

CFH HB405 testimony.pdf

Uploaded by: Adam Rosenberg

Position: FAV

Date: February 13, 2024

To: Chair Clippinger, Vice Chair Bartlett and the Judiciary Committee

Reference: House Bill 405, Family Law-Child Custody Evaluators-Qualifications and Training

Position: FAVORABLE

Dear Chair Clippinger and Committee Members:

On behalf of LifeBridge Health's Center for Hope we thank you for this opportunity to provide information on House Bill 405. 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 House Bill 405– 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.

HB 405 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 House Bill 405.

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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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 HB 405.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.

AnneTestimonyHB405.pdf

Uploaded by: Anne Hoyer

Position: FAV

To: Chairman Clippinger and Distinguished committee members,

I am Anne Hoyer. After my own personal experience in the family court, I began reaching out to professionals and organizations that were addressing issues I faced. To my surprise, I learned my case was not unique.

Throughout my career, I have focused heavily on issues affecting victims of domestic violence and abused children. I have heard from many men, women and children throughout Maryland of the challenges they faced and learned of the system errors within the family court. Errors that left them in the same position if not worse.

In 2018, I was honored to be appointed to a legislated workgroup. HB405 is a product from that Workgroup. This group was charged with seeking out common sense solutions to address the challenges family courts are faced with when overseeing custody cases where allegations of abuse or domestic violence are alleged. I am here in support of HB405 which would address the qualifications and necessary training of court evaluators when faced with the task of recommending life-altering decisions to the Judge. As you can imagine, the judges rely heavily on the evaluator's report and carry it with great weight. For this reason, I believe this commonsense legislation will help to ensure better outcomes for our children and families.

This will be the fourth session that a version of this bill will be presented to the committees. It is, in my opinion, long overdue. We have a responsibility and a moral obligation to create and pass laws that would help protect our most vulnerable.

I would urge a favorable vote on HB405.

Thank you.

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HB405 Custody Evaluators Qualifications & Training

Uploaded by: Annie Kenny

Position: FAV

Delegate Luke Clippinger
House Judiciary Committee
Room 101
House Office Building
Annapolis, MD 21401

RE: HB405 – Family Law – Custody Evaluators – Qualifications & Training

Chairman Clippinger,

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 written testimony, and testifying in person. We both appreciate your consideration.

Sincerely,

Annie Kenny

Protective Parent & Certified Victim/Child Safety Advocate

HB405 Family Law – Child Custody Evaluators – Qual

Uploaded by: Dean Judy Postmus

Position: FAV

Written Testimony in Support of HB 405 Family Law – Child Custody Evaluators – Qualifications and Training

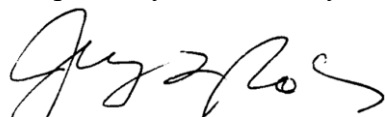
Thank you Chair Delegate Clippinger, Vice Chair Delegate Bartlett, and all the members of the Judiciary Committee for addressing this critical issue related to the protection of children who have experienced child abuse and are a party in a child custody or visitation proceeding. The University of Maryland, School of Social Work appreciates the opportunity to provide testimony in favor of HB 405, which establishes standards for custody evaluators approved by a court to perform a custody evaluation.

We support these high standards which recognizes the complexity of these court decisions and their impact on children and families. HB 405 identifies professionals, including social workers along with psychiatrists, psychologists, and counselors, to serve in this role for the courts when making these critical decisions. We can attest to the rigor of social work academic classes with multiple assignments and exams and two year-long field practicums which result in graduates with valuable practice experience and skills which are of service to the courts. Social Workers currently testify in various proceedings across the state, providing a valuable resource for our courts and Maryland's children and families.

HB 405 also recognizes the important of ensuring that all custody evaluators are prepared and knowledgeable by requiring extensive initial training and continuing education every 3 years in areas that focus solely on domestic and sexual violence, and child abuse. Our current Office of Continuing Professional Education currently offers an Advance Certificate in Forensic Social Work which focuses on the application of social work skills, knowledge, and principles within the context of the legal system. The program leading to the Certificate in Forensic Social Work is designed to provide the knowledge and skills required for social workers to practice effectively with the courts. While academically rigorous, the Advance Certificate in Forensic Social Work Program is designed to be easily accessible to the social worker who is working fulltime. This current program includes many of the subject areas identified in your bill, starting on page 4 line 10 through 28.

We at the School of Social Work have the capacity, expertise, and track record to provide the required training identified in HB 405. We stand ready to implement this legislative proposal if passed.

Respectfully submitted by



Judy L. Postmus, Ph.D., ACSW, Dean & Professor

Email to MD House Reps.pdf

Uploaded by: Hera McLeod

Position: FAV



Prince, at his home in Gaithersburg, MD – two weeks before he was murdered by his father (during one of the first, court ordered unsupervised visits).

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.

This past Thursday during the Senate Judicial Committee session, Judge Kathleen Dumais presented opposition to the bill. In her testimony she referenced my son's case, arguing that since the provision for training and standards for Child Custody Evaluators hadn't yet been included in the rules committee back in 2012 – a child in the same circumstances as Prince *would* be protected today. But given that we've yet to pass training and qualifications for Custody Evaluators *in statute*, allow me to point out an obvious flaw in Judge Dumais' logic.

If a case with the exact same circumstances as Prince's came before the court today, and:

- All the evaluators with the knowledge necessary to render an informed opinion on the veracity of child abuse allegations happened to be busy,
- OR*
- The judge simply decided they preferred an evaluator without qualifications, even if qualified alternatives were available,

the status quo would also allow a judge to appoint someone without basic qualifications or experience on the issue the presented – expecting them to render a professional opinion on something they have no experience with. And in the majority of Maryland family court cases, the judges base their order on the custody evaluators report.

This loophole doesn't protect children. Most Americans wouldn't be willing to take the chance that a hospital director could allow someone, who didn't have a medical degree and wasn't even sure where the heart was in the body, to lead your open-heart surgery. So, we shouldn't assume allowing children will be protected based on an *optional* suggestion that judges appoint someone qualified.

I would rather the judge *not* appoint an evaluator if they're unable to find someone qualified to render an informed opinion, and instead have the judge solely rely on their knowledge of the law and the child abuse training ***the statute*** requires them to take.

Thank you for your thoughtful consideration of this bill. I've been advocating for child protection for over a decade. Many parents who understand these issues as deeply as I do, are silenced because they are still in court trying to fight for their bills. Sometimes, I envy them because that means their children are still alive. But over the years, I've come to believe that Prince chose me as a mother for a reason. He knew that I wouldn't be silent about what is happening to our nation's children. In addition to advocating in the memory of my dear Prince, who never had the chance to grow old – I am also writing on behalf of the parents who cannot speak out and the children currently being forced to have access with an abusive parent.

Please understand that for many children, family court is their last chance for safety and protection. I encourage you to vote in favor of SB0365/HB0405 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. Please feel free to reach out should you have any questions about this legislation. I'd be happy to further illustrate why this is urgent and necessary.

Sincerely,

Hera McLeod (Prince's Mama)

www.heramcleod.com

301-956-3815

FAV

Uploaded by: Joslyn Wolf

Position: FAV

TESTIMONY IN FAVOR OF HOUSE 405

Good Afternoon Ladies, Gentlemen and Members of the Committee.

Thank you for the opportunity to express my enduring support of House Bill 405 for compelling reasons of which have led to poor long term health determinants of my daughters: One who was being trafficked and now works as an Escort, the other who is struggling with dysregulation, has recently given birth to a child and drug use despite her pleas of being coerced into using drugs in my abusers home, something of which he admitted to in a parent teacher meeting.

As a survivor of Domestic Violence, a witness to my children's abuse from abuse in a delivery suite, minutes after the obstetric team left the room and my firstborn was minutes old, to being choked while five months pregnant, to being alienated from my eldest daughter and finding out about her surgery from insurance statements of which I pay for, to having to scrounge around for high school graduation tickets of which my abuser hoarded and did not share, despite the fact that though he had full physical custody, we shared by Court Order, full legal custody of which he flouted, time after time.

My support of House Bill 405 stems from a judge and a BIA with knowledge of child pornography involving my daughters and a ninth grader attending Reservoir High School, an image of which still haunts me. My support of House Bill 405 stems from the alienation from my daughter, from Mother's Days, Holidays, and other events of which I should have been included, but was nonetheless alienated.

