

# **SB 0438 Parental Rights 2024.pdf**

Uploaded by: Ella Ennis

Position: FAV



Ella Ennis, Legislative Chairman  
Maryland Federation of Republican Women  
PO Box 6040, Annapolis MD 21401  
Email: eee437@comcast.net

February 13, 2024

The Honorable William Smith, Chairman  
And Members of the Judicial Proceedings Committee  
Senate of Maryland  
Annapolis, Maryland

RE: **SB 0438** – Fundamental Parental Rights – **FAVORABLE**

Dear Chairman Smith and Members,

The right of parents to direct the upbringing and care of their children has always been a fundamental tenet of American law and practice.

Since the 1990s, government agencies and some courts have steadily infringed upon the rights of parents to make decisions for, and to direct the upbringing, education, and care of their children.

SB 0438 clearly restates the inherent rights of parents. This explicit statement of parental rights is necessary to restrain government overreach. It is critical to a parent who finds it necessary to challenge or object to an educational or health mandate (vaccination mandates, sex education curricula, mental health treatments, social media, and other areas of concern).

This bill does not remove existing safeguards against parental abuse. SB 0438 clearly states that it does not authorize a parent of a minor child in the State to engage in conduct that is unlawful, or to abuse or neglect their minor child in violation of State law.

Parents, and families as the basic unit of our society, have been under enormous pressure in recent decades. SB 0438 supports families by making it clear that parents are the primary decision makers and caregivers for their children.

Please give **SB 0438** a **FAVORABLE** Report.

Sincerely,  
Ella Ennis  
Legislative Chairman  
Maryland Federation of Republican Women

# **SB438ParentalRights.pdf**

Uploaded by: Justin Ready

Position: FAV

JUSTIN READY  
Legislative District 5  
Carroll County

Finance Committee



James Senate Office Building  
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410-841-3683 • 301-858-3683  
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Justin.Ready@senate.state.md.us

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

February 14, 2024

**SB 438 – Family Law – Fundamental Parental Rights**

Chair Smith, Vice Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee,

SB 438 would establish that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent's child. Also, the state would be prohibited from infringing on a parent's fundamental right to do so.

It is important to note that this bill does not only protect a parent's right who belongs to one political party. This legislation would protect ALL parent's fundamental rights to raise their child as they see fit, and protect them from school systems, community organizations, or medical professionals from imposing their personal beliefs onto someone else's child.

SB 438 would not affect curriculum in schools and does not give the parents authority to change the curriculum for entire school systems. What it seeks to do is establish a parent's fundamental right to raise their child without pushback from the state.

I respectfully request a favorable report on Senate Bill 438.

# **HB553\_SB438 Parental Bill of Rights\_Favorable\_Gill**

Uploaded by: Kerry Gillespie

Position: FAV

Please vote favorable on both HB553 and SB438, Parental Bill of Rights.

Parents have the fundamental right to direct the upbringing of our children. There is nobody on earth who knows my four children better than their father and I do and therefore no one who is capable of making decisions on their behalf and in their best interests better than we are.

The right of parents to direct the upbringing of our children should not be partisan. Please support these commonsense bills that codify what all loving Maryland parents already know; we alone know our children and what is best for them more than any other.

Thank you.

-Kerry A. Gillespie

# Support SB438.pdf

Uploaded by: Michelle Wenstrup

Position: FAV

# Please SUPPORT SB438

Tuesday, February 13, 2024 5:10 PM

Dear Senate Judicial Proceedings Committee:

It is common sense that it is a parent's right to direct the upbringing, education, and care of their child. Moreover, it is a parent's duty to raise their child as they see fit. Decent people should be able to agree that under the umbrella of acceptable parenting people have different religious and philosophical worldviews and are entitled to impart such views on their children. Neglectful and/or abusive parents are a different matter entirely, of course.

Legislators and their constituents must resist the urge to give into authoritarian impulses and pridefully mandate that their worldviews reign when it comes to educating other people's children. It is because of the aforementioned varying worldviews that public schools are supposed to teach just academic disciplines and not teach morality beyond the basic moral lessons needed to manage the classroom such as being kind, not lying, and not cheating.

All parents should want to codify parental rights into state law. Medical decisions, and discussion of sexual topics with moral implications such as gender identity, sexual orientation, and sexual acts (apart from teaching reproductive biology), should be initiated by a child's parent(s).

Please do what is right and support parental rights bill SB438.



