10 **(D) IN A CHILD CUSTODY OR VISITATION PROCEEDING IN WHICH A PARENT**
11 **IS ALLEGED TO HAVE COMMITTED ABUSE UNDER THIS SECTION, EXPERT EVIDENCE**
12 **FROM A COURT-APPOINTED OR PARTY-RETAINED PROFESSIONAL RELATING TO**
13 **THE ALLEGED ABUSE MAY BE ADMITTED ONLY IF THE ~~PROFESSIONAL POSSESSES~~**
14 **~~DEMONSTRATED EXPERTISE AND CLINICAL EXPERIENCE IN WORKING WITH VICTIMS~~**
15 **~~OF ABUSE THAT IS NOT SOLELY FORENSIC IN NATURE.~~ IS FOUND TO SATISFY THE DAUBERT**
STANDARD.

16 **9-109.**

17 **(A) IN THIS SECTION, "CUSTODY EVALUATOR" MEANS AN INDIVIDUAL**
18 **APPOINTED OR APPROVED BY A COURT TO PERFORM A CUSTODY EVALUATION.**

19 **(B) A COURT MAY NOT APPOINT OR APPROVE AN INDIVIDUAL AS A CUSTODY**
20 **EVALUATOR UNLESS THE INDIVIDUAL:**

21 **(1) IS:**

22 **(I) A PHYSICIAN LICENSED IN ANY STATE WHO IS**
23 **BOARD-CERTIFIED IN PSYCHIATRY OR HAS COMPLETED A PSYCHIATRY RESIDENCY**
24 **ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL**
25 **EDUCATION OR A SUCCESSOR TO THAT COUNCIL;**

26 **(II) A MARYLAND LICENSED PSYCHOLOGIST OR A**
27 **PSYCHOLOGIST WITH AN EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;**

28 **(III) A MARYLAND LICENSED CLINICAL MARRIAGE AND FAMILY**
29 **THERAPIST OR A CLINICAL MARRIAGE AND FAMILY THERAPIST WITH AN**
30 **EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;**

1 (IV) A MARYLAND LICENSED CERTIFIED SOCIAL
2 WORKER—CLINICAL OR A CLINICAL SOCIAL WORKER WITH AN EQUIVALENT LEVEL
3 OF LICENSURE IN ANY OTHER STATE;

4 (V) 1. A MARYLAND LICENSED GRADUATE OR MASTER
5 SOCIAL WORKER WITH AT LEAST 2 YEARS OF EXPERIENCE IN ONE OR MORE OF THE
6 AREAS LISTED IN SUBSECTION (D)(1) OF THIS SECTION; OR

7 2. A GRADUATE OR MASTER SOCIAL WORKER WITH AN
8 EQUIVALENT LEVEL OF LICENSURE AND EXPERIENCE IN ANY OTHER STATE; OR

9 (VI) A MARYLAND LICENSED CLINICAL PROFESSIONAL
10 COUNSELOR OR A CLINICAL PROFESSIONAL COUNSELOR WITH AN EQUIVALENT
11 LEVEL OF LICENSURE IN ANY OTHER STATE; AND

12 (2) HAS TRAINING IN:

13 (I) CHILD GROWTH AND DEVELOPMENT;

14 (II) PSYCHOLOGICAL TESTING;

15 (III) PARENT—CHILD BONDING; INCLUDING UNHEALTHY ATTACHMENTS

16 (IV) SCOPE OF PARENTING;

17 (V) ADULT DEVELOPMENT AND PSYCHOPATHOLOGY;

18 (VI) FAMILY FUNCTIONING; AND

19 (VII) CHILD AND FAMILY DEVELOPMENT.

20 (C) IF A COURT IDENTIFIES ONE OR MORE OF THE FOLLOWING ISSUES IN A
21 CUSTODY OR VISITATION PROCEEDING, THE COURT SHALL APPOINT A CUSTODY
22 EVALUATOR OR LICENSED HEALTH CARE PROVIDER WHO HAS EXPERIENCE,
23 EDUCATION, TRAINING, OR SUPERVISION IN THE SPECIFIC ISSUE IDENTIFIED:

24 (1) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF AN INTIMATE
25 PARTNER OR FORMER INTIMATE PARTNER;

26 (2) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF A CHILD;
INCLUDING PARENT CHILD CONTACT ISSUES

27 (3) COERCIVE CONTROL; INCLUDING PARENT CHILD CONTACT ISSUES

1 (4) NEGLECT OF A CHILD;

2 (5) TRAUMA OR TOXIC STRESS;

3 (6) ALCOHOL OR SUBSTANCE ABUSE;

4 (7) MEDICAL, PHYSICAL, OR NEUROLOGICAL IMPAIRMENT THAT
5 AFFECTS THE ABILITY TO EFFECTIVELY PARENT; OR

6 (8) ANY OTHER ISSUE RELEVANT TO A CUSTODY PROCEEDING THAT
7 THE COURT DETERMINES REQUIRES SPECIFIC EXPERIENCE, EDUCATION, TRAINING,
8 OR SUPERVISION.

9 (D) (1) BEGINNING OCTOBER 1, 2025, IN ADDITION TO MEETING THE
10 REQUIREMENTS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION AND
11 COMPLYING WITH THE CONTINUING EDUCATIONAL REQUIREMENTS OF THE
12 APPLICABLE FIELD, BEFORE APPOINTMENT OR APPROVAL BY A COURT AS A
13 CUSTODY EVALUATOR, AN INDIVIDUAL MUST COMPLETE AT LEAST 20 HOURS OF
14 INITIAL TRAINING AND NOT LESS THAN 15 HOURS OF TRAINING EVERY 3 YEARS
15 THEREAFTER IN AREAS THAT FOCUS SOLELY ON DOMESTIC AND SEXUAL VIOLENCE
16 AND CHILD ABUSE, INCLUDING:

17 (I) CHILD SEXUAL ABUSE;

18 (II) PHYSICAL ABUSE;

19 (III) EMOTIONAL ABUSE; INCLUDING PARENT CHILD CONTACT ISSUES

20 (IV) COERCIVE CONTROL; INCLUDING PARENT CHILD CONTACT ISSUES

21 (V) IMPLICIT AND EXPLICIT BIAS, INCLUDING BIASES RELATING
22 TO DISABILITIES;

23 (VI) TRAUMA;

24 (VII) LONG- AND SHORT-TERM IMPACTS OF DOMESTIC VIOLENCE
25 AND CHILD ABUSE ON CHILDREN; ~~AND~~ INCLUDING PSYCHOLOGICAL ABUSE AND PARENT CHILD
CONTACT ISSUES; AND

26 (VIII) VICTIM AND PERPETRATOR BEHAVIOR PATTERNS AND
27 RELATIONSHIP DYNAMICS WITHIN THE CYCLE OF VIOLENCE.

28 (2) THE TRAINING REQUIRED UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION SHALL:

(I) BE PROVIDED BY:

BE PROVIDED BY A PROFESSIONAL WITH CLINICAL, FORENSIC, OR RESEARCH EXPERIENCE IN DOMESTIC VIOLENCE, PSYCHOLOGICAL ABUSE INCLUDING PARENT CHILD CONTACT ISSUES, AND SEXUAL ABUSE; ~~A PROFESSIONAL WITH SUBSTANTIAL EXPERIENCE IN~~

~~ASSISTING SURVIVORS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING A VICTIM SERVICE PROVIDER; AND~~

2. IF POSSIBLE, A SURVIVOR OF DOMESTIC VIOLENCE OR CHILD PHYSICAL OR SEXUAL ABUSE; EVIDENCE-BASED, PEER REVIEWED RESEARCH;

(II) RELY ON EVIDENCE-BASED RESEARCH BY RECOGNIZED EXPERTS IN THE TYPES OF ABUSE DESCRIBED IN ITEM (I) OF THIS PARAGRAPH;

(III) NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS UNSUPPORTED BY THE RESEARCH DESCRIBED IN ITEM (II) OF THIS PARAGRAPH; AND

(IV) BE DESIGNED TO IMPROVE THE ABILITY OF COURTS TO:

1. RECOGNIZE AND RESPOND TO CHILD ~~PHYSICAL~~ ABUSE, CHILD SEXUAL ABUSE, DOMESTIC VIOLENCE, AND TRAUMA IN VICTIMS, PARTICULARLY CHILDREN; AND

PHYSICAL AND PSYCHOLOGICAL SAFETY 2. MAKE APPROPRIATE CUSTODY DECISIONS THAT PRIORITIZE SAFETY AND WELL-BEING AND ARE CULTURALLY SENSITIVE AND APPROPRIATE FOR DIVERSE COMMUNITIES.

(E) IN ANY ACTION IN WHICH CHILD SUPPORT, CUSTODY, OR VISITATION IS AT ISSUE, A COURT SHALL PROVIDE INFORMATION TO THE PARTIES REGARDING THE ROLE, AVAILABILITY, AND COST OF A CUSTODY EVALUATOR IN THE JURISDICTION.

(F) BEFORE ENGAGING IN THE CUSTODY EVALUATION PROCESS, A CUSTODY EVALUATOR SHALL PROVIDE, IN WRITING, INFORMATION REGARDING THE POLICIES, PROCEDURES, AND FEES AND COSTS FOR THE EVALUATION.

(G) THE ADMINISTRATIVE OFFICE OF THE COURTS MAY ADOPT PROCEDURES TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.

SB365 with Proposed Amendments.pdf

Uploaded by: Yaakov aichenbaum

Position: FWA

SENATE BILL 365

D4
SB 13/23 – JPR

4lr1171
CF 4lr1547

By: **Senators Carozza, Waldstreicher, and West**
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11 LEVEL OF LICENSURE IN ANY OTHER STATE; AND

12 (2) HAS TRAINING IN:

13 (I) CHILD GROWTH AND DEVELOPMENT;

14 (II) PSYCHOLOGICAL TESTING;

15 (III) PARENT—CHILD BONDING; INCLUDING UNHEALTHY ATTACHMENTS

16 (IV) SCOPE OF PARENTING;

17 (V) ADULT DEVELOPMENT AND PSYCHOPATHOLOGY;

18 (VI) FAMILY FUNCTIONING; AND

19 (VII) CHILD AND FAMILY DEVELOPMENT.