My support of House Bill 405 stems from my youngest daughter getting knocked out at her father's home, my abuser bearing witness and refusing to take her to be treated, accusing her of "faking it," resulting in my taking her to treatment the next day, only to hear the pleas of a doctor to not return her to her father's home and noted that Child Protective Services would be notified.

My support of HB 405 stems from a judge making an Executive Decision supported by a BIA, in stark contrast to the evaluation of the Court Evaluator, who determined, neglect was taking place in my abuser's home, the home was not suitable to live in and abuse, drug and alcohol exposure to minors along with reportedly underage sex of minors taking place in the home of my abuser.

My support of HB 405 stems from the long term health determinants of both daughters, the eldest being involved in human trafficking and now working as an escort and dependent on alcohol and drugs and the youngest who is very dysregulated, despite her pleas to leave her father's home, began vaping, has recently given birth to a child and has now joined a cult and is involved with someone who has a criminal past.

My support of HB 405 stems from hearing the pleas of my daughter and information given from her therapist as complete high school and despite my daughter's pleas of saying she was being coerced into using drugs in my abuser's home, something he admitted to a year ago in a parent teacher meeting.

My support of HB 405 stems from my voice censored by Court Sealed documents and Gag Orders and many women and mothers like me whose voices have gone too long unheard into a black whole of injustices facilitated by certain actors in the Family Courts.

It should also be noted that in my case when abusers escape through impunity, other injustices take place within the Family Court which results in favor of the abuser. More specifically, my abuser forged my signature on a Tax Return, whited out my address, placed his PO Box number on the return and cashed the check by placing into a bank account opened by him. The case was initially placed in Criminal Court, the Administrative judge had the case bumped up to Family Court and the case was dropped. The lack of accountability in this instance of Coercive Control was similar to the case of my ex-husband having been charged with neglect and Spousal Abuse, and the abuse and abuse of my children were never addressed.

My support of HB 405 stems from an Administrative judge knowing the specifics mentioned herein this testimony and removing it from the Docket herself, further concealing what transpired.

My support of HB 405 stems from this slow moving tragedy that I will never know will end.

Without hesitation, I fully support HB 405.

Thank you Ladies and Gentlemen for your time.

HB405 2024 Written Testimony_House.pdf

Uploaded by: Kathryn Spearman

Position: FAV

Testimony
of
Kathryn J. Spearman, MSN, RN, PhD candidate
In support of Maryland HB 405
Baltimore, MD

Thank you for the opportunity to testify in support of Maryland HB 405. I'm a parent who has been through Maryland's family court system.¹ I'm also now a pediatric nurse and a PhD candidate 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 qualifications²:

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.*" (Exhibit 1)

The judge took away legal custody of my children from me, on the recommendation of the custody evaluator (Exhibit 2). The judge also ordered my children could have no contact with anyone on their maternal side of the family (grandparents, aunts, uncles, cousins) for months (Exhibit 3).

The psychological trauma from the judge's ruling was so severe, the court had to call 911 during the proceeding, and medics came into the courtroom because I lost consciousness (Exhibit 4).

The fee for that child custody evaluation was \$25,000. This doesn't include fees required for any travel, court time, depositions, or any of her preparation time, which ultimately cost me several thousand dollars more.

¹ Maryland Case # 24D15002111

² This is a direct excerpt from the custody evaluator's deposition but represents only 3 of many questions she was asked regarding her training and experience. Please see Appendix 1 for a more comprehensive list of the questions the custody evaluator was asked during her deposition and were also included in the trial.

The Best Interest Attorney, Renee Ades, charged over \$360,000 in my case - an amount which was approved by the judge. \$352,777.98 of which was charged for 12 months of work from the period of August 2015 and August 2016.

My parents borrowed and spent over \$700,000 to pay for legal fees to try to help my children and me, because I was a stay-at-home mom of three young children with no income of my own.

I had to file bankruptcy³ because of these extraordinary legal fees. The children's best interest attorney put a lien on my house, and my children and I had our home taken from us. In the state of Maryland, I learned, BIA fees are non-dischargeable in Chapter 7 bankruptcy.

And these are just a few of the harms.

Custody evaluators are tasked with making life altering decisions that will impact children and families 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.**

Training for custody evaluators must be in statute, the rule is not sufficient because the court can waive it.

As in my case, the judge received ample testimony that the custody evaluator did not have training on domestic violence or child abuse and had never been an expert on these topics, but that was of no moment to him – he disagreed.

There must be accountability.

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. And in my case, even limit contact with other supportive and nurturing adults in their lives – like my children's grandparents, aunts, uncles, and cousins.

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, 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.

³ 17-12663-RAG in US Federal Bankruptcy Court of Maryland

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.

Exhibit 1: Excerpt from judge’s ruling on custody evaluator’s training

Dr. O’Callahan testified that Dr. Santoro’s evaluation met Maryland and APA standards, and I agree. I know that there was testimony from the Plaintiff suggesting that Dr. Santoro did not have the requisite knowledge, training and skills to perform this

ACCUSCRIBES TRANSCRIPTION SERVICE
410-466-2033 2007 W. Rogers Avenue Baltimore, MD 21209 667-210-2925

██
July 21, 2016 THE HONORABLE JOSEPH DIEPIETRO, JUDGE

evaluation, or the evaluation in this case given the nature of the allegations. I disagree.

Exhibit 2: Judge ruling based on custody evaluator's recommendation.

I'd like to address the issues of custody. First legal custody. As the parties know and Counsel knows, legal custody is the right and obligation to make long range decisions involving the education, religious training, discipline, medical care and other matters of major significance in the children's life. Dr. Santoro recommended that I place sole legal custody with Mr. [REDACTED] She opined that he is highly functioning and

Exhibit 3: Judge ordering no contact with children with maternal side of family for months

21 Okay, there are a couple of things in the Order
22 that I think I need to mention for clarity. I think the
23 Order is very clear and detailed, so I hope there are no
24 questions about the Order. I think the boys need a
25 little break from Mrs. Spearman [REDACTED]'s extended family.

Exhibit 4: Psychological trauma from judge's ruling

12 (9:56:28 a.m. - Mrs. Spearman [REDACTED] appears to pass
13 out at trial table. Unidentified nurse approaches trial
14 table and holds Mrs. Spearman [REDACTED]).
15 NURSE: I'm a nurse.
16 THE COURT: Okay, let's get 911. (Mrs.
17 Spearman [REDACTED] is laid down on the floor of the courtroom
18 and attended by Nurse. 911 is called). (10:04:05 a.m.
19 EMT's arrive) (At 10:10:05 a.m., Mrs. Spearman [REDACTED] is
20 walked out of the courtroom. Defense Counsel leave the
21 courtroom).
22 (10:13:06 a.m. - off the record).
23 (10:30:00 a.m. - on the record).
24 BATTLEFF: All rise.

Appendix 1: Excerpts Dr. Gina Santoro's deposition regarding her experience and training as a custody evaluator

- Q. Would you agree that the phrases "child sexual abuse" "child abuse" and "sexual abuse" do not appear anywhere on your CV?
- GS: Yes.
- Q. Do you agree that the phrase "forensic interview" and "forensic interviewing" don't appear anywhere on your CV?
- GS: Yes
- Q. Did any of that coursework include a course in child sexual abuse or anything related to it?
- GS: No.
- Q. Did - at any point during your doctoral programs when you were getting both your Ph.D and your Ed.S., did you take any courses that were specifically about child sexual abuse?
- GS: No.
- Q. Did you take any course focused only on sexual abuse?

GS: No.

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

GS: No.

Q. Okay. When you got your master's degree in school psychology at Towson University, did you take any courses that were focused primarily on child sexual abuse?

GS: No.

Q. Did you take any courses during your master's program that were focused primarily on sexual abuse?

GS: No.

Q. Did you take any courses that were focused primarily on forensic interviewing?

GS: No.

Q. When you got your bachelor's degree in psychology from Salisbury University, did you take any courses that focused on either child sexual abuse, sexual abuse or forensic interviewing?

GS: No.

Q. How about - and this may be even harder --when you were getting your master's, do you recall how many courses had some focus --

GS: Uh-huh.

Q. -- some coverage of child sexual abuse?

GS: I don't recall.

Q. Okay. When you were getting your Ph.D., do you recall how many courses covered the issue of sexual abuse?

GS: I don't.