# **SB 0438 Fundamental Parental Rights.pdf**

Uploaded by: Suzie Scott

Position: FAV



**Bill number:** SB 0438 Cross-filed with HB 0553

**Title:** Family Law - Fundamental Parental Rights

**Hearing Date:** 2/14/2024

**Position:** SUPPORT

**Committee:** Judicial Proceedings

Moms for Liberty Legislative Committee respectfully requests a **Favorable Report for SB 0438** - Family Law - Fundamental Parental Rights.

A parent has a fundamental right to direct the upbringing, education, care and welfare of their child. This is a primordial right that is sacrosanct. The state has no right to enter in or interfere in the governance of the family.

It is a sad commentary on our times that this legislation is necessary. Because the state has forgotten its place, parents are now faced with serious threats to their most basic and fundamental rights. The Due Process Clause of the 14th Amendment protects the fundamental right of parents to decide all facets of the care, custody and governance of their children.

The family is crucial to the foundation to society. Family is the building block upon which society is built. It is the duty of this legislative body to protect the rights and responsibilities of parents. Failure to do so is to the detriment of a healthy and just civil society. **Moms for Liberty Maryland Legislative Committee urges you to respect the fundamental rights of parents and to vote in favor of SB 0438.**

Respectfully,

*Suzie Scott*

Chair

**Moms for Liberty Maryland Legislative Committee**



# **SB 438 Fundamental Parental Rights**

Uploaded by: Suzie Scott

Position: FAV



**Bill number: SB 0438** Cross-filed with HB 0553

**Title:** Family Law - Fundamental Parental Rights

**Hearing Date:** 2/14/2024

**Position:** SUPPORT

**Committee:** Judicial Proceedings

Moms for Liberty Legislative Committee respectfully requests a **Favorable Report for SB 0438** - Family Law - Fundamental Parental Rights.

A parent has a fundamental right to direct the upbringing, education, care and welfare of their child. This is a primordial right that is sacrosanct. The state has no right to enter in or interfere in the governance of the family.

It is a sad commentary on our times that this legislation is necessary. Because the state has forgotten its place, parents are now faced with serious threats to their most basic and fundamental rights. The Due Process Clause of the 14th Amendment protects the fundamental right of parents to decide all facets of the care, custody and governance of their children. The Supreme Court has been clear that parental rights are fundamental rights predating the founding of our nation.

The family is crucial to the foundation to society. Family is the building block upon which society rests. It is the duty of this legislative body to protect the rights and responsibilities of parents. Failure to do so is to the detriment of a healthy and just civil society. **Moms for Liberty Maryland Legislative Committee urges you to respect the fundamental rights of parents and to vote in favor of SB 0438.**

Respectfully,

*Suzie Scott*

Chair

**Moms for Liberty Maryland Legislative Committee**



**Tibbals\_ SUPPORT HB 553\_SB 438\_ Family Law - Fun**

Uploaded by: Trudy Tibbals

Position: FAV

HB 553/SB 438: Family Law - Fundamental Parental Rights: Please SUPPORT this important legislation!!

Dear **Judiciary** Chair Clippinger, Vice Chair Bartlett, and all other Esteemed Committee Members, AND **Judicial Proceedings** Chair Smith, Vice Chair Waldstreicher, and all other Esteemed Committee Members:

Regardless of your politics, for those of us with children, we are PARENTS first. We are the people that love our children the most. We want what is best for our children. We want our children to grow up to be happy, healthy and productive adults. We want our children to contribute positively to society. We, as parents, know our children the best.

NOT governmental agencies, NOT government officials.

This is a very important bill to anyone who is a PARENT first. This bill states:

"...Establishing that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent's child; and prohibiting the State or a political subdivision from infringing on a parent's fundamental right to direct the upbringing, education, care, and welfare of the parent's child unless the State or political subdivision can demonstrate by clear and convincing evidence certain factors..."

Please review the below points of why I am asking all of you to support this bill, especially the last point:

- This bill upholds the fundamental rights of parents to direct the upbringing, education, care, and welfare of their children, which have been under attack this session and in previous sessions in other proposed legislation.
- Parents are tax-paying citizens and have the right to engage in civic participation in the development and implementation of any and all public school programs and any and all curricula.
- Parents have the fundamental right to direct and to refuse any medical treatments, procedures, interventions or vaccinations, etc. which might be administered to their students in school settings or in pharmacies.



- Parents must retain the fundamental right to discover and direct the care of their children while those children are attending school, including the full content of information to which the children are exposed, and any medical treatment, procedure, intervention, or vaccination, etc., including mental health care, administered.
- Parents demonstrably have the highest vested interest in their children's welfare and are best equipped to make important decisions for their children regarding their care.
- The state provides remedies for rare cases in which children are living in circumstances of abuse and neglect. There is no context in which it's necessary or appropriate for the state legislature to pass laws that undermine or usurp the authority of all parents, the vast majority of whom provide much better care and decision-making for their children than the state is capable of providing.
- The Supreme Court ruled in 1979: "Most children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment. Parents can and must make those judgments."