20 (C) IF A COURT IDENTIFIES ONE OR MORE OF THE FOLLOWING ISSUES IN A
21 CUSTODY OR VISITATION PROCEEDING, THE COURT SHALL APPOINT A CUSTODY
22 EVALUATOR OR LICENSED HEALTH CARE PROVIDER WHO HAS EXPERIENCE,
23 EDUCATION, TRAINING, OR SUPERVISION IN THE SPECIFIC ISSUE IDENTIFIED:

24 (1) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF AN INTIMATE
25 PARTNER OR FORMER INTIMATE PARTNER;

26 (2) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF A CHILD;
INCLUDING PARENT CHILD CONTACT ISSUES

27 (3) COERCIVE CONTROL; INCLUDING PARENT CHILD CONTACT ISSUES

1 (4) **NEGLECT OF A CHILD;**

2 (5) **TRAUMA OR TOXIC STRESS;**

3 (6) **ALCOHOL OR SUBSTANCE ABUSE;**

4 (7) **MEDICAL, PHYSICAL, OR NEUROLOGICAL IMPAIRMENT THAT**
5 **AFFECTS THE ABILITY TO EFFECTIVELY PARENT; OR**

6 (8) **ANY OTHER ISSUE RELEVANT TO A CUSTODY PROCEEDING THAT**
7 **THE COURT DETERMINES REQUIRES SPECIFIC EXPERIENCE, EDUCATION, TRAINING,**
8 **OR SUPERVISION.**

9 **(D) (1) BEGINNING OCTOBER 1, 2025, IN ADDITION TO MEETING THE**
10 **REQUIREMENTS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION AND**
11 **COMPLYING WITH THE CONTINUING EDUCATIONAL REQUIREMENTS OF THE**
12 **APPLICABLE FIELD, BEFORE APPOINTMENT OR APPROVAL BY A COURT AS A**
13 **CUSTODY EVALUATOR, AN INDIVIDUAL MUST COMPLETE AT LEAST 20 HOURS OF**
14 **INITIAL TRAINING AND NOT LESS THAN 15 HOURS OF TRAINING EVERY 3 YEARS**
15 **THEREAFTER IN AREAS THAT FOCUS SOLELY ON DOMESTIC AND SEXUAL VIOLENCE**
16 **AND CHILD ABUSE, INCLUDING:**

17 **(I) CHILD SEXUAL ABUSE;**

18 **(II) PHYSICAL ABUSE;**

19 **(III) EMOTIONAL ABUSE; INCLUDING PARENT CHILD CONTACT ISSUES**

20 **(IV) COERCIVE CONTROL; INCLUDING PARENT CHILD CONTACT ISSUES**

21 **(V) IMPLICIT AND EXPLICIT BIAS, INCLUDING BIASES RELATING**
22 **TO DISABILITIES;**

23 **(VI) TRAUMA;**

24 **(VII) LONG- AND SHORT-TERM IMPACTS OF DOMESTIC VIOLENCE**
25 **AND CHILD ABUSE ON CHILDREN; ~~AND~~ INCLUDING PSYCHOLOGICAL ABUSE AND PARENT CHILD**
CONTACT ISSUES; AND

26 **(VIII) VICTIM AND PERPETRATOR BEHAVIOR PATTERNS AND**
27 **RELATIONSHIP DYNAMICS WITHIN THE CYCLE OF VIOLENCE.**

28 **(2) THE TRAINING REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION SHALL:**

(I) BE PROVIDED BY:

~~BE PROVIDED BY A PROFESSIONAL WITH CLINICAL, FORENSIC, OR RESEARCH EXPERIENCE IN DOMESTIC VIOLENCE, PSYCHOLOGICAL ABUSE INCLUDING PARENT CHILD CONTACT ISSUES, AND SEXUAL ABUSE; A PROFESSIONAL WITH SUBSTANTIAL EXPERIENCE IN~~

~~ASSISTING SURVIVORS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING A VICTIM SERVICE PROVIDER; AND~~

~~2. IF POSSIBLE, A SURVIVOR OF DOMESTIC VIOLENCE OR CHILD PHYSICAL OR SEXUAL ABUSE;~~ EVIDENCE-BASED, PEER REVIEWED RESEARCH;

~~(II) RELY ON EVIDENCE-BASED RESEARCH BY RECOGNIZED EXPERTS IN THE TYPES OF ABUSE DESCRIBED IN ITEM (I) OF THIS PARAGRAPH;~~

~~(III) NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS UNSUPPORTED BY THE RESEARCH DESCRIBED IN ITEM (II) OF THIS PARAGRAPH; AND~~

(IV) BE DESIGNED TO IMPROVE THE ABILITY OF COURTS TO:

~~1. RECOGNIZE AND RESPOND TO CHILD PHYSICAL ABUSE, CHILD SEXUAL ABUSE, DOMESTIC VIOLENCE, AND TRAUMA IN VICTIMS, PARTICULARLY CHILDREN; AND~~

~~PHYSICAL AND PSYCHOLOGICAL SAFETY~~ 2. MAKE APPROPRIATE CUSTODY DECISIONS THAT PRIORITIZE SAFETY AND WELL-BEING AND ARE CULTURALLY SENSITIVE AND APPROPRIATE FOR DIVERSE COMMUNITIES.

(E) IN ANY ACTION IN WHICH CHILD SUPPORT, CUSTODY, OR VISITATION IS AT ISSUE, A COURT SHALL PROVIDE INFORMATION TO THE PARTIES REGARDING THE ROLE, AVAILABILITY, AND COST OF A CUSTODY EVALUATOR IN THE JURISDICTION.

(F) BEFORE ENGAGING IN THE CUSTODY EVALUATION PROCESS, A CUSTODY EVALUATOR SHALL PROVIDE, IN WRITING, INFORMATION REGARDING THE POLICIES, PROCEDURES, AND FEES AND COSTS FOR THE EVALUATION.

(G) THE ADMINISTRATIVE OFFICE OF THE COURTS MAY ADOPT PROCEDURES TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.

Sherry Testimony SB 365.pdf

Uploaded by: Alissa Sherry

Position: UNF



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PSYCHOLOGICAL CONSULTING

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February 6th, 2024

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
6 Blanden St
Annapolis, MD 21401

UNF Oppose – SB 365: Custody Evaluator Training

Dear Chairman Smith and Honorable Members of the JPR Committee:

I am writing as a licensed psychologist, researcher, and concerned social science professional regarding the precedent that would be set by the passing of SB 365.

I have been a licensed psychologist for 20 years. I am currently licensed in Texas, Florida, and Michigan and have also been approved for practice by the Association of State and Provincial Psychology Boards (ASPPB) to practice under the Psychology Interjurisdictional Compact (PSYPACT), an interstate agreement designed to facilitate the practice of telepsychology and temporary in-person, face-to-face practice of psychology across state lines. Maryland is a member of PSYPACT and thus, the laws passed in Maryland about the practice of psychology make me an invested stakeholder in these laws. As a licensed psychologist, 100% of my practice time has been in forensic evaluations, 95% of which in conducting family law evaluations. At last check, I had conducted over 400 court appointed family law evaluations. Prior to and simultaneous to this, I was a tenured professor at the University of Texas at Austin in our APA accredited Ph.D. program in Counseling Psychology. I was a professor there for 15 years. I taught courses in Ethical Conduct, Psychological Assessment and Forensic Psychology to our Ph.D. students. I also conducted research in child/caregiver attachment, trauma, and the development of severe personality disorders like Borderline Personality. Before retiring from the university to pursue full time forensic practice I had published over 30 blind peer reviewed professional articles. Recently, I became board certified by the American Board of Professional Psychology in forensic psychology – a very prestigious honor given to only a few hundred forensic psychologists in the country. Taken together, I am a science-driven, ethically sound,

board-certified forensic psychologist with extensive experience in conducting custody evaluations. It is from this informed place that I implore you to vote against this legislation.

I am in favor of passing laws that help custody evaluators do an ethical, empirically sound evaluation and I would agree with the critics of our work that there are too few properly trained custody evaluators willing to do this work. I would direct you to the Texas Family Code 107 laws that were passed in 2015 regarding who should conduct these evaluations and how they should be conducted: <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.107.htm>. These were developed by mental health professionals who wanted to protect the public from professionals who enter this field without the proper training or expertise. They are comprehensive, sound, and broad enough to be able to apply to every kind of family we see in the family law system. They are based on best practices as defined by the mental health professional organizations pertaining to psychology, social work, and marriage and family therapists. They also outline scientifically sound protocols as defined by social science. I challenge anyone to find one biased sentence in this law favoring fathers, mothers, a specific sexual orientation, a specific religious orientation, a certain race, profession, political belief, or any other special interest. I will be the first to say that many of Texas laws are rife with the above biases, but not this one. I am not saying it is perfect. No law is, but it was written by the profession for the diverse consumers of the profession.

By contrast, SB 365 has clearly not been written this way. However, it could be salvaged with some changes made. These would include:

1. Removing the negative referenced to parental alienation
2. Psychological abuse and parent/child contact issues be added in various places to the bill
3. Expert witness list expanded as it should be according to the Daubert Standard
4. List of qualified instructors explained.

If the legislature wishes to enact more controls on custody evaluators, I would actually encourage that, provided those controls were based in science and best practice, not advocacy and bias. For example, the laws adopted by the State of Texas are a good start. I might also suggest that those conducting forensic evaluations abide by their national organization's ethics rules (APA, ACA, etc), as well as the Specialty Guidelines for Forensic Psychology, which are ethics created by Division 41 of the APA, American Psychology-Law Society, addressing the unique role of forensic work. In addition to requiring new evaluators to learn under the supervision of an experienced evaluator (as they do in Texas), I would require them to take the beginning weekend survey course in Forensic Psychology offered by the American Board of Forensic Psychology (ABFP) as well as any number of offerings on Family Law Evaluations offered by ABFB, the organization that represents the gold standard of forensic work.

Laws pertaining to the practice of any profession are supposed to protect all people who interface with that profession, not a select few and particularly not those with a personal, biased agenda. I urge the committee to vote against SB 365.

Sincerely,



Alissa Sherry, Ph.D., ABPP
Licensed Psychologist
Board Certified Forensic Psychologist

SB 365 - WLCMD - OPP.pdf

Uploaded by: Andrea Rafter

Position: UNF

BILL NO: Senate Bill 365
TITLE: Family Law – Custody Evaluators – Qualifications and Training
COMMITTEE: Judiciary
HEARING DATE: February 8, 2024
POSITION: **OPPOSE**

Senate Bill 365 would move qualifications for custody evaluators in family law cases from the Maryland Rules to the Maryland Code. While the Women’s Law Center (WLC) appreciates the importance of maintaining rigorous qualifications for these evaluators in custody cases in the state, the appropriate place for addressing these issues is in the Rules, not the Code. In addition, the bill as drafted is fatally flawed, unclear and would cause tremendous difficulties in application.

We fully support the concept that custody evaluators, and indeed others involved in custody cases (judges and magistrates) be educated and informed on the current science and research on things such as ACEs, trauma and children’s responses to traumatic stress, and some other issues laid out in the bill. We have been involved in all too many cases where evaluators seem to completely miss what is evident violence and resulting trauma in a family. However, currently, qualifications for a person to be a custody evaluator are contained in Maryland Rule 9.205.3 CUSTODY AND VISITATION-RELATED ASSESSMENTS. Other provisions are also addressed there. The benefit of addressing this via rule rather than statute is that the Judiciary can change them as necessary, rather than requiring new bills to be introduced whenever new social science or something else dictates a necessary change. SB 365 is in some conflict with the Rule.

The WLC refers the legislative body to the written testimony provided by the MSBA Family Law Section Council. It reviews in great detail the drafting problems within SB 365. We will emphasize that training that covers the dynamics of domestic violence, trauma and trauma response and the like, should be a part of custody evaluators knowledge base. However, this bill does not seem to recognize, despite page 5, lines 21-28, that there is sometimes a large cost for a custody evaluation and many, many parties and families can not pay for this Cadillac version the bill seems to require potentially in virtually every custody matter. Not to mention that the requirements to be custody evaluator contained in SB 365 are going to make the pool of evaluators diminish, and cause long delays in these cases.

For these and host of other reasons, the Women’s Law Center of Maryland, Inc. opposes Senate Bill 365 and urges an unfavorable report.

The Women’s Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.

Written testimony - Angela Layne.pdf

Uploaded by: Angela Layne

Position: UNF

February 6, 2024

Written testimony in opposition to House Bill 405/Senate Bill 365

My name is Angela Layne. I am a licensed clinical social worker who has worked as a custody evaluator with the Montgomery County Circuit Court for almost 13 years. I currently hold the position of senior court evaluator and have served in that role for approximately five years. I thank you for the opportunity to offer my testimony in opposition to House Bill 405.

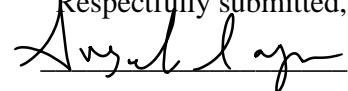
As the senior court evaluator, I have the distinct honor of managing the daily operations of the Custody Evaluator's Office. I have also conducted over 350 custody evaluations. That number represents the lives of children and families whom I have been afforded the privilege of assisting in various capacities. I understand that the court and families rely on the important work that my colleagues and I perform every day.