Q. Okay. Do you - how about for your master's?

GS: No, I don't.

Q. Okay. When you were getting your doctorate, do you recall how many courses, if any, covered, at least in part forensic interviewing?

GS: No, I don't.

Q. Did you evaluate any children to determine if they had been sexually abused when you were at Millersville?

GS: No.

Q. Did you evaluate any children to determine if they had been physically abused or mentally abused when they - when you were at Millersville?

GS: No.

Q: Okay. Did you conduct any forensic interviews when you were at Millersville?

GS: No.

Q: When you worked in the local school system, did you do any work evaluating or investigating or treating child sexual abuse?

GS: No.

Q: So as a school psychologist, from when you finished your Ph.D. program until you stopped being a school psychologist, did you ever evaluate a child to determine if he or she was a victim of sexual abuse?

GS: No.

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

GS: No.

Q: Did you ever conduct any forensic interviews?

GS: Forensic interviews as a school psychologist?

Q: Yes.

GS: No.

Q: Okay. Now, of the 139 court ordered psychological evaluations [listed on Dr. Santoro's CV], did you ever do an evaluation to determine if a child had been the victim of child sexual abuse?

GS: No.

Q: Of the 139 court ordered psychological evaluations, did you ever do an evaluation to determine if the child had been a victim of any type of abuse?

GS: No.

Q: In what fields or areas of expertise have you been found qualified by a judge to be an expert witness?

GS: Also something I don't keep exact track of. So I have been qualified as an expert in custody evaluations, in psychological assessment for different age groups, for children or adolescents or adults. I have been qualified as an expert in pediatric psychology, in reunification. Topic specific. I believe I've been qualified as an expert in autism and ADHD.

Q: Have you ever been qualified as an expert in child sexual abuse?

GS: No.

- Q. Have you ever been qualified as an expert in child abuse more generally?
GS: No.
- Q. Okay. Have you ever been qualified as an expert in any type of child abuse?
GS: No.
- Q. Have you ever been qualified as an expert in any type of sexual abuse?
GS: No.
- Q. Have you ever been qualified as an expert in domestic violence or intimate partner violence?
GS: No.

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HB0405 Testimony.pdf

Uploaded by: Mercedes Fouts

Position: FAV

HB0405

Testimony

Good afternoon.

My name is Sealed for my and my sons protection as we are in the ACP program and our case is still open. 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 ones 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.

HB405 Custody Evaluators Qualifications & Training

Uploaded by: Nora Kenny

Position: FAV

**Testimony of Nora Kenny, Age 14, in Support of
HB405 - 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 HB405 - Custody Evaluato

Uploaded by: Paul Griffin

Position: FAV

February 13, 2024

The Senate Judicial Proceedings Committee

HB405 Family Law- Custody Evaluators-Qualifications and Training

Statement of Support

Child Justice strongly supports HB405, 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.

HB405, 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 HB405 (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 a similar bill 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 HB405. Thank you for your kind attention and consideration.

Photo of DV Ignored.pdf

Uploaded by: Paul Griffin

Position: FAV



tabbies
**PLAINTIFF'S
EXHIBIT**
/

2024 LCPCM HB 405 House Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



Committee: House Judiciary Committee

Bill: House Bill 405 - Family Law - Child Custody Evaluators - Qualifications and Training

Hearing Date: February 15, 2024

Position: Support

The Licensed Clinical Professional Counselors of Maryland (LCPCM) supports *House Bill 405 - 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.

susan carrington - Google Docs.pdf

Uploaded by: Susan Carrington

Position: FAV

I want to make it clear, I am not a disgruntled litigant, the court system has failed me and my daughters throughout the family law case. I am sharing my story with you so that you can put a face with a horrific story and realize that there is huge need for this legislation regarding custody evaluations in family court. I believe my case is all the support one should need.

I am a survivor of domestic violence, my daughters witnessed much of it. The Maryland Courts granted me two final protective orders (65105FL 53340FL). Maryland was the only state in the nation in which the higher burden of clear and convincing evidence must be satisfied to obtain a final protective order. Several Lethality assessments have been administered in my case. Each and every assessment indicated that I am at extreme risk for potential future harm from my ex. As a result, additional safety measures are still in place to this day.

My case is quite extensive, with over 750 docket entries alone in Montgomery County (48885FL). However, My intent it to solely focus on the areas regarding the custody evaluations, yet they are only a piece of the system that failed me and my daughters. I only believe my story because I have lived it first hand.

My daughters were at such a young and impressionable age when they, along with thousands of other children were wrongfully placed in the hands of a known abuser and substance user (mainly cocaine and 3 DWIs). They too have become the innocent victims of the court system and they never had a voice. They looked to me, their mother, primary caregiver to protect them but my voice was not heard, as the dynamics of domestic violence and effects on custody went unrecognized by the court. This didn't have to happen had the judges and custody evaluators properly been trained in this highly contentious custody cases.

As a result of a severely flawed custody evaluation, my daughters were forced to grow up not knowing their mother and had no choice but to believe what my abuser would tell them. The damage the court caused them is irreparable and they will forever be scarred as a result.

In August 2005, I filed for an Absolute Divorce (48885FL) Upon receipt of the papers, my ex husband made three promises to me; bankrupt me, take my daughters from me and kill me. He has made true on the first two. Nobody ever warned me that the worst abusers ultimately will seek to sever your relationship with your children, the next best way to hurt you.

Imagine being labeled as having "a formal thoughts disorder and not able to distinguish the difference between reality and fantasy" This perhaps is the most scathing label given to a protective parent, victim of domestic violence in the midst of a highly contested divorce case (MD 4885FL) Absent ethics or integrity, this psychologist/ private court appointed custody evaluator knowingly prepared a scathing, falsified and detrimental forensic report unsupported evidence regarding my mental health.

In 2006 and 2007 respectively Two separate judges in the Montgomery County Circuit Court Maryland Courts granted me two final protective orders, clear and convincing evidence of placing me in fear of imminent bodily harm and second degree assault, much witnessed by my young daughters at the time. At the time, Maryland was the only state in the nation in which the higher burden of clear and convincing evidence must be satisfied to obtain a final protective order. (MD 65105FL 53304 FL)

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.

Court Ordered Custody Evaluations

First Evaluation The court ordered a custody evaluation due to the domestic violence and allegation of substance abuse alleged by both parties (note: father had a documented criminal history with cocaine and 3 DWI's). This evaluation was performed by a LCSW, her eyes keen to the nuances of domestic violence and stepped into our fractured world. She listened to both parties, spoke to witnesses and unraveled the threads of our lives. She understood the dynamics of domestic violence. She submitted a meticulous and unyielding report, painted a stark picture, I should have primary residential custody and tie breaking legal authority. She recommended that I have primary residential custody with my ex having weekend visitation. As for legal custody, she recommended for it to be joint, but I had tie breaking authority. My biggest mistake was that I believed we should have joint custody as our daughters deserved to have both parents in their lives. I wish somebody told me all too obvious to me know, you can't have joint anything with an abuser. This custody evaluation was free and was the only one that was accurate and free of bias.

One can imagine my ex-husband was furious with the outcome as it was not in his favor. He petitioned the court on several occasions to have a second evaluation by a private psychologist/custody evaluator, claims to be an expert in domestic violence and substance abuse. He successfully projected his drug use upon me and in the divorce, the judge ordered this evaluation to be completed by this individual he wanted. Looking back, I never had a chance.. The evaluation cost was \$25,000 whereas I was responsible for 1/3 of the cost. Judge Dumais last week stated that for court ordered evaluations completed “in house” the court absorbs the \$2000 expense for litigants.

The second evaluation was completed and the evaluator provided his findings/recommendations to both of our counsel in a deposition. This evaluator knowingly went into the deposition and flat out lied as to the psychological testing he administered to me, despite the fact that he was sworn under oath. If you were to read the deposition, he is very articulate and descriptive about this specific test and the process of administering it and the results. Given his status in the judicial community, who would second guess him?

This evaluator, under oath diagnosed me to have “a formal thoughts disorder and not able to distinguish the difference between reality and fantasy” This perhaps is the most scathing label given to a protective parent, victim of domestic violence in the midst of a highly contested divorce case. Absent ethics or integrity, evaluator knowingly prepared a scathing, falsified and detrimental forensic report including unsupported evidence regarding my mental health. As a result he stated that my ex should have primary residential custody, final say over school and after school activities (essentially money decisions) and I had final say over our daughters medical and mental health. My ex was thrilled, he got exactly what he wanted.