I'm sure that we can all agree that the medical records of a child should never be kept hidden from that child's parents! Many adverse reactions from vaccinations, medications, etc. take weeks or longer to appear. If a child starts having a seizure, when that child had no previous medical history of seizures, it would be crucial for the parents to know what product was given to their child and when. This could be the difference between life and death for that child. The parents and their children's physicians should be the ones collaborating on what is best for the child, NOT government officials who have never treated the child. Government officials do not have the vast amount of medical information and background about the child that the parents and the child's physicians do and, therefore, cannot make the best decisions for a child.

Also, we as parents are protected by law to handle the moral and religious upbringing of our children. We the parents should be making the decisions as to what types of materials are used in the classroom and for educational projects or assignments, including what types of books our children are exposed to and at what ages. If we as parents do not want pornographic or obscene material to be available to our children or assigned for our children

to read or review, then we the parents have the right to make that call, NOT government officials or teachers. We are legally protected in our religious teachings to our children. And when our religious and spiritual teachings are in conflict with any material that is presented to our children in school, we the parents have the right to decide if that material is appropriate for our children. If we the parents decide that any material is not appropriate for our children, we the parents have the right to have the "assignment" changed to what we the parents do agree is appropriate for our children.

These are simple requests that we the parents are making. And we the parents have the fundamental right to make them.

Thank you again for SUPPORTING this bill. I will feel much safer for my children and ALL children when this bill is passed!

Trudy Tibbals

A Very Concerned Mother and Resident of Maryland

**2024-02-14 SB 438 (Oppose).pdf**

Uploaded by: Adam Spangler

Position: UNF

**CANDACE McLAREN LANHAM**  
*Chief Deputy Attorney General*



**CHRISTIAN E. BARRERA**  
*Chief Operating Officer*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

**ZENITA WICKHAM HURLEY**  
*Chief, Equity, Policy, and Engagement*

**ANTHONY G. BROWN**  
*Attorney General*

**LEONARD HOWIE**  
*Deputy Attorney General*

**PETER V. BERNS**  
*General Counsel*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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February 14, 2024

**TO:** The Honorable Will Smith  
Chair, Judicial Proceedings Committee

**FROM:** Adam Spangler  
Legislative Aide, Legislative Affairs, Office of the Attorney General

**RE:** SB438 - Family Law - Fundamental Parental Rights - **Oppose**

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The Office of the Attorney General opposes Senate Bill 438 because it could have serious, even fatal, consequences for Maryland's children. As explained in detail below, there are three primary reasons for our opposition:

1. The proposed legislation eliminates Maryland's long-time focus on the best interest of the child and instead focuses only on the protection of a parent's rights, without regard to the effect on the child;
2. By providing that Senate Bill 438 prevails in the event of a conflict with any other law, the Bill effectively amends multiple existing laws, including those protecting children from abuse and neglect, without identifying what it is changing; and
3. Senate Bill 438 requires the application of the highest civil evidentiary burden at all proceedings, which would significantly hinder a local department of social services' ability to temporarily remove a child from a "serious, immediate danger" on an emergency basis because there would not be enough time to gather the evidence to meet that extremely high burden.

The United States Supreme Court has long recognized that parents have a fundamental right to direct the upbringing of their child. In all cases involving children, whether public or private, the decision must be guided by consideration of what is in the best interest of the child. Although these two principles may initially seem to contradict each other, as the Supreme Court of Maryland has explained, a parent's fundamental rights and the best interest of a child are not in conflict because there is a "strong presumption that the child's best interests are served by maintaining parental rights." *In re Yve S.*, 373 Md. 551, 571 (2003). The proposed bill, however, speaks only to the rights of the parent and contains no mention whatsoever of a child's best interest.

