

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

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.