The evaluator was then retained for our custody hearing by my exhusband as his expert witness and paid him \$6,000.0, thus he no longer was a neutral witness.

While on the stand, and under oath the evaluator testified to:

- As he previously stated in his deposition he administered the MMPI-2 test, a psychological crucible, dissected my mind. He declared a verdict- a formal thought disorder, can't distinguish the difference between reality and fantasy- leaving me suspended between worlds essentially.
- He stated he did not conclude nor rule out domestic violence, despite the final protective orders already etched in ink by two judges. He even stated that he did not meet with the parties jointly because of a protective order in place- he is undermining the court not concluding there was dv
- My formal thought disorder became the fulcrum, tipping the scales.
- Primary residential custody shifted- into the hands of my abuser
- He exceeded the boundaries of the scope and challenged my own doctors treatment, despite he does not have authority to diagnosis or prescribe.
- He was asked if he was familiar with the National Council of Juvenile and Family Court Judges, “A Judges Guide to Domestic Violence” which he stated he was not.
- Appeared as an expert in over 60 cases as of 3/09
- Acknowledged that he did not speak to all collaterals.
- Only did one visit with the father, and two with me. He met in person with the father 6 times and 8 times with me. .Acknowledged that psychological testing could misdiagnosis a victim of dv with mental illness
- **He admitted that he never administered the MMPI-2 test to me when further questioned on the stand. This is the test where he came up with the scathing diagnosis of me, yet it was not true.**
- **After hearing his testimony and the fact he committed perjury on the stand, the Court still put “great weight to his testimony”**

As you can imagine, I was devastated. I was the primary caregiver of my daughters and they wrongfully were forced to live with my abuser. Despite having shared-joint custody, my ex moved out of state and I have not had access to my daughters since 2010 when they were 8 and 9 years old. I have not had contact with my daughters in 14 years and it is safe to say they have I have been alienated from them.

Judge Dumais stated that she had put together a training for custody evaluations on domestic violence. What we don't know who is teaching the information at these sessions. This evaluator, has aligned

himself with several organizations and testified to presenting and education to various organizations on domestic violence.

It would only make sense if Judge Dumai took advantage of the resources offered by the National Council of Juvenile and Family Court Judges, an organization in partnership with the Department of Justice, Office of Violence against Women and the Battered Women's Justice Project which trained custody evaluators on domestic violence each year for free; The session is 40 hours and can be completed virtually. This way there would be the same message regarding domestic violence taught to each and every custody evaluator. Not the gospel of this evaluator who has positioned himself accordingly.

There never be any accountability for the actions of this particular psychologist/evaluator. Complaints against Maryland psychologists are filed with the Maryland Board of Licensing and reviewed by board members. In this particular instance at the time I filed my complaint his wife was on the board. The Maryland Psychological Association and the Maryland Licensing Board play distinct but interconnected roles in the field of psychology in Maryland. The MPA, in which said evaluator has been a board member for 23 years, conducts a balloting process to nominate candidates for vacancies on the Maryland Licensing Board. Plain and simple, the board members very same person selected by said evaluator team responsible for reviewing complaints filed, candidates to the Maryland Licensing Board, the very same board that receives and reviews complaints filed against a Maryland psychologist. This evaluator has strategically created a loophole in which he has total immunity aligned himself that he has free reign under the title as a psychologist knowing that the very same individuals he appointed to the Maryland Licensing Board have that position because of him. Hows that for job security?

The process for custody evaluators is nothing more than the wild wild west. As long as judges continue to delegate their judicial powers not only to said evaluator one who lacks any moral compass, but all custody evaluators under the conditions in which they currently operate under while "put great weight to his recommendations" especially know in regardless a parent involved in a custody evaluation has no other venue for recourse.

Maryland custody evaluator's 2.15.24.pdf

Uploaded by: Tina Swithin

Position: FAV

My name is Tina Swithin on behalf of two different organizations: One Mom's Battle and Family Court Awareness Month.

I am **in strong support of HB405 (Family Law - Child Custody Evaluators - Qualifications and Training)**.

My organization has an active chapter in Maryland which gives me a front row seat to what is happening in this great state.

When I think of the family court system and the reality of child custody evaluations, it is best described as the "wild, wild west" which implies lawlessness, danger and lack of regulation.

That is unacceptable when we are talking about the lives (and futures) of children and survivors of domestic abuse.

To say that we need higher standards and better training when it comes to

child custody evaluators would be an understatement. Every day I hear horror stories; this is a crisis and we need all hands on deck.

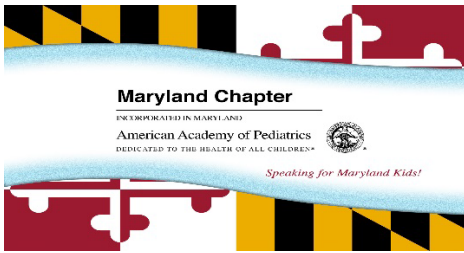
You are cradling the lives of children in your hands right now. Your vote will ripple through and impact future generations.

Please vote yes on HB405.

HB0405_FAV_MDAAP_Child Custody Evaluators.pdf

Uploaded by: Wendy Lane

Position: FAV



TO: The Honorable Luke Clippinger, Chair
Members, House Judiciary Committee
The Honorable Aaron M. Kaufman

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 15, 2024

RE: **SUPPORT** – House Bill 405 – *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 House Bill 405.

MDAAP strongly *supports House Bill 405 – 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.

House Bill 405 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

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”).

well research before the Workgroup provided evidence that judges give extraordinary weight to custody 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.

HB-405.pdf

Uploaded by: Jared Ross

Position: FWA

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.

Krawczyk_HB405 2024 Written Testimony.pdf

Uploaded by: Laurie Krawczyk

Position: FWA

HB405
2024 Maryland General Assembly Session
Melissa Krawczyk
Jarrettsville, MD
Favorable with Amendments

HB405 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, HB405 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 the care of abusive parents.

HB405 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 HB405.

HB405 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. Stakeholders refuse to understand that psychological abuse has been reported to be as bad as- if not worse than- sexual or physical abuse in its long term impacts on children.¹

Finally, HB405 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." Who is the authority that deemed parental alienation "junk science?"

¹ "Apa PsycNet." American Psychological Association. Accessed February 13, 2024.
<https://psycnet.apa.org/record/2014-45146-003>.

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](#)², writing in the Purpose on page 5, “Psychologists strive to identify the presence and potential consequences — using scientific evidence and ethical practices — of such phenomena as child abuse, child neglect, intimate partner violence, and various **pathogenic parenting practices (including loyalty binding, enmeshment, role reversal, and alienating behaviors)**.” 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 HB405:

1. Expand the 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 Project³.

There is no disagreement that improved and standardized training is desperately needed in Maryland’s Family Courts for custody evaluators. HB405 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.

² 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>.


³“What Is Parental Alienation? (Adult Child POV).” n.d. Wwww.youtube.com. Accessed February 7, 2024. https://youtu.be/PS5k_VAiZHA?si=2XVhHLMkONbzGIOS.

Amend SB365/HB405

- SB365/HB405 are intended to improve the quality of custody evaluator training
- By limited the scope of experts and precluding parental alienation claims, children are harmed by SB365/HB405.

Professional Organizations Recommend	SB365/HB405
APA guidelines stress the importance of a broad range of knowledge and experts.	Excludes experts other than a few select domestic violence experts.
The AFCC stresses the importance of assessing for false allegations.	Ignores the existence of false allegations.
APA 2022 Guidelines for Custody Evaluators mentions alienating behaviors at least 20 times.	Calls alienation a “belief system.”
AFCC stresses the importance of all allegations including parent-child conflict issues.	Ignores parent-child contact problems.

- APA 2022 Guidelines: <https://www.apa.org/about/policy/child-custody-evaluations.pdf>
- NCJFCJ-AFCC 2022 Joint Statement: <https://www.ncjfcj.org/wp-content/uploads/2022/08/NCJFCJ-AFCC-Joint-Statement.pdf>
- The science is settled on Parental Alienation: <https://psycnet.apa.org/record/2022-66868-001>

 <p>Trust Issue Guilt PTSD Anxiety Criminal Activities Suicidal Substance abuse Adjustment disorder Stress Stuck as victims in cycles of abuse</p>	<p>Alienated children suffer short and long-term consequences</p>
<p>1000+ journal articles, book chapters, books on Parental Alienation</p>	

Compiled by a group of Maryland parents advocating against all forms of child abuse.