Current Maryland law only allows State involvement with children when certain limited circumstances exist, such as abuse or neglect. The first statute that would be created by Senate Bill 438 (see page 1, line 19 through page 2, line 6) provides that, if there is a conflict between Senate Bill 438 and any existing law, the new legislation prevails. As a result, Senate Bill 438 would in effect silently amend any laws previously enacted by the General Assembly—including those governing child in need of assistance proceedings and protecting children from child abuse and neglect—by removing consideration of the child's best interest and shifting the focus to the protection of the parent's right to raise the child as they see fit. Finally, current law applies burdens of proof depending on the amount of infringement involved: "reasonable grounds" to remove a child on a temporary, emergency basis from "serious, immediate danger"; "preponderance of the evidence" when removing a child, with that removal subject to periodic reviews; and "clear and convincing evidence"—the highest level of proof that can ever be required in a civil case—in order to terminate parental rights. Senate Bill 438 would amend that practice and require clear and convincing evidence at any proceeding affecting parental rights. This would make emergently removing children from even the most imminently dangerous situations difficult, if not impossible, because the local department of social services would often have less than 24 hours to compile admissible evidence sufficient to satisfy an extremely high burden of proof.

We oppose this proposed legislation and urge an unfavorable report on SB 438 because it would significantly hinder the State's ability to protect Maryland's children from abuse and neglect and eliminates the child-focus of the current child welfare statutes.

cc: Senator Justin Ready  
Committee Members

# **SB438 Testimony 2024.pdf**

Uploaded by: Debi Jasen

Position: UNF

**Senate Bill 438 - UNFAVORABLE**  
**Judicial Proceedings Committee**

Honorable Chair, Vice Chair, and Members of the Judicial Proceedings Committee;

Please give Senate Bill 438, regarding "parental rights," an Unfavorable report.

Homeschooling is already perfectly legal in the state of Maryland. In 2011, I founded the largest Facebook group for homeschoolers in Maryland. There are over 15,000 members of the group, and I can tell you that they're not all married, middle-class stay-at-home moms. Some are single, some work from home, some work outside of the home, and some are poor. Some are even grandparents and fathers. People who want to have control over their children's educations need only find a way to homeschool. There are plenty of people with experience who can help them find a way to make it work.

Don't want to homeschool? Private schools that are aligned with your values are an option! From what I'm told, you don't have to be rich to put your kids in private schools. There are scholarships!

It's unacceptable to expect to have tremendous control over your children's education at public schools. When you put your children in public school, you are trusting them to educate your children according to the decisions that government bodies have already made. If you disagree with the ways that the public schools do things, then pull your kids out. It's that simple. Don't like Queer people? There are private schools for that. There are homeschool tutorials and co-ops for rightwing evangelical types. You no longer have to worry about your children being tainted by anyone in the LGBTQ+ community who is safe enough in their homes to be out of the closet. Since Trump, homeschoolers have become excellent at segregating ourselves according to our values.

I urge you to give SB 438 an Unfavorable report.

Thank you for your consideration.

Sincerely,  
Debi Jasen  
Pasadena, MD

# **SB 438 - UNF - House of Ruth.pdf**

Uploaded by: Deena Hausner

Position: UNF





# House of Ruth Maryland

## Domestic Violence Legal Clinic

2201 Argonne Drive, Baltimore, Maryland 21218

(410) 554-8463 • Fax: (410) 243-3014 • [www.hruth.org](http://www.hruth.org) • [legal@hruthmd.org](mailto:legal@hruthmd.org)

Toll Free: 1-888-880-7884 • Maryland Relay: 711

Bill No.: Senate Bill 438  
Bill Title: Family Law – Fundamental Parental Rights  
Committee: Judicial Proceedings  
Hearing Date: February 14, 2024  
Position: **UNF**

House of Ruth is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George’s County, and Montgomery County. Senate Bill 438 would create a fundamental parental right to direct the upbringing of their children absent a showing of clear and convincing evidence to the contrary. **We urge the Senate Judicial Proceedings Committee to report unfavorably on Senate Bill 438.**

Under current law, courts must make decisions about child custody and visitation based on the best interests of the child and an individualized assessment of the needs of the child and family. SB 438 would do away with this standard and elevate the rights of the parents above that of the child. SB 438 presumes that most families function in a similar way; this is simply not the case. Each child, each family, each situation needs to be judged on its own merits and decided based on its own needs and resources. One size does not fit all when it comes to decisions regarding the welfare of children.

**The House of Ruth urges the Senate Judicial Proceedings Committee to issue an unfavorable report on Senate Bill 438.**

**SB 0438 - JPR - PHPA - LOO\_.pdf**

Uploaded by: Jason Caplan

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 14, 2024

The Honorable William C. Smith Jr.  
Chair, Judicial Proceedings Committee  
2 East Miller Senate Office Building  
Annapolis, MD 21401-1991

**RE: Senate Bill 438 – Family Law - Fundamental Parental Rights – Letter of Opposition**

Dear Chair Smith and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of opposition for Senate Bill (SB) 438 – Family Law – Fundamental Parental Rights. SB 438 establishes that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent's child. It prohibits the State or a political subdivision from infringing upon these rights.