Our role as custody evaluators is to evaluate information provided to us throughout the course of an evaluation and offer non-biased, clinical assessments and recommendations to the court. It is imperative that custody evaluators are well trained and have the experience and expertise to work in this capacity. Neither myself nor any of my colleagues are disputing that. As mental health professionals, we are required by our licensing boards to participate in ongoing continuing education to remain compliant with our licenses. Many of these trainings already focus on the topics that are being proposed in this bill. Requiring additional trainings (within a specific timeframe) that focus solely on domestic violence and child abuse while placing additional restrictions on who can provide those trainings could present challenges with regards to resources, time, and availability of such trainings.

Today's reality is that caseloads are high, and burnout amongst the clinicians performing evaluations is even higher. Custody evaluators work tirelessly to complete their evaluations. We are tasked with the responsibility of working on sensitive, extremely complex, contentious cases, and at times are faced with unsafe situations. We understand that our recommendations are held in high regard by the court and impact what is in the best interests of children. Making these recommendations are not always easy and never something we take lightly.

Another proposal of this bill is that custody evaluations be ordered if a court identifies one or more of several listed issues. This proposal will lead to a significant increase in custody evaluations ordered, possibly in many cases in which the service is not absolutely necessary. The unintended consequence will be that evaluators' offices across the state, that are already dealing with shortages of custody evaluators, challenges with staff retention and extreme difficulties in hiring new staff, despite having the resources to do so, may become completely overwhelmed and unable to meet the high demand of cases being ordered. There is also the risk of losing current custody evaluators, which will result in limited staff to manage the significant increase in caseloads. If there are no more custody evaluators available to do the work, courts will be left without having information that would otherwise be made available during a custody evaluation. Those who will be greatly impacted by this will be the children, who benefit from having an expert, neutral third party involved to provide recommendations to the court that are in their best interests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Angela Layne", written over a horizontal line.

Angela Layne, LCSW-C

sb365final.pdf

Uploaded by: Linda Miller

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 365
Family Law – Custody Evaluators – Qualifications and Training
DATE: January 24, 2024
(2/8)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 365. The bill mandates that the Court appoint a child custody evaluator in a wide swath of cases (see page 3, beginning on line 20.) The unintended consequences of this mandatory appointment will fall most harshly on unrepresented and low-income litigants and increase litigation costs for all, including survivors of intimate partner violence and parents seeking to protect their children against abuse or neglect. The bill also presents operational issues that would make implementation difficult and is unnecessary given requirements already established by the courts.

Training Already Established. The Judiciary’s opposition to this bill is not opposition to custody evaluators receiving training on intimate partner violence, child abuse and neglect, and trauma or efforts to help ensure courts receive trustworthy and accurate evidence. A child’s safety is paramount, and courts need access to a full range of tools, including trained and qualified custody evaluators, to make individualized, nuanced assessments in each case.

Maryland Rule 9-205.3, a copy of which is attached, establishes qualification standards for all custody evaluators who will be appointed or approved in Maryland. The professionals who are eligible to serve are: licensed health care and mental health providers, who must satisfy continuing education requirements in their field; must have training or experience observing or performing custody evaluations; and must have current knowledge about domestic violence, child neglect and abuse, and family conflict and dynamics. The Rule also requires that a custody evaluator complete a training program that conforms with guidelines established by the Administrative Office of the Courts. This allows us to ensure that presentations are balanced, unbiased, and informed by evidence and best practices. Moreover, the Judiciary’s course is provided at no expense to the participants, which is of critical importance. Fee-based programs run the risk of financially marginalizing certain litigants and providers.

On May 15-17, 2023, the Judiciary held a three-day training course at the Maryland Judicial Center on *Custody and Visitation-Related Assessment Training*. Sixty (60) mental health professionals attended this program. **Attached please find a copy of the syllabus.** Among other topics, the course covered: Domestic Violence and Children (prevalence, coercive control, effects on children, assessing danger, protective strategies, post-separation power and control, case dynamics); Child Development and Parenting Time (attachment types, risk factors, adverse childhood experiences, children's views), Assessing for Intimate Partner Violence (guidelines for assessing intimate partner violence, prioritizing safety, minimizing opportunities for risk of post-separation abuse); Child Abuse/Neglect (mandated reporting, speaking to a child, types of abuse, relationship between intimate partner violence and child abuse, CPS findings and outcomes, cultural considerations, supervised visitation, reviewing records including forensic interviews); Checking Biases (regarding LGBTQIA+ community, patriarchal relationships, substance abuse) The Law; Practice Pointers; Elements of an Evaluation; and Special Circumstances (children with special needs, risk and protective factors, parental relocation). Course attendees learned about the relevant research and best practices in the covered areas and engaged in practical, scenario-driven exercises to practice their skills. Training faculty included experienced custody evaluators, family law attorneys, judges, a magistrate, a victim advocate from a Family Justice Center, the Mental Health Director of a Children's Advocacy Center, and a therapist with extensive clinical experience working with survivors of child abuse and domestic violence.

The AOC guidelines and the training program were developed by the Custody Evaluator Standards & Training Work Group of the Judicial Council's Domestic Law Committee and based on needs and gaps identified by Maryland custody evaluators, family law practitioners, judges, magistrates, and others. The work group was established to identify ways to improve custody and visitation-related assessments so that they are conducted fairly and objectively, and above all else, to help courts determine what is in the best interest of children based on their unique facts and circumstances. The work group remains committed to its charge.

Vague language. Several elements of the bill include vague language that will also make it difficult to implement and increase the burden on litigants. When a statute includes vague language, it is for litigants to argue and the courts to decide how that language should be interpreted. This will require additional hearings, prolong proceedings, and could lead to different results until an appellate court establishes a standard. Litigants who are unrepresented by counsel, who do not have resources, or who have fewer resources than the opposing party will be at a disadvantage if they need to establish, defend, or challenge evidence or a witness.

Section 9-101.1(d) of the bill, limiting expert evidence related to alleged abuse to evidence from a professional with "demonstrated expertise and clinical experience in working with victims of abuse that is not solely forensic in nature," is vague as to who would qualify as an expert witness. It is not unclear what "demonstrated experience"

means, how is it established, and by whom. It is also unclear what “forensic” means as it is not defined by the bill nor is it understandable in this context by its plain meaning.

In addition, this provision contradicts with Maryland Rule 5-803(b)(8)(a)(iv) which allows for the admission of Department of Social Services’ reports in final protective order cases. It is unclear whether this new provision would continue to allow for the admission of such reports or whether it would require additional hearings to determine if the person submitting such reports possesses the necessary expertise and experience.

Section 9-109(d)(2)(ii)-(iii), requiring that the training program rely on “evidence-based research by recognized experts in the types of abuse” and “not include theories, concepts, or belief systems unsupported by” that research, is also vague and will generate challenges over who is a “recognized expert” and what theories, concepts, or belief systems are “unsupported” by that research. The language in subsection (d)(2)(iv), requiring that the training “be designed” to improve the courts’ “ability to recognize and respond to” the listed forms of abuse and trauma and to “make appropriate” custody decisions prioritizing safety and cultural considerations is also vaguely worded.

Other issues. Section 9-109(e) would require courts to provide information to the parties regarding the role, availability, and cost of custody evaluations in any case in which “child support, custody, or visitation is at issue.” This is unnecessary because not all cases warrant a custody evaluation (for instance, they are rarely ordered in child support cases). This requirement may confuse or set unrealistic expectations for some litigants (e.g., those in parts of the state where there are no qualified custody evaluators available unless the parties retain and can afford their own).

Information about custody evaluations is already publicly available on the Judiciary’s website at www.mdcourts.gov/familyservices, where there is a 7½ minute video on “Custody and Specific Issue Evaluations.” The video explains in everyday language what these evaluations are, reasons they may be ordered, what the evaluation entails, the evaluator’s report and its availability, mediation and settlement conferences after a custody evaluation, the role of the evaluator at trial, and the judge’s role as an independent decision-maker. The video also explains that some courts have court-based evaluators and that otherwise, the fee usually is split between the parties. Finally, and with respect to fees in Section 9-109(f), Maryland Rule 9-205.3(g) already provides that the order for appointment of a custody evaluator shall contain a provision “concerning payment of any fee, expense, or charge, including a statement of any hourly rate that will be charged which, as to a court appointment, may not exceed the maximum rate established under section (n) of this Rule and, if applicable, a time estimate for the assessment.”

Unintended consequences.

This bill requires the court to appoint a custody evaluator or licensed health care provider if the court identifies certain issues in a custody or visitation proceeding. The bill goes beyond custody and divorce petitions filed in circuit court. For instance, judges make custody determinations in the context of protective order cases, which are set in quickly

for safety reasons. Mandating custody evaluators in these cases would cause significant delays and roadblocks to petitioners obtaining protective orders. In fiscal year 2023, there were 29,572 domestic violence/protective order cases in the District Court and 5,371 in the circuit court. Under this bill, the court would have to appoint custody evaluators in these cases, given that they involve “physical, sexual, or psychological abuse of an intimate partner or former intimate partner” as outlined in the bill. That mandate is not feasible, given the volume of cases.

Additionally, there were 24,833 absolute divorce cases in FY23, 2,581 limited divorce cases, 19,491 custody cases, and 8,846 child support cases. Mandating a custody evaluator in every one of those cases involving “coercive control”, “alcohol or substance abuse” or “trauma or toxic stress” would not be realistically possible. Many litigants in divorce and child support cases find the process stressful and might indicate that the stress was “toxic.” However, that does not necessarily require a custody evaluator. Requiring an evaluator for each would create significant delay for those litigants. From the plain language of the bill, it appears that the Court would be required to appoint an evaluator even if the parties reach an agreement.

Fiscal impact.

The requirement for the court to appoint a custody evaluator or health care provider in all of the cases delineated in the bill will also have a significant fiscal impact. It is not clear who is to pay for these appointments. The Judiciary is not able to separate out cases in which the issues delineated in §9-109(c)(1)-(8) of the bill were identified in any of the listed case types. Fees for custody evaluations paid for using Judiciary funds vary by jurisdiction and case complexity. Some courts have evaluators on staff while others have a roster of evaluators who serve at an agreed upon hourly rate or cost per evaluation. A conservative estimate of the average cost of a court-paid evaluation is \$2,000 per case. At this rate, if only a quarter of the aforementioned case types involve at least one issue listed in §9-109(c)(1)-(8) and a party who is eligible for a fee waiver, the cost to the Judiciary would be significant. The bill does not specify how courts will identify the issues delineated in subsection (c)(1)-(8) that would trigger the appointment of a provider. At this time, there is no existing screening protocol and it is difficult to project the fiscal and operational impact of developing and implementing such a protocol across the state.

Lack of Custody Evaluators

Further, if enacted, this legislation will erect additional roadblocks to the use of custody evaluators. There is a limited pool of qualified professionals available to do this work, especially in rural parts of the state. These evaluators already undergo mandatory training requirements. The additional requirements of this bill would further limit that pool. Simply put, there are not enough custody evaluators to meet the bill’s requirements.

In Maryland and other states, experienced evaluators are retiring or stepping back from the work. In highly contentious cases, it is not uncommon for custody evaluators to fear for their personal safety or to experience harassment. Hiring new evaluators is difficult;

there is no organized recruitment system; and there are very few paths for mental health professionals to gain experience as evaluators. Many mental health professionals are wary of interacting with the legal system, dealing with high-conflict parties and their attorneys, and defending against complaints to their licensing boards when litigants are unhappy. At the Judiciary's May 2023 training for custody evaluators, attendees described how their overwhelming caseloads and limited resources affect the time they can devote to any given case. There is also a dearth of affordable programming on the practical aspects of performing custody evaluations, which makes it more difficult for mental health professionals to learn the mechanics of how to conduct evaluations and financially marginalizes some providers. Without proper training on these aspects, custody evaluators can undermine custody proceedings and cause unnecessary disruptions to families.