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Unseen Wounds: The Contribution of Psychological Maltreatment to Child and Adolescent Mental Health and Risk Outcomes

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For this study, we evaluated the independent and additive predictive effects of psychological maltreatment on an array of behavioral problems, symptoms, and disorders in a large national sample of clinic-referred children and adolescents drawn from the National Child Traumatic Stress Network Core Data Set (CDS; see Layne, Briggs-King, & Courtois, 2014). We analyzed a subsample of 5,616 youth with lifetime histories of 1 or more of 3 forms of maltreatment: psychological maltreatment (emotional abuse or emotional neglect), physical abuse, and sexual abuse. Measures included the University of California, Los Angeles Posttraumatic Stress Disorder–Reaction Index (Steinberg et al., 2004), Child Behavior Checklist (Achenbach & Rescorla, 2004), and 27 diagnostic and CDS-specific clinical severity indicators. Psychologically maltreated youth exhibited equivalent or greater baseline levels of behavioral problems, symptoms, and disorders compared with physically or sexually abused youth on most indicators. The co-occurrence of psychological maltreatment with physical or sexual abuse was linked to the exacerbation of most outcomes. We found that the clinical profiles of psychologically maltreated youth overlapped with, yet were distinct from, those of physically and/or sexually abused youth. Despite its high prevalence in the CDS, psychological maltreatment was rarely the focus of intervention for youth in this large national sample. We discuss implications for child mental health policy; educational outreach to providers, youth, and families; and the development or adaptation of evidence-based interventions that target the effects of this widespread, harmful, yet often overlooked form of maltreatment.

Keywords: psychological maltreatment, emotional abuse and emotional neglect, physical and sexual abuse, clinical profiles of maltreated youth, complex trauma

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Nearly 3 million U.S. children experience some form of maltreatment annually, predominantly perpetrated by a parent, family member, or other adult caregiver (Children's Bureau, 2010). Although child maltreatment is often conceived as involving the deliberate infliction of physical harm, the American Academy of Pediatrics (AAP) has recently identified psychological maltreatment as "the most challenging and prevalent form of child abuse and neglect" (Hibbard et al., 2012, p. 372). Although more subtle to detect, emotional abuse and emotional neglect nevertheless account for 36% and 52% of identified child maltreatment cases, respectively (Chamberland, Fallon, Black, & Trocme, 2011; Sedlak et al., 2010; Tonmyr, Draca, Crain, & MacMillan, 2011).

Psychological maltreatment (PM) encompasses both emotional abuse and emotional neglect in that it is comprised of acts that constitute "persistent or extreme thwarting of the child's basic emotional needs," including "parental acts that are harmful because they are insensitive to the child's developmental level" (Barnett, Manly, & Cicchetti, 1993, p. 67.). The American Professional Society on the Abuse of Children (APSAC; Myers et al., 2002) defines psychological maltreatment as "a repeated pattern of caregiver behavior or a serious incident that transmits to the child that s/he is worthless, flawed, unloved, unwanted, endangered, or only of value in meeting another's needs." PM may also involve "spurning, terrorizing, exploiting or rejecting" the child (Kairys, Johnson, and Committee on Child Abuse & Neglect, 2002, p. 68). PM represents a breach in the attachment relationship between caregiver and child through (a) a lack of emotional nurturance, attunement, and responsiveness (emotional neglect) and/or (b) overt acts of verbal and emotional abuse that (c) result in harm to the child, disruptions of psychological safety, and impediments to the normative development of essential capacities such as emotion regulation, self-acceptance and -esteem, autonomy, and self-sufficiency (English & the LONGSCAN Investigators, 1997; Wolfe & McIsaac, 2011).

Whereas PM may be perpetrated by individuals outside the family system (e.g., teachers, peers), available evidence and guiding theory suggest that PM inflicted by a primary caregiver in early childhood, or chronically throughout childhood and adolescence, is more deleterious to the child's overall development (D'Andrea, Ford, Stolbach, Spinazzola, & van der Kolk, 2012). In a series of prospective studies examining the impact of verbally abusive or psychologically unavailable behaviors of mothers, the Minnesota Mother-Child Interaction Project (Egeland, Sroufe, & Erickson, 1983) found that children experiencing PM displayed a range of emotional and behavioral difficulties across development. These difficulties included increased internalizing and externalizing behaviors, negative self-esteem, impulsivity, and "pathological" behaviors, including tics, tantrums, stealing, enuresis, self-punishing behaviors, and clinginess (Egeland, Sroufe, & Erickson, 1983).

Although PM typically co-occurs with other forms of abuse and neglect, its incidence in the absence of other forms of maltreatment is more common than recognized (Hart, Brassard, & Karlson, 1996). It is important to distinguish between PM and characteristics of dysfunctional parenting (e.g., inconsistent, chaotic, emotionally dysregulated parenting; Wolfe & McIsaac, 2011) that fall below the threshold of maltreatment, yet may co-occur with or lead to PM. PM is distinct from dysfunctional parenting in that PM is characterized by a "chronic, severe and escalating pattern of emotionally abusive and neglectful parental behavior" combined with

increased risk of psychological harm to the child (Wolfe & McIsaac, 2011).

Despite the notably high federal prevalence data cited earlier, the *perceived* prevalence of PM in the United States appears to depend heavily on where one looks and whom one asks. For example, official reports of PM to child welfare agencies portray PM as a relatively rare phenomenon: Only 7.6% of official reports to child welfare agencies identified the occurrence of PM in 2009 (Children's Bureau, 2010). PM is also less likely to be investigated: 53% of physical abuse and 55% of sexual abuse reports, but only 36% of PM reports, were investigated in 2009 (Sedlak et al., 2010). Community sample studies estimate rates of PM of between 21% and 80%—findings that denote a more variable and pervasive problem than indicated by some governmental reports (Chamberland et al., 2005; Clement & Chamberland, 2007). In a national clinical dataset of over 11,000 trauma-exposed youth, Briggs and colleagues identified PM as the most prevalent (38%) form of maltreatment, and the fourth most prevalent of 20 trauma types assessed (Briggs et al., 2013). These discrepancies between governmental and community estimates suggest that PM is underrecognized as a distinct and consequential form of maltreatment.

Further complicating the picture, PM can be elusive and insidious, and its very nature allows it to hide in plain sight (Hart & Glaser, 2011; Trocme et al., 2011). For example, a review of child-protective services case records for maltreated children revealed that, whereas over 50% of cases had experienced parental emotional abuse, its presence was officially noted in only 9% of the cases (Trickett, Mennen, Kim, & Sang, 2009). Unlike other forms of childhood maltreatment, PM does not carry a strong social taboo, nor does it result by itself in physical wounds, which often make it harder to identify and substantiate as part of the child-protective service process. The comparatively covert nature of PM can thus lead investigators to focus on other more "tangible" forms of maltreatment, as well as to adopt an apathetic or helpless outlook regarding how best to intervene. Perhaps of greatest concern (and of greatest relevance to the theme of this special section), laypersons, professionals, and larger systems may be induced to deny that PM constitutes a distinct form of abuse that carries its own potentially unique risks and consequences, and thus discount PM or misattribute its pernicious effects to other factors (Chamberland et al., 2005; Twaite & Rodriguez-Srednicki, 2004). The inherent subtlety and lack of recognition of PM as a pernicious form of abuse, per se, may thus contribute to its infrequent selection by practitioners as a primary focus of child-trauma intervention, or to the fact that few interventions exist that explicitly target PM (NCTSN, 2011).

The Impact of Psychological Maltreatment

PM has been theorized to produce adverse developmental consequences equivalent to, or more severe than, those of other forms of abuse (Hart, Brassard, & Karlson, 1996). PM also incrementally predicts maladjustment above and beyond the predictive effects of other forms of abuse (Schneider, Ross, Graham, & Zielinski, 2005). Of particular relevance to this special section, PM tends to co-occur with other forms of maltreatment (McGee, Wolfe, & Wilson, 1997; Wachter, Murphy, Kennerley, & Wachter, 2009). PM is thus difficult to "unpack," at both conceptual and methodological levels of analysis, with respect to its incremental and

potentially unique contributions to “risk factor caravans” (Layne et al., 2009, 2014).