According to a 2022 study, 41 states allow minors, regardless of age, to consent to STI testing and treatment and 42 allow them to consent to HIV testing and treatment.<sup>1</sup> In Maryland, a minor has the same capacity as an adult to consent to medical or dental treatment under certain conditions. These include treatments related to drug abuse, alcoholism, sexually transmitted diseases, pregnancy, contraception, and physical examinations for injuries resulting from sexual offenses. The Department administers programs like the Maryland School-Based Health Center (SBHC) Program and the Maryland Family Planning Program, offering sexual, reproductive, and behavioral healthcare services to minors. While parental involvement is encouraged, it is not required.

SB 438 raises concerns as it conflicts with existing laws safeguarding the confidentiality of minors seeking treatment. According to the CDC's analysis of the 2013-2015 National Survey of Family Growth, nationally 12.7% of sexually experienced adolescents and young adults (aged 15-25) would not seek sexual and reproductive health care because of concerns that their parents might find out.<sup>2</sup> This was highest amongst 15-17 year olds at 22.6%. If required to provide a parent's consent in order to receive medical treatment for these services, Maryland could see a decline in adolescents and young adults utilizing these essential treatments.

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<sup>1</sup> Nelson KM, Skinner A, Underhill K. Minor Consent Laws for Sexually Transmitted Infection and HIV Services. *JAMA*. 2022;328(7):674–676. doi:10.1001/jama.2022.10777

<sup>2</sup> Leichliter JS, Copen C, Dittus PJ. Confidentiality issues and use of sexually transmitted disease services among sexually experienced persons aged 15-25 years: United States, 2013-2015. *MMWR Morb Mortal Wkly Rep*. 2017;66(9):237-241. doi:10.15585/mmwr.mm6609a1

Additionally, if passed, the Department's programs may be found to infringe upon parental rights regarding their child's care, and as a result, new protocols would be necessary for parental consent and patient education.

For these reasons, the Department strongly opposes SB 438, advocating for legislation that prioritizes the health and safety of youth.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,



Laura Herrera Scott, M.D., M.P.H.  
Secretary

# **Unfavorable Testimony SB0438 - 2.14.2024.pdf**

Uploaded by: Jeremy Browning

Position: UNF



**Maryland Commission  
on LGBTQIA+ Affairs**

**TESTIMONY OF JEREMY BROWNING  
DIRECTOR, MARYLAND COMMISSION ON LGBTQIA+ AFFAIRS  
UNFAVORABLE STATEMENT ON SB0438  
FAMILY LAW - FUNDAMENTAL PARENTAL RIGHTS**

**February 14, 2024**

Judicial Proceedings Committee

The Hon. William C. Smith, Chair  
The Hon. Jeff Waldstreicher, Vice Chair

Chair Smith, Vice-Chair Waldstreicher, and members of the Judicial Proceedings Committee, my name is Jeremy Browning(he/him), and I am the Director of the Maryland Commission on LGBTQIA+ Affairs. The Commission was created by the 2021 Maryland General Assembly, and later altered in 2023, to assess challenges facing our LGBTQIA+ communities, establish best practices and recommendations for LGBTQIA+ inclusion, and provide testimony to legislative and administrative bodies.

The Maryland Commission on LGBTQIA+ Affairs is in strong opposition to Senate Bill 438, Family Law - Fundamental Parental Rights. While we acknowledge the importance of parental rights, we believe this bill prioritizes parental rights without adequate consideration for the well-being of LGBTQIA+ youth.

The Commission has extensively researched and analyzed the experiences of LGBTQIA+ youth in our state's education system. Reports such as the 2021 GLSEN National School Climate Survey and the GLSEN 2021 Maryland State Snapshot reveal distressing data regarding the safety and well-being of LGBTQIA+ students in Maryland's schools.

These reports consistently demonstrate that Maryland's K-12 schools are frequently unsafe and hostile environments for LGBTQIA+ students. They experience alarming rates of bullying, harassment, assault, and discrimination from multiple sources, including peers, educators, administrators, and even family members. The

consequences of this hostility are severe, leading to lower academic achievement, diminished mental health, and increased risk of suicidal ideation and behavior among LGBTQIA+ youth.

According to the 2019 CDC Youth Risk Behavior Survey, transgender, nonbinary, and gender-expansive students face heightened risks and are disproportionately targeted for bullying and harassment in schools. Additionally, LGBTQIA+ youth of color experience compounded victimization due to both their racial and LGBTQIA+ identities, facing harassment and discrimination at alarming rates.