Section 9-109 of the bill would exacerbate these challenges and create new ones by both disqualifying some providers from serving as custody evaluators and increasing the number of cases in which the court must appoint evaluators. Specifically, subsection (b)(2)(ii) would disqualify providers who have not been trained in "psychological testing." Only psychologists are licensed to do psychological testing. Social workers, counselors, and physicians likely do not have any training on psychological testing because they are barred from performing such testing. Subsection (c) of the bill would mandate the appointment of a certain custody evaluator or licensed health care provider when one or more of the issues delineated in (c)(1)-(8) are identified in a custody or visitation proceeding. As mentioned, these proceedings include protective order proceedings in District Courts, uncontested cases, and cases in which a custody evaluation is not warranted or requested by the parties. The mandate in (c) would prolong proceedings, increase costs to litigants and the Judiciary (as it often pays for evaluations for income-eligible litigants) without an appropriation, and would be unnecessary and intrusive for most families.

The training requirements in § 9-109(d), requiring custody evaluators to complete 20 hours of initial training and 15 hours of additional training every 3 years that "focus[es] solely" on domestic and sexual violence and child abuse; limiting who can provide the training ((d)(2)(i)); and setting parameters for the training content (d)(2)(ii)-(iv)), would create additional challenges. The number of hours required would limit opportunities for evaluators to receive training on other topics that are fundamental to performing effective and appropriate evaluations. The Judiciary is not aware of any program that would currently meet all of the requirements in the bill and it is unclear who would develop such a training. If not available widely before October 1, 2025, some providers will be disqualified from performing evaluations. Moreover, there is no indication that this training can be developed at low or no cost to practitioners.

Custody evaluators should absolutely have training on domestic and sexual violence and child abuse (and the Judiciary's May 2023 training covered the topics listed in §9-109(d)(1)(i)-(viii)). Mandating that custody evaluators complete a training that focus *solely* on these topics along with the other mandates in the bill will increase challenges and litigation costs. There is also an important need to ensure neutrality by balancing

these important topics with more diverse trainers (e.g., family law attorneys, judges and magistrates, and custody evaluators) and other topics including maintaining neutrality, legal and ethical prohibitions against interfering with Child Protective Services' mandates, and practical information about navigating these issues in a custody evaluation.

In short, this bill runs counter to the Judiciary's mission to provide fair, efficient and effective justice for all.

cc. Hon. Mary Beth Carozza
Judicial Council
Legislative Committee
Kelley O'Connor

West's Annotated Code of Maryland
Maryland Rules
Title 9. Family Law Actions
Chapter 200. Divorce, Annulment, Alimony, Child Support, and Child Custody (Refs & Annos)

MD Rules, Rule 9-205.3

RULE 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

Effective: July 1, 2023

[Currentness](#)

(a) Applicability. This Rule applies to the appointment or approval by a court of a person to perform an assessment in an action under this Chapter in which child custody or visitation is at issue.

Committee note: In this Rule, when an assessor is selected by the court, the term “appointment” is used. When the assessor is selected by the parties and the selection is incorporated into a court order, the term “approval” is used.

(b) Definitions. In this Rule, the following definitions apply:

(1) *Assessment.* “Assessment” includes a custody evaluation, a home study, a mental health evaluation, and a specific issue evaluation.

(2) *Assessor.* “Assessor” means an individual who performs an assessment.

(3) *Custody Evaluation.* “Custody evaluation” means a study and analysis of the needs and development of a child who is the subject of an action or proceeding under this Chapter and of the abilities of the parties to care for the child and meet the child's needs.

(4) *Custody Evaluator.* “Custody evaluator” means an individual appointed or approved by the court to perform a custody evaluation.

(5) *Home Study.* “Home study” means an inspection of a party's home that focuses upon the safety and suitability of the physical surroundings and living environment for the child.

(6) *Mental Health Evaluation.* “Mental health evaluation” means an evaluation of an individual's mental health performed by a psychiatrist or psychologist who has the qualifications set forth in subsection (d)(1)(A) or (B) of this Rule. A mental health evaluation may include psychological testing.

(7) *Specific Issue Evaluation.* “Specific issue evaluation” means a focused investigation into a specific issue raised by a party, the child's attorney, or the court affecting the safety, health, or welfare of the child as may affect the child's best interests.

Committee note: A specific issue evaluation is not a “mini” custody evaluation. A custody evaluation is a comprehensive study of the general functioning of a family and of the parties' parenting capacities. A specific issue evaluation is an inquiry, narrow in scope, into a particular issue or issues that predominate in a case. The issue or issues are defined by questions posed by the court to the assessor in an order. The evaluation primarily is fact-finding, but the court may opt to receive a recommendation. Examples of questions that could be the subject of specific issue evaluations are questions concerning the appropriate school for a child with special needs and how best to arrange physical custody and visitation for a child when one parent is relocating.

(8) *State.* “State” includes the District of Columbia.

(c) Authority.

(1) *Generally.* On motion of a party or child's counsel, or on its own initiative, the court may order an assessment to aid the court in evaluating the health, safety, welfare, or best interests of a child in a contested custody or visitation case.

(2) *Appointment or Approval.* The court may appoint or approve any person deemed competent by the court to perform a home study. The court may not appoint or approve a person to perform a custody evaluation or specific issue evaluation unless (A) the assessor has the qualifications set forth in subsections (d)(1) and (d)(2) of this Rule, or (B) the qualifications have been waived for the assessor pursuant to subsection (d)(3) of this Rule.

(3) *Cost.* The court may not order the cost of an assessment to be paid, in whole or in part, by a party without giving the parties notice and an opportunity to object.

Committee note: Nothing in this Rule precludes the court from ordering preliminary screening or testing for alcohol and substance use.

(d) Qualifications of Custody Evaluator.

(1) *Education and Licensing.* A custody evaluator shall be:

(A) a physician licensed in any State who is board-certified in psychiatry or has completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council;

(B) a Maryland licensed psychologist or a psychologist with an equivalent level of licensure in any other state;

(C) a Maryland licensed clinical marriage and family therapist or a clinical marriage and family therapist with an equivalent level of licensure in any other state;

(D) a Maryland licensed certified social worker-clinical or a clinical social worker with an equivalent level of licensure in any other state;

(E) (i) a Maryland licensed graduate or master social worker with at least two years of experience in (a) one or more of the areas listed in subsection (d)(2) of this Rule, (b) performing custody evaluations, or (c) any combination of subsections (a) and (b); or (ii) a graduate or master social worker with an equivalent level of licensure and experience in any other state; or

(F) a Maryland licensed clinical professional counselor or a clinical professional counselor with an equivalent level of licensure in any other state.

(2) *Training and Experience.* Unless waived by the court, a custody evaluator shall have completed, or commit to completing, the next available training program that conforms with guidelines established by the Administrative Office of the Courts. The current guidelines shall be posted on the Judiciary's website. In addition to complying with the continuing requirements of his or her field, a custody evaluator shall have training or experience in observing or performing custody evaluations and shall have current knowledge in the following areas:

(A) domestic violence;

(B) child neglect and abuse;

(C) family conflict and dynamics;

(D) child and adult development; and

(E) impact of divorce and separation on children and adults.

(3) *Waiver of Requirements.* If a court employee has been performing custody evaluations on a regular basis as an employee of, or under contract with, the court for at least five years prior to January 1, 2016, the court may waive any of the requirements set forth in subsection (d)(1) of this Rule, provided that the individual participates in at least 20 hours per year of continuing education relevant to the performance of custody evaluations, including course work in one or more of the areas listed in subsection (d)(2) of this Rule.

(e) Custody Evaluator Lists and Selection.

(1) *Custody Evaluator Lists.* If the circuit court for a county appoints custody evaluators who are not court employees, the family support services coordinator for the court shall maintain a list of qualified custody

evaluators. An individual, other than a court employee, who seeks appointment by a circuit court as a custody evaluator shall submit an application to the family support services coordinator for that court. If the applicant has the qualifications set forth in section (d) of this Rule, the applicant's name shall be placed on a list of qualified individuals. The family support services coordinator, upon request, shall make the list and the information submitted by each individual on the list available to the public.

(2) *Selection of Custody Evaluator.*

(A) *By the Parties.* By agreement, the parties may employ a custody evaluator of their own choosing who may, but need not, be on the court's list. The parties may, but need not, request the court to enter a consent order approving the agreement and selection. The court shall enter the order if one is requested and the court finds that the custody evaluator has the qualifications set forth in section (d) and that the agreement contains the relevant information set forth in section (g) of this Rule.

(B) *By the Court.* An appointment of an individual, other than a court employee, as a custody evaluator by the court shall be made from the list maintained by the family support services coordinator. In appointing a custody evaluator from a list, the court is not required to choose at random or in any particular order from among the qualified evaluators on the list. The court should endeavor to use the services of as many qualified individuals as practicable, but the court may consider, in light of the issues and circumstances presented by the action or the parties, any special training, background, experience, expertise, or temperament of the available prospective appointees. An individual appointed by the court to serve as a custody evaluator shall have the qualifications set forth in section (d) of this Rule.

(3) *Selection of Assessor to Perform Specific Issue Evaluation.* Selection of an assessor to perform a specific issue evaluation shall be made from the same list and by the same process as pertains to the selection of a custody evaluator.

(f) Description of Custody Evaluation.

(1) *Mandatory Elements.* Subject to any protective order of the court, a custody evaluation shall include:

(A) a review of the relevant court records pertaining to the litigation;

(B) an interview of each party and any adult who performs a caretaking role for the child or lives in a household with the child or, if an adult who lives in a household with the child cannot be located despite best efforts by the custody evaluator, documentation or a description of the custody evaluator's efforts to locate the adult and any information gained about the adult;

(C) an interview of the child, unless the custody evaluator determines and explains that by reason of age, disability, or lack of maturity, the child lacks capacity to be interviewed;

(D) a review of any relevant educational, medical, and legal records pertaining to the child;

(E) if feasible, observations of the child with each party, whenever possible in that party's household;

(F) contact with any high neutrality/low affiliation collateral sources of information, as determined by the assessor;

Committee note: “High neutrality/low affiliation” is a term of art that refers to impartial, objective collateral sources of information. For example, in a custody contest in which the parties are taking opposing positions about whether the child needs to continue taking a certain medication, the child's treating doctor would be a high neutrality/low affiliation source, especially if he or she had dealt with both parties.

(G) screening for intimate partner violence;

(H) factual findings about the needs of the child and the capacity of each party to meet the child's needs; and

(I) a custody and visitation recommendation based upon an analysis of the facts found or, if such a recommendation cannot be made, an explanation of why.

(2) *Optional Elements -- Generally.* Subject to subsection (f)(4) of this Rule, at the discretion of the custody evaluator, a custody evaluation also may include:

(A) contact with collateral sources of information that are not high neutrality/low affiliation;

(B) a review of additional records;

(C) employment verification;

(D) a mental health evaluation;

(E) consultation with other experts to develop information that is beyond the scope of the evaluator's practice or area of expertise; and

(F) an investigation into any other relevant information about the child's needs.

(3) *Elements of Specific Issue Evaluation.* Subject to any protective order of the court, a specific issue evaluation may include any of the elements listed in subsections (f)(1)(A) through (G) and (f)(2) of this Rule. The specific issue evaluation shall include fact-finding pertaining to each issue identified by the court and, if requested by the court, a recommendation as to each.

(4) *Optional Elements Requiring Court Approval.* The custody evaluator or specific issue evaluation assessor may not include an optional element listed in subsection (f)(2)(D), (E), or (F) if any additional cost is to be assessed for the element unless, after notice to the parties and an opportunity to object, the court approved inclusion of the element.