These challenges notwithstanding, PM has emerged as a significant predictor of a broad range of negative youth outcomes. Youth with histories of PM exhibit elevated rates of inattention, aggression, noncompliance, hyperactivity, conduct problems, and delinquency (Caples & Barrera, 2006; Hart, Brassard, & Karlson, 1996; Manly, Kim, Rogosch, & Cicchetti, 2001). PM has also been linked to internalizing symptoms, including anxiety, depression, PTSD, suicidality, and low self-esteem (McGee et al., 1997; Stone, 1993; Wolfe & McGee, 1994).

Differential Predictive and Potentiating Effects

Growing evidence suggests that PM may exert negative predictive (and potentially causal) effects above and beyond those of other forms of maltreatment. Examining the predictive effects of physical and sexual abuse, neglect, PM, and domestic violence on adolescent outcomes, McGee and colleagues found that PM accounted for the largest proportion of unique variance in externalizing symptoms and potentiated the adverse effects of other maltreatment types (McGee et al., 1997). Similarly, compared with sexual and physical abuse, parental verbal abuse was associated with the largest predictive effects on measures of dissociation, depression, and anger/hostility in young adults (Teicher, Samson, Polcari, & McGreenery, 2006). Further, Schneider and colleagues found that PM incrementally predicted maladjustment in adolescents above and beyond the predictive effects of other forms of maltreatment (Schneider et al., 2005).

The Present Study

This study sought to build on prior research on the independent as well as incremental or synergistic predictive effects of PM on a wide range of child and adolescent clinical and risk indicators, when compared with other forms of maltreatment. We examined baseline assessment data from maltreated youth, as archived in the National Child Traumatic Stress Network (NCTSN) Core Data Set (CDS; see Layne et al., 2014), to test two basic hypotheses: (1) Youth reporting PM will exhibit equivalent or higher baseline levels of symptom severity, risk behavior, and functional impairment compared with physically or sexually abused youth, and (2) the co-occurring presence of PM with physical or sexual abuse will be associated with worse clinical outcomes compared with outcomes among other categories of maltreated youth (i.e., those who report only physical, only sexual, or combined physical and sexual abuse).

Method

The CDS contains data collected between 2004 and 2010 on 14,088 children from 56 participating NCTSN centers. The CDS includes information on demographics, family characteristics, service use, trauma exposure, functioning, and standardized assessments of emotional-behavioral problems. NCTSN procedures for gathering CDS data are described in detail elsewhere (Briggs et al., 2012; Layne et al., 2014).

Study Sample

Hypotheses were tested on the entire subpopulation of children and adolescents in the NCTSN with lifetime histories of exposure to one or more of the three maltreatment categories targeted for consideration in this study: psychological maltreatment (PM), sexual abuse (SA), physical abuse (PA). Accordingly, the study sample consisted of 5,616 children, comprised of 2,379 (42%) boys and 3,237 girls. Maltreated youth were categorized into seven mutually exclusive groups based upon their respective exposures to one or more of the three index maltreatment types (see Table 1). Racial and ethnic distribution included 2,122 (38%) White, 1,183 (21%) Black/African American, 1,685 (30%) Hispanic/Latino, 406 (7%) other, and 220 (4%) unknown/missing. Age at baseline CDS assessment of participants reporting only one maltreatment type averaged 1–2 years younger than the ages of youth exposed to two or more maltreatment types ($p < .0001$). In addition, a larger proportion of sexually abused participants were girls (73% of female cases were positive for SA).

Measures

Standardized assessments.

UCLA Posttraumatic Stress Disorder-Reaction Index (PTSD-RI). PTSD-RI (Steinberg et al., 2013) is a widely used, 22-item clinician-administered or self-report measure of the 4th edition of *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV; APA, 1994)* PTSD symptoms and traumatic events experienced by youth 7–18 years of age (Steinberg et al., 2004). Total-scale scores were computed and used in the present study. Psychometric properties in the CDS are robust (Steinberg et al., 2013).

Child Behavior Checklist (CBCL). CBCL (Achenbach & Rescorla, 2004) is a widely used and well-validated caregiver-report measure (113 items) for children 1.5–5 and 6–18 years of age that yields scores on a wide range of empirically based syndrome scales. Two broad-band scales (Internalizing: CBCL-Int. and Externalizing Behavioral Problems: CBCL-Ext.) were used (Achenbach & Rescorla, 2004).

CDS-specific measures.

Trauma history. The Trauma History Profile (THP; see Pyne et al., 2014, pp. S9–S17) is a multi-informant tool for assessing children’s broad-spectrum trauma histories across childhood and adolescence. The present study focused on three maltreatment-specific variables assessed by the THP: (a) emotional abuse/psychological maltreatment (PM), defined as caregiver-inflicted emotional abuse (e.g., bullying, terrorizing, coercive control), verbal abuse (e.g., severe insults, debasement, or threats), overwhelming demands, and/or emotional neglect (e.g., shunning, isolation); (b) physical abuse/maltreatment (PA), defined as actual or attempted caregiver infliction of physical pain or bodily injury; and (c) sexual abuse/maltreatment (SA), defined as actual or attempted sexual molestation, exploitation, or coercion by a caregiver.

Indicators of severity and clinical evaluation. This study included 12 clinician-rated indicators of severity spanning a range of behavioral problems, risk behaviors, and types of functional impairments (e.g., behavior problems at home, suicidality). Measures also included 15 clinician-rated items from the CDS clinical evaluation form assessing behaviors, symptoms of distress, and

Table 1
Descriptive Statistics for the Child Behavior Checklist (CBCL) and the UCLA Posttraumatic Stress Disorder Reaction Index (PTSD-RI) by Child Maltreatment Comparison Groups

Variable	Sexual abuse (SA; N = 1084)	Physical abuse (PA; N = 826)	Psychological maltreatment (PM; N = 1339)	Sexual & physical abuse (N = 250)	Psychological & sexual abuse (N = 313)	Psychological & physical abuse (N = 1246)	All three (N = 558)	Group significance						
Male ^{***}	263 (24.3)	451 (54.7)	651 (48.7)	86 (34.4)	69 (22.0)	681 (54.7)	178 (31.9)							
Race ^{***}														
White/Caucasian	338 (31.2)	222 (26.9)	584 (43.6)	91 (36.4)	132 (42.2)	501 (40.2)	254 (45.5)							
Black/AA	282 (26.0)	265 (32.1)	205 (15.3)	70 (28.0)	51 (16.3)	209 (16.8)	101 (18.1)							
Hispanic/Latino	346 (31.9)	218 (26.4)	413 (30.8)	63 (25.2)	101 (32.2)	390 (31.3)	154 (27.6)							
Other	58 (5.4)	54 (6.5)	111 (8.3)	11 (4.4)	21 (6.7)	110 (8.8)	41 (7.4)							
Unknown/missing	60 (5.5)	67 (8.1)	26 (1.9)	15 (6.0)	8 (2.6)	36 (2.9)	8 (1.4)							
	N	M (SD)	N	M (SD)	N	M (SD)	N	M (SD)						
Age at baseline ^{***}	1084	10.1 (4.2)	826	10.6 (4.2)	1339	10.6 (4.4)	250	11.1 (4.1)	313	12.0 (3.9)	1246	11.1 (4.3)	558	12.4 (4.0)
CBCL subscales														
Externalizing behavior	832	59.6 (11.9)	542	63.8 (11.6)	1023	63.0 (11.5)	184	64.4 (11.3)	225	64.4 (11.3)	901	64.3 (11.1)	390	64.8 (10.4)
Internalizing behavior	832	60.4 (12.0)	542	60.3 (11.3)	1023	62.1 (11.3)	184	62.7 (11.2)	225	63.4 (10.7)	901	63.4 (10.3)	390	64.3 (10.8)
UCLA PTSD Reaction Index	698	26.7 (14.7)	544	25.9 (14.8)	825	26.6 (14.6)	177	28.5 (15.5)	231	30.0 (14.8)	841	28.9 (14.5)	419	33.0 (14.1)

Note. A = PM greater than PA; B = PM greater than SA; C = PM greater than SA + PA; D = PM + PA greater than PA; E = PM + SA greater than SA. Negative association is indicated by “-” sign. Age at baseline significant for externalizing and internalizing behavior. Gender significant for externalizing behavior and the UCLA Posttraumatic Stress Disorder Reaction Index.
* $p < .05$. ** $p < .01$. *** $p < .0001$.

mental health disorders characteristic of *DSM-IV* (APA, 1994) diagnoses (e.g., dissociation, ADHD, PTSD). Both sets of indicators were measured on 3-point scales (see Kisiel et al., 2014, pp. S29–S39). For the present study, responses were collapsed into binary variables assessing item presence or absence (see Table 2 for a complete list of variables included in the statistical models).