Moreover, the presence of anti-LGBTQIA+ groups in Maryland and across the nation further exacerbates these challenges, spreading misinformation and advocating for harmful policies that endanger the well-being of LGBTQIA+ youth. In this context, Senate Bill 438 could potentially embolden such groups and undermine efforts to support and protect LGBTQIA+ youth in our schools.

Given this dire situation, the Maryland Commission on LGBTQIA+ Affairs urges the committee to reject Senate Bill 438. Instead, we recommend prioritizing legislation and policies that address the systemic issues contributing to the marginalization and harm experienced by LGBTQIA+ youth in our schools.

**SB 438 - WLCMD - UNF.pdf**

Uploaded by: Laure Ruth

Position: UNF



BILL NO: Senate Bill 438  
TITLE: Family Law – Fundamental Parental Rights  
COMMITTEE: Judicial Proceedings  
HEARING DATE: February 14, 2024  
POSITION: **OPPOSE**

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Senate Bill 438 would create a fundamental right in parents to make all decisions about their children absent a clear and convincing evidentiary showing of an important government interest. The Women's Law Center (WLC) opposes SB 438 as it would make a parent's rights more important or superior to a child's best interests. Passage of SB 438 would potentially overrule settled law derived from the US Supreme court down to school board decisions in a particular locality.

The WLC supports custody decisions that are determined in the best interests of the child. This is the current lens through which courts in Maryland make custody decisions. Should SB 438 pass, we fear that courts would no longer be able to make these decisions in the best interest of the children unless clear and convincing evidence is found that the state has an important interest in changing custodial arrangements. We are not sure where it would leave courts. Not to mention, we are not sure how this would affect other family law cases where children and care of children are involved, such as CINA or guardianship cases. How would decisions about inoculation be made, or medical treatment? Is public health important enough that Maryland can require vaccines for children attending schools? We fear SB 438 will lead to unnecessary litigation of all these issues while the clear and convincing standard is applied to a sweeping array of cases. The majority of family law matters are determined under the appropriate preponderance of the evidence standard and in the best interests of the children, not the parents.

Therefore, the Women's Law Center of Maryland, Inc. urges an unfavorable report on Senate Bill 438.

***The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates hotlines, Protection Order Advocacy and Representation Projects in Baltimore County and Carroll County and the Multi-Ethnic Domestic Violence Project.***

# **Oppose SB 438 - Trans Maryland.pdf**

Uploaded by: Lee Blinder

Position: UNF



Trans Maryland  
1800 E Northern Parkway #66332  
Baltimore MD 21239

**Senate Bill # 438 Family Law - Fundamental Parental Rights**  
Senate Judicial Proceedings Committee  
February 14, 2024  
**Position: Oppose**

Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. In that capacity we work with young LGBTQIA+ people all across the state, and their families.

We understand the importance of supporting parents. In our capacity we hear from a lot of transgender and queer parents whose families are not provided space in our society to thrive. These parents and guardians deserve the same right to be acknowledged for who they are as cisgender and heterosexual parents. However, bills such as this one have no such goal. Bills like this are an effort to establish only a few parental experiences as valid, and pretend that families with trans and queer heads of household do not exist.

Our students must be taught about the existence of trans and queer people to prevent harm, discrimination, and violence, to learn about their fellow classmates, neighboring families, faculty, historical persons of note, and legislators in service of the betterment of our society. UNICEF states that "children are individuals, children are neither the possessions of parents nor of the state, nor are they mere people-in-the-making; they have equal status as members of the human family." UNICEF also states "Social research findings show that children's earliest experiences significantly influence their future development. The course of their development determines their contribution, or cost, to society over the course of their lives." What more costs will the queer and trans youth of Maryland bear if their government yields to those who seek to remove queer and trans youth and adults from public life? What costs will cisgender and heterosexual youth charge to our society if they are opted out of information about members of a vulnerable, marginalized group?

From the GLSEN 2019 National School Climate Survey, we know that Maryland schools were not safe for most LGBTQ+ secondary school students. 24% of Maryland's LGBTQ youth surveyed had experienced physical harassment, 12% had experienced physical assault, and 67% had experienced verbal harassment ([2019 National School Climate Survey, GLSEN](#)). Almost one quarter of surveyed Maryland LGBTQ youth experienced physical harassment, which is an unacceptable level of violence in our Maryland Public Schools. When we endeavor to improve the culture of violence against LGBTQIA+ people in our society by reducing those numbers, we know that education is key. Opting out of learning about the existence of this community is a pathway to continued violence, and is fundamentally out of alignment with acknowledging the inherent dignity of transgender and queer youth and families.