(g) Order of Appointment. An order appointing or approving a person to perform an assessment shall include:

- (1) the name, business address, and telephone number of the person being appointed or approved;
- (2) any provisions the court deems necessary to address the safety and protection of the parties, all children of the parties, any other children residing in the home of a party, and the person being appointed or approved;
- (3) a description of the task or tasks the person being appointed or approved is to undertake;
- (4) a provision concerning payment of any fee, expense, or charge, including a statement of any hourly rate that will be charged which, as to a court appointment, may not exceed the maximum rate established under section (n) of this Rule and, if applicable, a time estimate for the assessment;
- (5) the term of the appointment or approval and any deadlines pertaining to the submission of reports to the parties and the court, including the dates of any pretrial or settlement conferences associated with the furnishing of reports;
- (6) any restrictions upon the copying and distribution of reports, whether pursuant to this Rule, agreement of the parties, or entry of a separate protective order;
- (7) as to a custody evaluation, whether a written report pursuant to subsection (i)(1)(B) of this Rule or an oral report on the record pursuant to subsection (i)(1)(A) of this Rule is required;
- (8) as to a specific issue evaluation, each issue to be evaluated and whether a recommendation is requested as to each; and
- (9) any other provisions the court deems necessary.

(h) Removal or Resignation of Person Appointed or Approved to Perform an Assessment.

(1) *Removal.* The court may remove a person appointed or approved to perform an assessment upon a showing of good cause.

(2) *Resignation.* A person appointed or approved to perform an assessment may resign prior to completing the assessment and preparing a report pursuant to section (i) of this Rule only upon a showing of good cause, notice to the parties, an opportunity to be heard, and approval of the court.

(i) Report of Assessor.

(1) *Custody Evaluation Report.* A custody evaluator shall prepare a report and provide the parties access to the report in accordance with subsection (i)(1)(A) or (i)(1)(B) of this Rule.

(A) *Oral Report on the Record.* If the court orders a pretrial or settlement conference to be held at least 45 days before the scheduled trial date or hearing at which the evaluation may be offered or considered, and the order appointing or approving the custody evaluator does not require a written report, the custody evaluator may present the custody evaluation report orally to the parties and the court on the record at the conference. The custody evaluator shall produce and provide to the court and parties at the conference a written list containing an adequate description of all documents reviewed in connection with the custody evaluation. If custody and access are not resolved at the conference, and no written report has been provided, the court shall (i) provide a transcript of the oral report to the parties free of charge and, if a copy of the transcript is prepared for the court's file, maintain that copy under seal, or (ii) direct the custody evaluator to prepare a written report and furnish it to the parties and the court in accordance with subsection (i)(1)(B) of this Rule. Absent the consent of the parties, the judge or magistrate who presides over a settlement conference at which an oral report is presented shall not preside over a hearing or trial on the merits of the custody dispute.

(B) *Written Report Prepared by the Custody Evaluator.* If an oral report is not prepared and presented pursuant to subsection (i)(1)(A) of this Rule, the custody evaluator shall prepare a written report of the custody evaluation and shall include in the report a list containing an adequate description of all documents reviewed in connection with the custody evaluation. The report shall be furnished to the parties and to the court under seal at least 45 days before the scheduled trial date or hearing at which the evaluation may be offered or considered. The court may shorten or extend the time for good cause shown but the report shall be furnished to the parties no later than 15 days before the scheduled trial or hearing.

(2) *Report of Specific Issue Evaluation.* An assessor who performed a specific issue evaluation shall prepare a written report that addresses each issue identified by the court in its order of appointment or approval and, if requested by the court, make a recommendation. The report shall be furnished to the parties and to the court, under seal, as soon as practicable after completion of the evaluation and, if a date is specified in the order of appointment or approval, by that date. The report shall include a list containing an adequate description of all documents reviewed in connection with the specific issue evaluation.

(3) *Report of Home Study.* Unless preparation of a written report is waived by the parties, an assessor who performed a home study shall prepare a written report of the home study and furnish it to the parties and to the court under seal. The report shall be furnished as soon as practicable after completion of the home study and, if a date is specified in the order of appointment or approval, by that date.

(4) *Report of Mental Health Evaluation.* An assessor who performed a mental health evaluation shall prepare a written report. The report shall be made available to the parties solely for use in the case and shall be furnished to the court under seal. The report shall be made available and furnished as soon as practicable after completion of the evaluation and, if a date is specified in the order of appointment or approval, by that date.

Committee note: An assessor's written report submitted to the court in accordance with section (i) of this Rule shall be kept by the court under seal. The only access to these reports by a judge or magistrate shall be in accordance with subsections (k)(2) and (k)(3) of this Rule. Each circuit court, through MDEC if available or otherwise, shall devise the means for keeping these reports under seal.

(j) Copying and Dissemination of Report. A party may copy a written report of an assessment or the transcript of an oral report prepared pursuant to subsection (i)(1)(A) of this Rule but, except as permitted by the court, shall not disseminate the report or transcript other than to individuals intended to be called as experts by the party.

Cross reference: See subsection (g)(6) of this Rule concerning the inclusion of restrictions on copying and distribution of reports in an order of appointment or approval of an assessor. See the Rules in Title 15, Chapter 200, concerning proceedings for contempt of court for violation of a court order.

(k) Court Access to Written Report.

(1) *Generally.* Except as otherwise provided by this Rule, the court may receive access to a report by an individual appointed or approved by the court to perform an assessment only if the report has been admitted into evidence at a hearing or trial in the case.

(2) *Advance Access to Report by Stipulation of the Parties.* Upon consent of the parties, the court may receive and read the assessor's report in advance of the hearing or trial.

(3) *Access to Report by Settlement Judge or Magistrate.* A judge or magistrate conducting a settlement conference shall have access to the assessor's report.

(l) Discovery.

(1) *Generally.* Except as provided in this section, an individual who performs an assessment under this Rule is subject to the Maryland Rules applicable to discovery in civil actions.

(2) *Deposition of Court-Paid Assessor.* Unless leave of court is obtained, any deposition of an assessor who is a court employee or is working under contract for the court and paid by the court shall: (A) be held at the courthouse where the action is pending or other court-approved location; (B) take place after the date on which an oral or written report is presented to the parties; and (C) not exceed two hours, with the time to be divided equally between the parties.

(m) Testimony and Report of Assessor at Hearing or Trial.

(1) *Subpoena for Assessor.* A party requesting the presence of the assessor at a hearing or trial shall subpoena the assessor no less than ten days before the hearing or trial.

(2) *Admission of Report Into Evidence Without Presence of Assessor.* The court may admit an assessor's report into evidence without the presence of the assessor, subject to objections based other than on the presence or absence of the assessor. If the assessor is present, a party may call the assessor for cross-examination.

Committee note: The admissibility of an assessor's report pursuant to subsection (m)(2) of this Rule does not preclude the court or a party from calling the assessor to testify as a witness at a hearing or trial.

(n) Fees.

(1) *Applicability.* Section (n) of this Rule does not apply to a circuit court for a county in which all custody evaluations are performed by court employees, free of charge to the litigants.

(2) *Fee Schedules.* Subject to the approval of the Chief Justice of the Supreme Court, the county administrative judge of each circuit court shall develop and adopt maximum fee schedules for custody evaluations. In developing the fee schedules, the county administrative judge shall take into account the availability of qualified individuals willing to provide custody evaluation services and the ability of litigants to pay for those services. A custody evaluator appointed by the court may not charge or accept a fee for custody evaluation services in that action in excess of the fee allowed by the applicable schedule. Violation of this subsection shall be cause for removal of the individual from all lists maintained pursuant to subsection (e)(1) of this Rule.

(3) *Allocation of Fees and Expenses.* As permitted by law, the court may order the parties or a party to pay the reasonable and necessary fees and expenses incurred by an individual appointed by the court to perform an assessment in the case. The court may fairly allocate the reasonable and necessary fees of the assessment between or among the parties. In the event of the removal or resignation of an assessor, the court may consider the extent to which any fees already paid to the assessor should be returned.

Source: This Rule is new.

Credits

[Adopted Sept. 17, 2015, eff. Jan. 1, 2016; June 20, 2017, eff. Aug. 1, 2017; Feb. 9, 2022, eff. April 1, 2022; Sept. 30, 2022, eff. Jan. 1, 2023; April 1, 2023, eff. July 1, 2023.]

MD Rules, Rule 9-205.3, MD R FAM LAW ACT Rule 9-205.3

Current with amendments received through December 1, 2023. Some sections may be more current, see credits for details.



Custody and Visitation-related Assessments Training

May 15 – 17, 2023 | Maryland Judicial Center | Annapolis, Maryland

Program Outline

DAY 1 – MAY 15, 2023		
Time	Topic(s)	Topics
8:30 – 8:45	Welcome	
8:45 – 9:30	LEGAL FRAMEWORK	<ul style="list-style-type: none"> • Legal framework • Maryland Rule 9-205.3 • Orders • The court’s perspective and expectations
9:30 – 10:00	THE LIFE OF A FAMILY CASE	<ul style="list-style-type: none"> • Review of court processes • DCM plans • Family services
10:00 – 10:15	BREAK	
10:15 – 11:00	CUSTODY LAW 101 & PARENTING PLANS	<ul style="list-style-type: none"> • Best interest of the child standard and factors • Who is a “parent”? • Decision-making authority and parenting time
11:00 – 11:45	DOS AND DON’TS	<ul style="list-style-type: none"> • Interactive activity
11:45 – 12:15	LUNCH	
12:15 – 12:45	INTERACTIVE ACTIVITY	<ul style="list-style-type: none"> • Work with the family fact pattern
12:45 – 2:00	PANEL	<ul style="list-style-type: none"> • Q & A with attorneys, judges, and a magistrate
2:15 – 4:30	YOUR ROLE	<ul style="list-style-type: none"> • Forensic v. clinical assessments • Neutrality (what it means/what it looks like) • Boundaries and dealing with resistance • Checking biases (regarding LGBTQIA+ families, patriarchal relationship, reproductive options, substance abuse, polyamory, corporal punishment, etc.)
4:30 – 5:30	NETWORKING	



Custody and Visitation-related Assessments Training

May 15 – 17, 2023 | Maryland Judicial Center | Annapolis, Maryland

Program Outline

DAY 2 – MAY 16, 2023		
Time	Topic(s)	Topics
8:30 – 10:15	ELEMENTS OF AN EVALUATION	<ul style="list-style-type: none"> • Custody Evaluation • Mandatory and optional elements • Data collection framework • Normal vs. aberrant functioning • Specific Issue Evaluations (types of evaluations and considerations)
10:15 – 10:30	BREAK	
10:30 – 12:00	CHILD DEVELOPMENT AND PARENTING TIME	<ul style="list-style-type: none"> • Attachment types • Temperament types • Risk factors • Resilience/protective factors • Adverse childhood experiences • Child development and parenting time implications • Children’s views
12:00 – 12:30	LUNCH	
12:30 – 1:45	DOMESTIC VIOLENCE AND CHILDREN	<ul style="list-style-type: none"> • Prevalence, types (including coercive control), dynamics • Effects on children (witnessing violence, effects by development stage) • Assessing danger, warning signs • Protective factors • Protective strategies • Post-separation power and control, including economic power and control • Case dynamics (filings, request, restricting access to resource, compliance issues, violations of orders or agreements, using the children and third parties, use of technology, resist/refuse behaviors)
1:45 – 2:45	ASSESSING FOR DOMESTIC VIOLENCE	<ul style="list-style-type: none"> • Guidelines for assessing intimate partner violence (IPV) • Prioritizing safety • Ensuring an informed, fair, and accountable process • Focusing on the individual family • Considerations and types of recommendations • Minimizing opportunities for risk of post-separation abuse • Supporting autonomy of parents subjected to IPV