Data Analysis

Descriptive statistics and frequencies for demographic characteristics were grouped by maltreatment type and examined using chi-square tests and ANOVA for categorical and continuous variables, respectively. We used linear mixed-effects regression models to compare maltreatment groups on continuous measures, including PTSD-RI (Steinberg et al., 2004) total symptom scores, CBCL-Int. and CBCL-Ext. (Achenbach & Rescorla, 2004) composite behavior-problem-scale scores. Models included the participant’s age at intake, gender, and center-level random effects that accounted for correlations between participants nested within centers. For binary variables, we used generalized estimating-equation (GEE) logistic models adjusted for age at baseline and gender (as covariates) to evaluate differences between maltreatment groups. We investigated our two study hypotheses using various model contrasts to evaluate five comparisons of interest: (a) PM versus PA, (b) PM versus SA, (c) PM versus PA + SA, (d) PM + PA versus PA, and (e) PM + SA versus SA. We then plotted the estimated odds ratios (OR) and 95% confidence intervals (CI) for the binary measures. We conducted all analyses using SAS Version 9.2 for Windows and generated all graphs using publicly available R software (R Development Core Team, 2014).

Results

Between-Group Comparisons on the CBCL and PTSD-RI

Table 1 presents the unadjusted scores by maltreatment group and results of the comparisons of interest. The linear mixed-effects regression model adjusted for gender and age at baseline revealed (a) the PM group had significantly higher CBCL Int. scores (Achenbach & Rescorla, 2004) than both the PA (estimated difference = 1.77, SE = 0.61; $p = .0039$) and SA (estimated difference = 1.47, SE = 0.56; $p = .0088$) groups, (b) the PM group had significantly higher CBCL-Ext. scores (Achenbach & Rescorla, 2004) than the SA group (estimated difference = 2.05, SE = 0.58; $p = .0004$), (c) no significant differences were found between the PM versus PA or SA groups on PTSD-RI scores, and (d) although the PM group had marginally lower CBCL-Ext. scores than the PA + SA group (estimated difference = -1.85, SE = 0.93; $p = .0465$), the two groups had similar CBCL-Int. and PTSD-RI (Steinberg et al., 2004) scores.

Contribution of PM to Predicting Indicators of Severity and Clinical Evaluation Scores

Comparison of PM group to single-type PA and SA groups. Table 2 lists the respective frequencies for the indicators of severity and clinical evaluation items for each maltreatment group. The PM group had similar or higher frequencies than both the PA and

Table 2
Frequency of Indicators of Severity and Clinical Evaluation by Maltreatment Comparison Groups

Indicators of severity	Sexual abuse (SA) N (%)	Physical abuse (PA) N (%)	Psychological maltreatment (PM) N (%)	Sexual & physical abuse (SA + PA) N (%)	Psychological maltreatment & sexual abuse (PM + SA) N (%)	Psychological maltreatment & physical abuse (PM + PA) N (%)	All three N (%)	Group significance
Academic problems	392 (39.4)	391 (52.3)	673 (54.8)	113 (51.8)	159 (54.6)	691 (59.6)	312 (61.2)	B ^{***} , D ^{**} , E ^{**}
Behavior problems at school	343 (34.3)	372 (49.3)	600 (48.3)	114 (52.3)	127 (44.1)	616 (52.9)	265 (52.0)	B ^{***} , E ^{**}
Skipping school or daycare	88 (8.8)	77 (10.2)	167 (13.5)	32 (14.4)	52 (17.9)	176 (15.0)	80 (15.7)	A [*] , B [*] , D [*] , E [*]
Behavior problems at home	474 (47.0)	459 (59.9)	828 (65.5)	142 (64.0)	175 (59.5)	848 (71.3)	362 (68.6)	A [*] , B [*] , D ^{**} , E ^{***}
Suicidality	153 (15.4)	103 (13.5)	166 (13.4)	41 (18.5)	62 (21.4)	243 (20.8)	147 (28.3)	B [*] , D ^{**}
Self-injurious behaviors	112 (11.2)	87 (11.5)	186 (14.9)	37 (16.7)	54 (18.6)	220 (18.6)	132 (25.4)	A [*] , B [*] , D ^{**} , E ^{**}
Sexualized behaviors	267 (26.9)	112 (15)	181 (14.5)	63 (28.6)	94 (32.4)	194 (16.7)	194 (37.7)	B ^{***} , C ^{***} , E ^{**}
Alcohol abuse	41 (4.1)	41 (5.4)	97 (7.7)	14 (6.4)	24 (8.3)	96 (8.3)	40 (7.8)	B [*]
Substance abuse	41 (4.2)	47 (6.3)	112 (9.0)	13 (6.0)	31 (10.7)	126 (10.9)	50 (9.9)	B [*] , C [*] , D [*] , E [*]
Attachment problems	298 (33.8)	302 (47.7)	635 (52.5)	101 (52.1)	152 (52.8)	674 (58.7)	344 (67.5)	B ^{***} , D ^{**} , E ^{***}
Criminal activity	34 (3.4)	53 (6.9)	99 (7.8)	22 (10.0)	23 (7.8)	136 (11.5)	56 (10.7)	B [*] , D ^{**}
Running away	52 (5.1)	46 (6.0)	79 (6.2)	17 (7.7)	34 (11.5)	121 (10.2)	65 (12.4)	D [*] , E [*]
Clinical evaluation								
Acute stress disorder	129 (14.1)	88 (12.1)	220 (18.6)	25 (11.7)	54 (19.9)	205 (18.1)	109 (21.8)	A ^{***} , B [*] , C [*] , D ^{**} , E [*]
Posttraumatic stress disorder	636 (68.3)	441 (59.9)	674 (57.0)	164 (75.6)	225 (82.1)	867 (75.5)	445 (88.7)	B ^{***} , C ^{***} , D ^{***} , E ^{***}
Traumatic/complicated grief	177 (21.5)	224 (35.2)	375 (32.1)	59 (30.6)	102 (37.8)	393 (34.6)	223 (44.5)	B ^{***} , E ^{***}
Dissociation	155 (16.9)	100 (13.7)	170 (14.4)	38 (17.6)	67 (24.9)	263 (23.1)	181 (36.3)	D ^{***} , E [*]
Somatization	138 (16.7)	90 (14.3)	190 (16.2)	30 (15.5)	58 (21.5)	215 (19.0)	143 (28.7)	D [*]
Generalized anxiety disorder	319 (34.7)	243 (33.1)	572 (48.4)	71 (33.2)	139 (51.3)	572 (50.2)	252 (50.3)	A ^{***} , B ^{***} , C ^{***} , D ^{***} , E ^{***}
Separation anxiety disorder	104 (11.3)	86 (11.8)	179 (15.1)	18 (8.4)	35 (12.9)	208 (18.3)	83 (16.6)	B [*] , C [*] , D ^{**} , E ^{**}
Depression	438 (47.3)	372 (50.7)	680 (57.5)	107 (49.1)	195 (71.4)	758 (66.2)	365 (72.6)	A ^{***} , B ^{***} , C ^{***} , D ^{***} , E ^{***}
Attachment problems	238 (25.8)	263 (36.1)	532 (44.9)	83 (38.4)	127 (46.9)	623 (54.5)	309 (61.6)	A [*] , B [*] , D ^{**} , E ^{***}
Oppositional defiant disorder	151 (16.4)	193 (26.4)	279 (23.8)	50 (23.3)	71 (26.1)	325 (28.6)	157 (31.4)	B ^{***} , E ^{***}
Conduct disorder	42 (4.6)	76 (10.4)	77 (6.5)	13 (6.1)	21 (7.7)	128 (11.2)	60 (12.0)	A ^{**}
General behavioral problems	347 (41.8)	377 (59.2)	596 (50.9)	102 (52.9)	139 (51.3)	675 (59.2)	298 (59.6)	A ^{***} , B [*] , E ^{**}
Attention deficit hyperactivity	198 (21.6)	258 (35.3)	344 (29.1)	60 (27.9)	67 (24.6)	375 (32.9)	140 (27.8)	A [*]
Suicidality	88 (9.6)	89 (12.2)	118 (10.0)	23 (10.7)	45 (16.5)	156 (13.7)	118 (23.6)	A [*]
Sleep disorder	131 (15.8)	86 (13.7)	166 (14.2)	33 (17.2)	48 (17.7)	180 (15.8)	111 (22.2)	A [*]

Note. A = PM greater than PA; B = PM greater than SA; C = PM greater than SA + PA; D = PM + PA greater than PA; E = PM + SA greater than SA. Negative association is indicated by “-” sign. Age significant for everything except generalized anxiety disorder. Gender significant for academic problems, behavior problems at school and home, self-injurious behavior, attachment problems, criminal activity, posttraumatic stress disorder, dissociation, somatization, obsessive-compulsive disorder, conduct disorder, general behavioral problems, attention deficit hyperactivity disorder, and suicidality.

