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 is 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 aan 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.

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