

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

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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.*