For more information, contact Lee Blinder, Executive Director of Trans Maryland at [lee@transmaryland.org](mailto:lee@transmaryland.org)



Trans Maryland  
1800 E Northern Parkway #66332  
Baltimore MD 21239

We are watching attacks on the freedom of access to information in jurisdictions all over the country, and legislation like this is a part of that coordinated effort. A core challenge to an informed, knowledgeable, and proactive populace is to limit information and access to education about all families.

We understand that fear of those who are different is a factor here, and efforts like these serve to drive a wedge to attempt to establish who can be reflected in the well-researched, and well-vetted literature and materials that are available to our young people. We are interested in an open society that allows for and celebrates a public school education that includes the broadly diverse communities that make up our state, so we can fulfill the goal of Governor Moore's administration to "leave no one behind".

For these reasons **we urge an unfavorable report on this Bill # SB 438.**

For more information, contact Lee Blinder, Executive Director of Trans Maryland at [lee@transmaryland.org](mailto:lee@transmaryland.org)

**sb438.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 438  
Family Law – Fundamental Parental Rights  
**DATE:** January 31, 2024  
(2/14)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 438. This bill establishes that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent’s child. It also prohibits the State or a political subdivision from infringing on a parent’s fundamental right to direct the upbringing, education, care, and welfare of the parent’s child unless the State or political subdivision can demonstrate by clear and convincing evidence certain factors; and generally relating to fundamental parental rights.

At the outset, it does not appear to exempt the Judicial Branch as part of “the State,” and therefore would impose restrictions on the Judiciary in family law actions including custody, adoption, child welfare, paternity actions, and as drafted, could be interpreted to apply juvenile delinquency, name change, or any other action that could impact a parent’s interests. Specifically, it would require the judges to establish by clear and convincing evidence that a judicial decision meets the requirements set forth in § 5-2B-02(b)(1)-(3) (that the decision is necessary to achieve a compelling government interest; is narrowly tailored to achieve the compelling government interest; and is the least restrictive means to achieve the compelling government interest).

This bill would also change the burden of proof in domestic cases to the clear and convincing standard as well as replace the long-standing best interest of the child standard to the aforementioned compelling government interest standard. The latter would eliminate the analysis of factors that are based on each family’s unique facts and circumstances. Further, the bill provides no standard by which the courts are to reconcile disputes between parents who would each have a “fundamental parental right.” This bill also appears to abrogate the state’s *parens patriae* doctrine, which would severely limit the government’s ability to intervene when a child’s safety or interests need to be protected.

Finally, this bill will likely instigate frivolous claims and is unnecessary. The rights of parents have been enshrined by the United States Supreme Court and the Maryland State

Courts; if enacted, it would disrupt decades of jurisprudence pertaining to children and parents.

cc. Hon. Justin Ready  
Judicial Council  
Legislative Committee  
Kelley O'Connor

**SB 438\_FLSC\_UNF.pdf**

Uploaded by: Lindsay Parvis

Position: UNF



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**To:** Members of Senate Judicial Proceedings Committee

**From:** Family Law Section Council

**Date:** February 15, 2024

**Subject:** **Senate Bill 438:**  
**Family Law-Fundamental Parental Rights**

**Position:** **OPPOSE/UNFAVORABLE**

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The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **opposes Senate Bill 438: Family Law- Fundamental Parental Rights.**

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.

For decades the General Assembly and the courts of this State and country have thoroughly and carefully developed a substantial body of intertwined, complex and constantly evolving law governing the extent to which and the manner in which the State can regulate a parent's right to direct the upbringing, education, care and welfare of the parent's child. SB438 would require each such law to be scrutinized to determine if it meets the criteria set forth in the bill; these criteria are not only vague and overbroad but can potentially clash with settled law including U.S. Supreme Court precedent (e.g. *Troxel v. Granville*, 530 U.S. 57 (2000)), Maryland statutes (e.g. Md Code, Family Law 9-102) and Maryland case law (e.g. *Conover v. Conover*, 450 Md. 51 (2016)). Consequently this bill, if passed, would prompt costly litigation and create unnecessary uncertainty for all of Maryland's families.

Additionally, SB438 violates Const., Art. III, §29, one-subject limitation. SB438 is an omnibus bill forbidden under Maryland law.