Custody and Visitation-related Assessments Training

May 15 – 17, 2023 | Maryland Judicial Center | Annapolis, Maryland

Program Outline

DAY 2 – MAY 16, 2023 (cont.)		
Time	Topic	Topics
2:45 – 3:00	BREAK	
3:00 – 4:30	CHILD ABUSE/NEGLECT: WHAT CUSTODY EVALUATORS SHOULD KNOW	<ul style="list-style-type: none"> • Mandated reporting (necessary information) • Speaking to a child who has been/will be forensically interviewed • Types of abuse (including child sexual abuse) and neglect • Relationship between intimate partner violence and child abuse • CPS – findings and case outcomes • Reunification with offending caregivers – considerations and when reunification is not indicated • Cultural considerations
4:30 – 4:45	THE LAW	<ul style="list-style-type: none"> • Definitions • Rejection of custody or visitation when abuse is likely • Supervised visitation
4:45 – 5:15	PRACTICE POINTERS	<ul style="list-style-type: none"> • Custody evaluators are NOT investigators • Mandated reporting • Keeping open hypotheses • Interviews • Reviewing records including forensic interviews • Risk management • Ethics • Resources
5:15 – 5:30	QUESTIONS & ANSWERS	



Custody and Visitation-related Assessments Training

May 15 – 17, 2023 | Maryland Judicial Center | Annapolis, Maryland

Program Outline

DAY 3 – MAY 17, 2023		
Time	Topic(s)	Topics
8:30 – 10:15	SPECIAL CIRCUMSTANCES (Cont.)	<ul style="list-style-type: none"> • Substance abuse/misuse, parental relocation, parent-child contact failure, LGBTQIA+ parents and families, children with special needs • Effects on children (by age) • Risk and protective factors
10:15 – 10:30	BREAK	
10:30 – 11:15	SPECIAL CIRCUMSTANCES: RELEVANT LAW AND PRACTICE POINTERS	<ul style="list-style-type: none"> • Identifying substance abuse/misuse, considerations, services • Supervised visitation • Relevant laws and standards • Data collection • Avoiding bias • Putting together the case (language and other considerations)
11:15 – 11:45	DECISION-MAKING AND HYPOTHESIS TESTING	<ul style="list-style-type: none"> • Statutory considerations • Best interest of the child factors (generally and applied to special circumstances) • Types of services and resources
11:45 – 12:15	ACCESS SCHEDULES	<ul style="list-style-type: none"> • Use of reports in mediation • Court's decisions
12:15 – 1:00	LUNCH	
1:00 – 2:00	GENERATING HYPOTHESES AND RECOMMENDATIONS	<ul style="list-style-type: none"> • Small group activity
2:00 – 2:30	GROUP SHARES/REPORTING BACK	
3:30 – 3:45	BREAK	
3:45 – 5:00	YOUR REPORT	<ul style="list-style-type: none"> • Oral vs. written reports • Testifying (depositions and at trial) – tips • Breakout groups and debrief
5:00 – 5:30	QUESTIONS & ANSWERS/CLOSING REMARKS	

SB 365_FLSC_UNF.pdf

Uploaded by: Lindsay Parvis

Position: UNF

To: Members of the Senate Judicial Proceedings Committee

From: Family Law Section Council

Date: February 8, 2024

Subject: Senate Bill 365:
Family Law – Custody Evaluators – Qualifications and Training

Position: OPPOSE/UNFAVORABLE

The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **opposes Senate Bill 365: Family Law- Custody Evaluators – Qualification and Training.**

This testimony is submitted on behalf of the MSBA’s FLSC. The FLSC is the formal representative of the Family Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

While SB365 appears as a “prior session” bill, SB 365 is substantially different from 2023 SB 13, justifying lifting the in person testimony limit (2 proponents; 2 opponents). The length of this testimony is due to the in person limitation.

Custody evaluations and other assessments in matters before the court in which custody and/or visitation are at issue are important and useful tools in ensuring that the outcome of a case is in the best interests of the child(ren) at issue. Of course, it is critical that the custody evaluator have proper qualifications and training. SB 365’s goal of well-informed, highly qualified custody evaluators is commendable. But, the manner in which SB 365 goes about it is fraught, for the reasons discussed below (listed in the order appearing in SB 365):

P. 2, lines 12-17: qualifications of expert testifying about abuse:

- “Party-retained professional” is undefined, implying that the party has hired the expert. However, the expert may be a person who qualifies as an expert and who was neither hired by a party (i.e. – police officer, CPS investigator) nor court-appointed. Would such witnesses be excluded? Or, would such witnesses not be subject to the requirements of this language?

- This language could be read to exclude witnesses who would otherwise qualify as experts due to their lack of “demonstrated expertise and clinical experience in working with victims of abuse that is not solely forensic in nature.”
 - Specifically, the following experts would potentially not qualify under SB365’s requirements:
 - Non-evaluator medical professionals
 - Emergency responders
 - Police officers
 - Visitation supervisors
 - Didactic experts who testify only about the literature
 - School counselor or teacher, to whom a child discloses abuse
- In result, this language is overly broad – applying to all experts whose testimony touch upon the alleged abuse - not just experts who will render expert opinions about the alleged abuse.

p. 2, lines 19-20 and 21-22:

- While “custody evaluator” is defined, “custody evaluation” is not.
- This is problematic because there are multiple types of evaluations that can be conducted. Existing Maryland Rule 9-205.3 identifies & defines 4 types of evaluations:
 - Custody evaluation
 - Home study
 - Mental health evaluation
 - Specific issue evaluation
- Besides the many contradictions with preexisting law at Maryland Rule 9-205.3 were SB365 passed, the lack of definition of types of evaluations causes confusion because SB365 requires “training” in “psychological testing”. Not all custody evaluations or other types of evaluations involve psychological testing. Does SB365’s requirement of psychological testing training mean all custody evaluators must be qualified to administer psychological testing? And, is psychological testing considered a “custody evaluation” as defined in SB365? What about the other types of evaluations under Maryland Rule 9-205.3?
- Also unclear: the applicability of SB365 to evaluators who perform home studies, mental health evaluations, and specific issue evaluations, since these are not mentioned.
- Additionally, SB365’s proposed §9-109 applies to all custody evaluators, regardless of whether allegations are at issue or not. This problematic issue is discussed below.

p. 3, lines 14-21:

- This section states the required training for all custody evaluators in Maryland (whether abuse is alleged or not). These qualifications change existing ones required by Maryland Rule 9-205.3(2)(A-E).
- Again, line 16 requires training in psychological testing without specifying whether the evaluator is qualified to administer & interpret psychological tests. Not all licensed mental health professionals are trained to administer & interpret psychological tests. Health Occupations §17-310. These ambiguities may significantly reduce the number of qualified evaluators by eliminating those not qualified to administer & interpret psychological testing.
- “Scope of parenting” is not defined in SB365 and has no legal definition in Maryland. Thus it’s open to interpretation and not a useful criteria for determining the mandated training of custody evaluators. Without legal meaning, it would potentially exclude all evaluators.
- Likewise, other criteria in this section do not use common language in mental health fields,

creating ambiguity and confusion.

p. 3, lines 11-28, p. 4, lines 1-9:

- Perhaps the most problematic of all, this section requires the court to appoint a custody evaluator in any type of proceeding involving custody and visitation, when the listed allegations are at issue. Including the catchall “any other issue relevant to a custody proceeding that the court determines requires specific experience, education, training or supervision” (p. 4, lines 7-9).
- First, the number of custody evaluations will increase exponentially. This will far exceed the number of evaluators (court custody evaluators and private), their capacity, and will grind these cases to a halt until an evaluation can be obtained and/or fees (discussed below) raised to pay the costs.
- Second, the language at p. 3, line 24 (“or licensed health care provider”) is undefined and creates ambiguity & internal inconsistency. The custody evaluator must have training in specific areas, but the licensed health care provider need not?
- Third, the mandate of this section will create nonsensical situations: custody evaluations when a parent is incarcerated and not seeking custody rights; custody evaluations when no party wants an evaluation but these allegations exist; custody evaluations when parents agree on a custodial arrangement and these allegations exist.
- Fourth, a custody evaluation is extremely intrusive. Best practices call for corroboration of parent allegations from collateral sources (third parties). The mandate of a custody evaluation removes autonomy of parents and abuse survivors. Abuse survivors may not want to participate in an evaluation to avoid retraumatization. When a parent is indicated for abuse and a parent has no contact with a child as a result of a protective order and/or conditions of bond, a parent may not want to retraumatize their children with the intrusion of an evaluation. Survivors may experience the evaluation as a continuation of the abuse already endured, which the mandate fails to take into account.
- Fifth, p. 4, lines 7-9 is so broad that every case involving custody and visitation may require an evaluation.
- Sixth, p. 4, lines 5-6 do not accurately reflect statutory law (Family Law §9-107) regarding disability, creating conflict, confusion, and potentially lowering and/or diluting the legal standard re: “disability” and its impact on parenting.
- Finally, the language of this section is overly broad so any case involving custody and visitation requires an evaluation: domestic violence protective order; CPS investigation; CINA/TPR.

p. 4, lines 10-28:

- The list of training subjects is overly narrow, excluding other necessary subjects. The single focus suggests there’s confusion about who determines whether abuse occurred. Not a custody evaluator. Rather, that is for CPS or a judge to determine.
- Some critical omitted subjects (in no particular order): LGBTQ+, resist/refuse & parent/child contact problems, relocation, the law, the legal process & testifying in court, parenting plans & types of legal documents, role & scope of evaluation, parenting time schedules (& age appropriateness), legal decision-making, hypothesis testing, differently abled parents & children, substance misuse, third party custody, to name a few.
- The legislative process is often slow & deliberative, making changes to any statutorily-created list very difficult to make going forward. This advantages families with the challenges listed in this section over families with equally compelling needs (see bullet above). Especially so when

parents & children who have experienced abuse have many legal tools and service providers available to support and protect them through CPS, domestic violence protective orders, and providers for abuse survivors, to name a few. Families with equally compelling needs, other than abuse, have fewer service providers to serve them and SB365 will further tax those resources.

p. 5, lines 1-8:

- A strict reading of this language suggests that any such training shall only be provided the enumerated individuals.
- This is concerning because applying the language of p. 5, lines 1-6, the training could be provided by one single individual, who:
 - does not have experience in other critical areas (not included in SB365) necessary for a custody evaluator (discussed above)
 - does not qualify to be a custody evaluator
 - has never performed a custody evaluation
 - has never testified in court
- This is discordant with the apparent purpose of SB365.
- Additionally, the trainer's experience does not square with the various requirements on p. 4:
 - Neglect of a child (p. 4, line 2)
 - Trauma or toxic stress (p. 4, lines 3 & 24)
 - Alcohol or substance abuse (p. 4, line 4)
 - Medical, physical, or neurological impairment that affects the ability to effectively parent (p. 4, lines 5-6)
 - Any other relevant issue (p. 4, lines 7-9)
 - Coercive control (as some experts view this as a separate from domestic violence) (p. 4, line 21)
 - Implicit and explicit bias (p. 4, lines 22-23)

p. 5, lines 9-13:

- Lines 11-13 can be read to prevent trainers from teaching custody evaluators how certain "theories, concepts, or belief systems" are unsupported by the research and not best practices. As in prohibiting teaching "this theory does not comport with evidence-based research". That is a problem if the purpose is to promote well-informed, highly qualified custody evaluators.

p. 5, lines 14-20:

- This language can be read to change the law that Courts and Judges are to apply in cases.
- The language at lines 18-20 is incongruous vis-à-vis the language and apparent purpose of the remainder of the bill (especially re: culturally sensitive and appropriate for diverse communities).

p. 5, lines 21-26:

- This language is especially troubling because it shows no consideration for how the proposed mandatory custody evaluations will be paid or the family's ability to afford the evaluation.
- SB365 unduly financially burdens family members who have experienced abuse.
- As of the submission of this testimony, the Fiscal and Policy Note has not posted. The FLSC anticipates that the cost of mandatory custody evaluations in the vast majority of domestic violence protective order, CINA/TPR, and custody/visitation cases will be staggering.



520 West Fayette St., Baltimore, MD 21201
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fax 410-685-1016 | tdd 410-539-3186
msba.org

For the reason(s) stated above, the MSBA FLSC opposes **Senate Bill 365** and **urges an unfavorable committee report.**

Should you have any questions, please contact:

Lindsay Parvis
240-399-7900

lparvis@jgllaw.com

Joseph Greenwald & Laake
111 Rockville Pike, Suite 975
Rockville, MD 20850

Michelle Smith
201-280-1700

msmith@lawannapolis.com

Trainor Billman Bennett Milko & Smith
116 Cathedral Street, Suite E
Annapolis, MD 21401

OPD Testimony SB365 Child Custody Evaluators.pdf

Uploaded by: Maria Nenschutzka Villamar

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 365 Child Custody Evaluators – Qualifications and Training

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/7/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 365. However, if this bill specifically excluded application to Child In Need of Assistance (CINA) cases, the MOPD would have no opposition to the passage of this bill. Senate Bill 365l codifies the qualifications and training necessary for certain professionals to be appointed or approved by the court as custody evaluators, directs that expert testimony by a court-appointed or party-retained individual be admitted only under certain conditions, mandates that a child custody evaluator be appointed in every case in which the court identifies abuse or neglect or other circumstances in a case, and requires a specific number of hours of training and continuing professional education, all of which is to be implemented and monitored by the Administrative Office of the Courts.

The glaring issue with SB 365 is its effect on parties involved in Child In Need of Assistance (CINA) cases, which are governed by Courts and Judicial Proceedings Title 3 Subtitle 8. Although CINA cases are governed by a separate and distinct statute, the statutes in the Family Law Article have been applied to CINA proceedings because all CINA proceedings involve issues of custody and visitation. Therefore, Family Law § 9-

101.1 has been applied to CINA cases, and so will SB 9-109 if it is passed. That means that in every CINA case – which by definition involves issues of abuse and neglect of the child – the juvenile court will be required to appoint a qualified child custody evaluator or licensed health care provider.

The OPD sees approximately 1,300 new CINA cases every year statewide. In nearly all CINA cases, there are approximately 3-5 hearings, where the issue of abuse or neglect, or the other circumstances triggering the need for a child custody evaluator, is present. This additional requirement of a court-appointed child custody evaluator will interfere with the court's ability to meet established timelines in CINA cases. Child In Need of Assistance cases must proceed under federally-mandated timelines, and requiring the court to appoint a qualified child custody evaluator in every CINA case not only will place an onerous burden on the court but will prevent the parties from being able to have their cases heard in a timely manner. Parties in a CINA case are entitled to have their case heard within 30-60 days. Finding child custody evaluators who satisfy the qualification requirements of SB 365 will be challenging. Locating evaluators ready, willing, and able to familiarize themselves with the case and then prepared to present a conclusion to the court within the short time period in CINA cases will be extremely difficult.

It should be noted that the failure to comply with federally-mandated timelines in CINA cases may result in a loss of federal funds to the Department of Human Services. Assuming the juvenile court could locate a qualified child custody evaluator who could perform the services within the mandated time frame, the parties may be unable to afford to pay for the fees of the child custody evaluator. The vast majority of parents in a CINA case are impoverished and are unable to afford bus fare to get to court, never mind pay

fees for court-appointed experts. One solution to the massive issues SB 365 will create in CINA cases is to include language that excludes its applicability to CINA cases.

The OPD is also concerned about the ability of the judiciary to create an effective system for qualifying health and social work professionals to evaluate and render professional opinions on child custody, given the staffing and budgetary needs such an endeavor would require. Senate Bill 365 authorizes the Administrative Office of the Courts to adopt procedures to implement these measures, thus putting the onus on the judiciary to determine whether certain individuals possess the professional licensure, educational degrees, training and experience, and personal demeanor and skills to satisfy the requirements of SB 365, as well as to determine whether the individuals completed the necessary courses and whether the courses meet the requirements of the statute. This will require the creation of a court office comprised of members who have the capability to check licenses of prospective custody evaluators, are qualified to evaluate courses at schools to ensure that they cover the topics enumerated in the bill, can keep track of evaluators' training hours, and stay updated on changes in the field to ensure that the courses remain relevant and in keeping with the most recent scientific and social theories and principals. Whether a mental health, medical, or social work professional is qualified to conduct a custody evaluation is a determination best made by qualified individuals in the relevant fields, not by the judiciary.

As noted above, if SB 365 specifically excluded CINA cases from its reach, the MOPD would not have any opposition to the proposed provisions.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 365.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Nena C. Villamar, Chief of Parental Defense Division,

nenavillamar@maryland.gov, 410-458-8857.

OPD Testimony SB365 Child Custody Evaluators.pdf

Uploaded by: Maria Nenschutzka Villamar

Position: UNF



NATASHA DARTIGUE
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Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Nena C. Villamar, Chief of Parental Defense Division,

nenavillamar@maryland.gov, 410-458-8857.

Stengel Testimony Senate Bill 365.pdf

Uploaded by: Mary Stengel

Position: UNF

February 5, 2024

My name is Mary McNeish Stengel and I am a licensed clinical social worker who has worked for the court as an employee and a contractor for 15 years and as a clinician and consultant with a trauma-based clientele for 40 years. I am here to speak to you today in opposition to House Bill 405. I have been honored and privileged to work for Circuit Courts in multiple jurisdictions in Maryland to complete child custody evaluations as both a court employee and as a court contractor. I managed the Family Services Office in Baltimore County for several years and now, with a colleague from Montgomery County, voluntarily run a mentoring group for court evaluators around the state. I am in a unique position to speak to you about the experience of custody evaluations from several perspectives.

I am impressed with the dedication the supporters of this bill have to the welfare of children and families in high conflict child custody cases. In many jurisdictions evaluations are ordered in cases where the parties have no counsel and the court needs a neutral picture of what is happening in the family. The average evaluation takes 40 hours to complete. We are required by Rule 9-205.3 to interview both parents and their partners, interview all the children, observe the parents with all the children and observe the families in their home environments. We are also responsible for interviewing and observing other family members who live in the home, but are not parties to the case. We review academic and attendance records of the children, medical, dental, and mental health records, when allowed, of the children, Child Protective Services records, and police records as well as the entire court file. We review similar records for the parents in the case. We are also required to speak to collateral contacts provided by the parents, as well as any others we feel would be helpful. We then have to write a report incorporating all the information collected and have it completed usually within 30-45 days of starting the case. We put our personal safety at risk by going into the homes of families who are understandably hostile about us being in their homes and intruding into their private matters. In many courts an evaluator starting salary is \$65,000.00. As a court contractor typically get paid \$2000.00-\$3000.00 per case.

What we do not do, based on my experience and knowledge of work being done around the state, is our own investigations into cases in which abuse or neglect has been identified. We are mandated to report abuse and neglect to the local Department of Social Services, who have the expertise and the mandate to investigate these cases and reach a conclusion. If sexual abuse is alleged, no matter how long ago it occurred, we are mandated to report it.

We do not do this work as untrained professionals. All mental health professionals require a masters or doctoral degree and licensure to practice. In addition to the Maryland Rule requirements for training which I believe the AOC has given you, we enter the field with years of classroom training and clinical rotations, as well as the training we require to renew our licenses, which for social workers is 40 hours every two years. This training is typically taken in child custody related topics, which keeps us current in applications of the latest research and practice in the field.

This work is not for the faint of heart. I have yet to meet a court evaluator who is doing it for the glamor and the glory it involves. Rather it is done with a deep sense of the responsibility and commitment to the welfare of the children and families we serve.

Mary McNeish Stengel, LCSWC// marymstengel@gmail.com

SB 365_MNADV_UNF.pdf

Uploaded by: Melanie Shapiro

Position: UNF



BILL NO: Senate Bill 365
TITLE: Family Law - Child Custody Evaluators - Qualifications and Training
COMMITTEE: Judicial Proceedings
HEARING DATE: February 8, 2024
POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 365.**

Senate Bill 365 would move qualifications for custody evaluators in family law cases from the Maryland Rules to the Maryland Code. Currently, qualifications for a person to be a custody evaluator are contained in Maryland Rule 9.205.3 CUSTODY AND VISITATION-RELATED ASSESSMENTS. Other provisions are also addressed there. MNADV supports the concept that custody evaluators, and others involved in custody cases be educated and informed on the current science and research on things such as ACEs, trauma and children's responses to traumatic stress, and some other issues laid out in the bill. However, the benefit of addressing this via rule rather than statute is that the Judiciary can change them as necessary, rather than requiring new bills to be introduced whenever new social science or research dictates a necessary change. SB 365 is in some conflict with the Rule.

MNADV refers the legislative body to the written testimony provided by the MSBA Family Law Section Council. It reviews in great detail the drafting problems within SB 365. Training that covers the dynamics of domestic violence, trauma and trauma response, should be a part of custody evaluators knowledge base. However, this bill does not appreciate the cost for a custody evaluation and that many parties and families cannot pay for this as proposed in SB 365 potentially in almost every custody matter. In addition, not every case requires a custody evaluation which can be intrusive and traumatizing.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report with on SB 365.**

SB 365 - Oppose - MPS WPS.pdf

Uploaded by: Thomas Tompsett

Position: UNF



February 7, 2024

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Oppose – SB 365: Family Law - Custody Evaluators - Qualifications and Training

Dear Chairman Smith and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS/WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPS/WPS oppose Senate Bill 365: Family Law - Custody Evaluators - Qualifications and Training (SB 365) even though most judges and attorneys agree that independent forensic psychiatric evaluations can assist the court in deciding a complicated custody or visitation dispute and what is in the child's best interest.

Maryland Rule 9-205.3(d) establishes the qualifications framework for Maryland custody evaluators. As it relates to physicians, the Rule limits the types of physicians who can participate as custody evaluators to those “who [are] board-certified in psychiatry or ha[ve] completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council[.]”. The Rule also states that a psychiatrist or psychiatric resident must comply with the continuing education requirements of his/her field.

A psychiatrist’s and psychiatric resident’s medical training, let alone continuing education, is rigorous and time-consuming. The additional educational mandate proposed under SB 365’s attempt to codify Rule 9-205 is unnecessary as it pertains to psychiatrists and psychiatric residents. An additional twenty (20) hours of continuing education for custody evaluators will do nothing more than dissuade the already limited number of psychiatrists who act as custody evaluators from participating further.

Each year that this bill has been introduced, MPS/WPS has asked for some deferential, professional consideration and to be exempt from the 20-hour continuing education mandate



under the bill. Unfortunately, that request is ignored each year, so MPS/WPS has no option other than to oppose the bill.

MPS/WPS, therefore, ask this honorable committee for an unfavorable report on SB 365. If you have any questions regarding this testimony, please feel free to contact Thomas Tompsett Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Legislative Action Committee

UNF SB0365 (JPR) vmcavoy.pdf

Uploaded by: vince mcavoy

Position: UNF

UNFAVORABLE on SB0365

vince mcavoy baltimore maryland

Dear Senators of JPR,

As has been the case for each year this bill has been brought, I request you find this unfavorable once again. The details and history of how this bill arose, under which taskforce it came to be, that terrible bias and disingenuousness promoted during the taskforce as well as the taskforce not producing any real imperative to address issues related to custody evaluators all show that this bill is not needed and is not welcome.