**The FLSC urges an unfavorable report.**

Should you have any questions, please contact:



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**SB438\_DY\_20240213.pdf**

Uploaded by: Rudy Yukich

Position: UNF

Members of Maryland General Assembly Judicial Proceedings Committee,

I am mother to two young children, born in Maryland. My children are my responsibility—I have held them and raised them from the moment they were born. I love them with my whole heart and soul. They are not, however, my property. I have duties: providing care, food, and shelter.

I grew up in northeastern Ohio; a little to the south of where I grew up is Holmes county, home to the largest concentration of Amish people in the world. For those of you not familiar with the Amish, within Amish communities it is common to homeschool for religious reasons. Moreover, the U.S. Supreme Court (*Wisconsin v. Yoder*, 1972) upheld that freedom of religion allowed for parents to withhold their children from public education due to their deeply held religious beliefs. Homeschooling is allowed in all fifty states. If children share in the religious objection to public education, this should not be controversial.

However, in the year 2024, should we really be debating and treating children as property?

Fundamentally, when I read this bill, as a parent, that is what I see enshrined here. SB 438 is not a bill formulated for the benefit of children; it is a bill formulated for the benefit of parents. It disregards the personhood of children. It disregards the justification for children having limited rights under the law—that of limited maturity and capability to navigate the world.

Parents have responsibilities. They have duties. Their duties are for the benefit of their children. They act as trustees not as owners.

As a society, we are supposed to be beyond seeing people as chattel to mold as we see fit.

When a parent has rights, it is the right of a trustee—to act on the behest of a person, for their benefit, when they are unable to act on their own. These are not unlimited rights.

Revisiting *Wisconsin v. Yoder*, the court's holding, while used broadly to justify homeschooling and withdrawal from public education was narrowly considered: it did not examine a situation where the children and parents are not in concert when it comes to the upbringing and education of a child.<sup>1</sup>

In the world of 2024, in Maryland as elsewhere, many groups of “concerned parents” raise the specter of parental rights as grounds to restrict access to or limit the scope of their children's education, welfare, and medical care. Things we hold as basic rights. These groups do not concern themselves with what is best for their children—instead they assert that only they are qualified to make those decisions, even when the decisions are at odds with what the children need. These are not the actions of trustees, these are the actions of owners, who seek the control their children rather than support and nurture them.

I thank you for your time.

Sincerely,

Dinah (Legal Name: Rudy) Yukich

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<sup>1</sup> See *Wisconsin v. Yoder* (1972) from <https://tile.loc.gov/storage-services/service/ll/usrep/usrep406/usrep406205/usrep406205.pdf>

**HB0553 (SB0438) - UFAVORABLE.pdf**

Uploaded by: Wendy Novak

Position: UNF

TESTIMONY against BILL HB0553 (SB0438) - UFAVORABLE

Family Law - Fundamental Parental Rights

TO: Chair Clippinger, Vice Chair Moon, and members of the Judiciary Committee

Chair Smith, Vice Chair, and Waldstreicher and members of the Judicial Proceedings Committee

FROM: Wendy Novak, Carroll County, Maryland

February 13, 2024

I'm the mother of 3 children. I am a Christian, I have taught Sunday School for over 20 years, volunteering with many groups within my church, such as Vacation Bible School. In my role as a parent, or as a Christian leader, it is my job to guide children to adulthood. In my volunteering as a Girl Scout leader, we use the phrase "Girl led." My role as a leader is to support the girl scouts, allowing them to step up, as age appropriate, and take ownership of their decisions, which allows them to grow into confident leaders who can make informed and empowered decisions. Children should be given the autonomy to determine their own identity and figure out their own path in life with the help of their parents, not with the parents telling them who they are, and what they will be.

On the surface, Fundamental Parental Rights sounds like a good thing, but it is the intention behind it that is troubling. Parents Rights is not about a parent's right to support their child, which would include affirming their identity, it is about the opposite. The objective is to erase our LGBTQIA+ children, with no recognition our LGBTQIA+ children exist. The Parent Rights groups want to block efforts to be inclusive. To them, their right to keep their child from knowing our LGBTQIA+ children exist is more important than our children. They want to ban representation of families other than ones with a 1 mom and 1 dad. They do not want to teach the negative parts of our history.

This bill puts parent rights above children. This bill would force the courts to consider parent's rights above what is best for the child. This bill would open the possibility that a parent would have the right to determine curriculum, attendance requirements, discipline, grading, and reporting requirements. Parents already have the right to direct the upbringing, education, care, and welfare of their own child; they do not have the right to determine what is appropriate for their child. This bill is unnecessary and will only serve to further prevent all members of the community from being included and supported.

Please vote unfavorable on HB0553 (SB0438)

Wendy Novak,

Carroll County, Maryland