Though always an unwelcome surprise to me when mediocre bills are regurgitated year after year at a cost of over \$1,500 per bill, I ask JPR members once again to reflect if this \$1,500 was well-spent or if such a bill is worthy of making your days longer (because no one has longer days than JPR's senators).

While there are a few minor differences in this year's bill, the statements made by **me and other opponents of the bill** over the last few years prevail. I have screen-capped key testimony so you needn't root through the .pdf's; however, I did provide the links below, should you wish to review the excerpts in context.

So rather than rehash what is already a closed issue, please see the link to my prior oral-testimony on the bill at JPR (as well as the rest of last year's hearing) and clips from the testimony from the Maryland Judiciary, a Parental Alienation researcher, and MedChi.

I urge an UNFavorable for this needless effort of SB0365.

humbly offered

~vince

<https://mgahouse.maryland.gov/mga/Play/e2bdf3cb77d84c22b789c3ca4430ddd11d?playFrom=3894000&popout=true>

https://mgaleg.maryland.gov/cmte_testimony/2022/jud/1weCCxNRWgzZSeThh0n86709HZnZOILkb.pdf

https://mgaleg.maryland.gov/cmte_testimony/2022/jpr/1sRxAMrkQpNtCehxzLcJYCMrb7I_oM8bO.pdf

https://mgaleg.maryland.gov/cmte_testimony/2022/jpr/14UB5yGmcVdsTltAkdn-V9zOiQ_H7Ksmu.pdf

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 336
Family Law – Custody Evaluators – Qualifications and Training
DATE: January 26, 2022
(2/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 336. This bill would require all court-appointed or court-approved custody evaluators to have certain experience obtained through observation under clinical supervision or the performance of custody evaluations. Beginning October 1, 2023, custody evaluators must complete at least 20 hours of training on certain topics before appointed or approved by a court and complete at least 5 hours of continuing education and training every two years. The bill would also require courts to provide information about the role, availability, and cost of a custody evaluator in all contested child support, custody, and visitation cases and required custody evaluators provide parties written information regarding their policies, procedures, fees, and costs for the evaluation.

While the Judiciary supports measures that help ensure courts receive trustworthy and accurate assessment evidence, the Court of Appeals is in the best position to determine training and eligibility requirements for custody evaluators. Additionally, the bill is unnecessary in light of the work of the Custody Evaluator Standards & Training Workgroup of the Judicial Council’s Domestic Law Committee, which has been working to implement rule changes and other best practices that are intended to help increase the evidentiary value of custody evaluations and confidence that evaluations are conducted fairly.

The 209th Report of the Standing Committee on Rules of Practice and Procedure included proposed amendments to Maryland Rule 9-205.3 (governing custody evaluations and other related assessments), based on the workgroup’s recommendations.¹ The Court of Appeals adopted those amendments on January 27, 2022 and the rule will

The 209th Report of the Standing Committee on Rules of Practice and Procedure included proposed amendments to Maryland Rule 9-205.3 (governing custody evaluations and other related assessments), based on the workgroup's recommendations.¹ The Court of Appeals adopted those amendments on January 27, 2022 and the rule will

¹ The 209th report is available at <https://www.mdcourts.gov/sites/default/files/rules/reports/209threport.pdf>. The Court of Appeals held a hearing on the 209th Report on January 27, 2022 (see: <https://www.mdcourts.gov/sites/default/files/rules/notices/rulesnotice01272022.pdf>).

set new training requirements for custody and specific issue evaluators, require screening for intimate partner violence, require data collection from high neutrality/low affiliation collateral sources, and will clarify the purpose and use of specific issue evaluations. The Administrative Office of the Courts is collaborating with workgroup members and consultants to support a training program that will meet the guidelines referenced in the amendments to the rule.

purpose of appointing a custody evaluator is to provide expert professional assistance to courts in making difficult custody decisions. If one is needed in a case, the parties will be directed to each court's Differentiated Case Management plans, which currently incorporate custody and visitation-related assessments. In addition, there are jurisdictions that do not currently have custody evaluators who live or work in the jurisdiction, which complicates the information process. Finally, it is not in the courts' purview to investigate and provide the cost of a custody evaluator.

cc. Hon. Mary Beth Carozza
Judicial Council
Legislative Committee
Kelley O'Connor

SB336 UNFAVORABLE

Yaakov Aichenbaum

2/4/2022

To the Honorable Senators of the JPR:

I have already expressed my concern about all of the bills that were generated by the MD Workgroup to Study Child Custody Proceedings. The Workgroup was controlled by individuals who promote a gender biased agenda that is divorced from factual reality and scientific research. As a result, none of its recommendations can be taken seriously or on face value. This is not a question of a legitimate scientific debate as some might claim; rather, it is a question of a social agenda masquerading as science and using the vast resources of the domestic violence industry to capture media attention and to deceive well intended legislators into formulating legislation that will foster this social agenda.

SB336 has many concerning features. First, it proposes to train custody evaluators that parental alienation is junk science and that it should not be an admissible claim in custody cases. As you are hopefully well aware by now, this is false. This fact alone exposes the agenda of the formulators of this legislation (i.e. they are willing to discredit established science to promote their own cause) and thereby discredits the whole bill.

Second, it lowers the bar for the acceptance of DV allegations to a degree that will indict innocent people and tarnish their reputations for life, cause a proliferation of false abuse claims, and facilitate parental alienation. One example of the lowered standards is the acceptance of "child therapy and expressive arts." These controversial therapies are reminiscent of the "memory wars" of the 1990's as well as the famous McMartin Preschool trial. Another example is the clause on page 4 lines 4-6 "*that the lack of a finding of indicted child abuse or child sexual abuse by law enforcement or a local department does not mean that child abuse or child sexual abuse did not occur.*" This "shoot first ask questions later" approach essentially promotes treating a person as guilty until proven innocent. This is a significant challenge to the legal principle of presumption of innocence.

https://mgaleg.maryland.gov/cmtetestimony/2022/jpr/1sRxAMrkQpNtCehxzLcJYCMrb7I_oM8bO.pdf

DATE: February 9, 2022

RE: **OPPOSE** – Senate Bill 336 – *Family Law – Custody Evaluators – Qualifications and Training*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** Senate Bill 336.

Senate Bill 336 would set requirements beyond those already provided in current law as to who may serve as a court-appointed custody evaluator. The Maryland Rules provide qualifications for a person to serve as a custody evaluator, including having basic mediation training (Rule 17-205(a)) as well as specific training related to family matters, custody, visitation, child support, and other matters (Rule 9-205). More still, they must be licensed mental health providers and comply with the requirements of their field, including continuing education.

MedChi is concerned that these additional requirements would limit the pool of available candidates to serve as custody evaluators and exclude some professionals unnecessarily. This will work an even greater hardship in those parts of the State where mental health providers are already scarce.

For these reasons, MedChi opposes Senate Bill 336.

https://mgaleg.maryland.gov/cmte_testimony/2022/jpr/14UB5yGmcVdsTltAkdn-V9zOiQ_H7Ksmu.pdf

SB365 - INFO - DHS.pdf

Uploaded by: Rachel Sledge Government Affairs

Position: INFO

February 8, 2024

The Honorable Will Smith, Chair
Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, Maryland 21401

RE: TESTIMONY ON SB 365 - Family Law - Child Custody Evaluators - Qualifications and Training - POSITION: LETTER OF INFORMATION

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide a letter of information regarding Senate Bill 365 (SB 365). The proposed bill would add required qualifications and training for a professional to be appointed or approved as a custody evaluator by the court and be eligible to provide expert evidence in custody or visitation proceedings that include allegations of abuse.

The current language of SB 365 is broad and could require duplicative or unnecessary processes in Child in Need of Assistance (CINA) proceedings. Currently, when the Local Department of Social Services (LDSS) is unable to ensure the safety of a child, the LDSS petitions the court for care and custody of the child in a CINA proceeding. The court determines custody and visitation for the child based on an assessment by the LDSS. SB 365 would mandate that LDSS staff have expanded qualifications and training to provide expert testimony during CINA proceedings, or have third party evaluators provide an assessment and testimony. This might unnecessarily delay the Department's timeliness in providing stable out of home placements or delay reunification. Further, this bill could increase litigation costs for CINA proceedings by mandating LDSS staff have qualifications which are not relevant to CINA proceedings or duplicate expertise by having third party evaluators.

DHS proposes an amendment to the bill that would exclude Child in Need of Assistance (CINA) cases from the types of proceedings that require a custody evaluation, and including the following statement on page 3 line 21; "other than a proceeding under the jurisdiction of the juvenile court under Courts and Judicial Proceeding Article § 3-803." These changes will enable DHS to continue providing children safe out-of-home placements with kin or achieve safe reunification without additional, unnecessary hurdles.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at rachel.sledge@maryland.gov.

In service,



Rafael López
Secretary



MPA_Comm_SB0365_InformationalLetter.20240207.pdf

Uploaded by: stephanie wolf

Position: INFO



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Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

**RE: SB 365 – Family Law – Child Custody Evaluators – Qualifications and Training
Position: Letter of Information**

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee:

The Maryland Psychological Association, (MPA), which represents over 1,000 doctoral level psychologists throughout the state, asks the Senate Judicial Proceedings Committee to consider the following comments during your review of SB 365.

The MPA recognizes the Committee's goal is to develop the qualifications and training necessary for mental health professionals who are appointed by the Courts to be custody evaluators in Maryland. We understand and appreciate the meaningful role mental health professionals have in these complex cases and the significant impact these evaluations can have on vulnerable youngsters in Maryland. We support your goal of ensuring that professionals involved in these evaluations have appropriate education and training including specialized knowledge in child development, family systems, intimate partner violence, child maltreatment, prevention of maltreatment, parenting, parent-child relationships, and family law, among others.

The MPA, however, is concerned that while the intent and goal of SB 365 is consistent with ensuring the professionals have the necessary specialized competence, some of the specific requirements and language in the bill are not recognized concepts in social science and are not supported by any known research or literature.

Some of our specific concerns include the following, among others:

- There is no accepted understanding or definition of "scope of parenting" or "Family function" and thus, requiring training in these areas is problematic;
- Requiring that forensic evaluators working with families when there are allegations of abuse **must** have clinical experience is confusing, unclear and not likely relevant to the task. As written, this might mean previous employment with child protective services or clinical practice treating victims when what is needed is knowledge of research that informs child protection, family treatment after allegations of abuse, and child outcomes after contact with CPS ;
- Requiring that all evaluators have training in "psychological testing" is problematic – while psychologists are routinely trained in psychological testing, no other discipline has such training and only psychologists and licensed professional counselors with advanced training are able to administer these tests. Thus this requirement will result in only psychologists and a very limited number of licensed professional counselors being qualified to complete parenting evaluations.

The MPA encourages the Committee to consider establishing a work group to include qualified licensed professionals, to address the specific qualifications, training, and experience that would best prepare evaluators to provide competent, evidenced based assessments that are designed to address the well-being of children. We would be happy to participate in such an endeavor. Thank you for considering our comments on SB 365. If we can be of any further assistance as the Senate Judicial Proceedings Committee considers this bill, please do not hesitate to contact MPA's Legislative Chair, Dr. Stephanie Wolf, JD, Ph.D. at mpalegislativcommittee@gmail.com.
Respectfully submitted,

Brian Corrado, Psy.D. .

Brian Corrado, Psy.D.
President

Stephanie Wolf, JD, Ph.D.

Stephanie Wolf, JD, Ph.D.
Chair, MPA Legislative Committee