* $p < .05$. ** $p < .01$. *** $p < .0001$.

SA groups on 21 of 27 indicators of risk behaviors, behavioral problems, functional impairments, symptoms, and disorders. Figures 1 and 2 depict the adjusted ORs and corresponding 95% CIs for all indicators.

Compared with the PA group, the PM group had significantly higher odds on five indicators: behavior problems at home ($OR = 1.29$, 95% CI: 1.07–1.55; $p = .0076$), attachment problems ($OR = 1.42$, 95% CI: 1.17–1.71; $p = 0.0004$), depression ($OR = 1.46$, 95% CI: 1.20–1.79; $p = 0.0002$), acute stress disorder (ASD; $OR = 1.69$, 95% CI: 1.29–2.20; $p = 0.0001$), and generalized anxiety disorder (GAD; $OR = 1.91$, 95% CI: 1.57–2.31; $p < .0001$); and marginally higher odds than the PA group on two indicators: skipping school or day care ($OR = 1.43$, 95% CI: 1.06–1.92; $p = 0.0207$) and self-injurious behaviors ($OR = 1.34$, 95% CI: 1.02–1.77; $p = 0.0345$).

Compared with the SA group, the PM group had higher frequencies on the majority (17 of 27; 63%) of outcomes, with estimated ORs ranging from 1.46 to 2.47. The PM group had significantly lower frequencies on only three study indicators compared with both the PA group: conduct disorder (CD; $OR = 0.63$, 95% CI: 0.45–0.89; $p = 0.0075$), general behavior problems ($OR = 0.72$, 95% CI: 0.59–0.88; $p = 0.0012$), and attention deficit hyperactivity ($OR = 0.78$, 95% CI: 0.64–0.95; $p = 0.0149$); and the SA group: sexualized behaviors ($OR = 0.47$, 95% CI: 0.38–0.58; $p < .0001$), PTSD ($OR = 0.63$, 95% CI: 0.52–0.76; $p < .0001$) and, marginally, suicidality ($OR = 0.78$, 95% CI: 0.61–0.99; $p = 0.0436$).

Comparison of PM group to multiple-type PA + SA group. Of further relevance to evaluating its predictive potency, the PM group had similar odds to the PA + SA group on 74% (20 of 27) of indicators and significantly higher odds on five indicators (substance abuse disorder [SAD], GAD, depression, and ASD). The PM group had significantly lower odds on only two indicators compared with the PA + SA group (sexualized behaviors, PTSD).

Incremental Contribution of PM to the Clinical Profiles of Physically or Sexually Maltreated Youth

CBCL subscale & PTSD-RI total scale scores. Compared with the PA group, the PM + PA group had significantly higher CBCL-Int. scores (Achenbach & Rescorla, 2004), estimated difference = 2.66, $SE = 0.62$; $p < .0001$, and PTSD-RI scores (Steinberg et al., 2004), estimated difference = 2.45, $SE = 0.81$; $p = 0.0025$. In contrast, the two groups reported similar CBCL-Ext. scores (Achenbach & Rescorla, 2004), $M = 64.3$ vs. 63.8, respectively. Further, compared with the SA group, the PM + SA group had significantly higher scores on the CBCL-Ext., estimated difference = 2.62, $SE = 0.86$; $p = 0.0024$, and CBCL-Int. composite scales, estimated difference = 2.14, $SE = 0.84$; $p = 0.0107$, as well as marginally higher scores on the PTSD-RI, estimated difference = 2.15, $SE = 1.09$; $p = 0.0495$ (see Table 1 for group comparison details).

Indicators of severity and clinical evaluation. Compared with the SA group, the PM + SA group had significantly higher

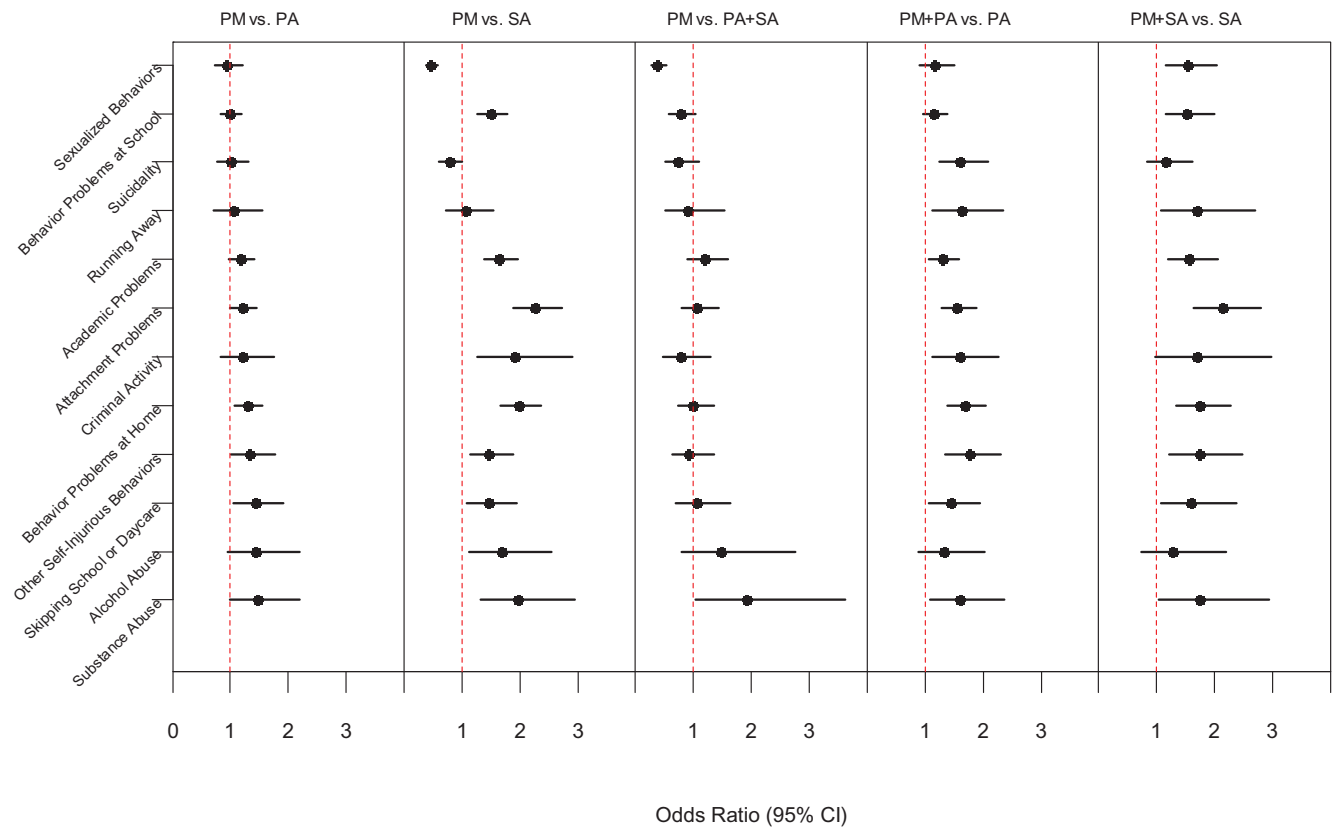


Figure 1. Estimated OR with 95% OR for indicators of severity (SA = sexual abuse; PA = physical abuse; PM = psychological maltreatment). The dash line represents an OR of 1.

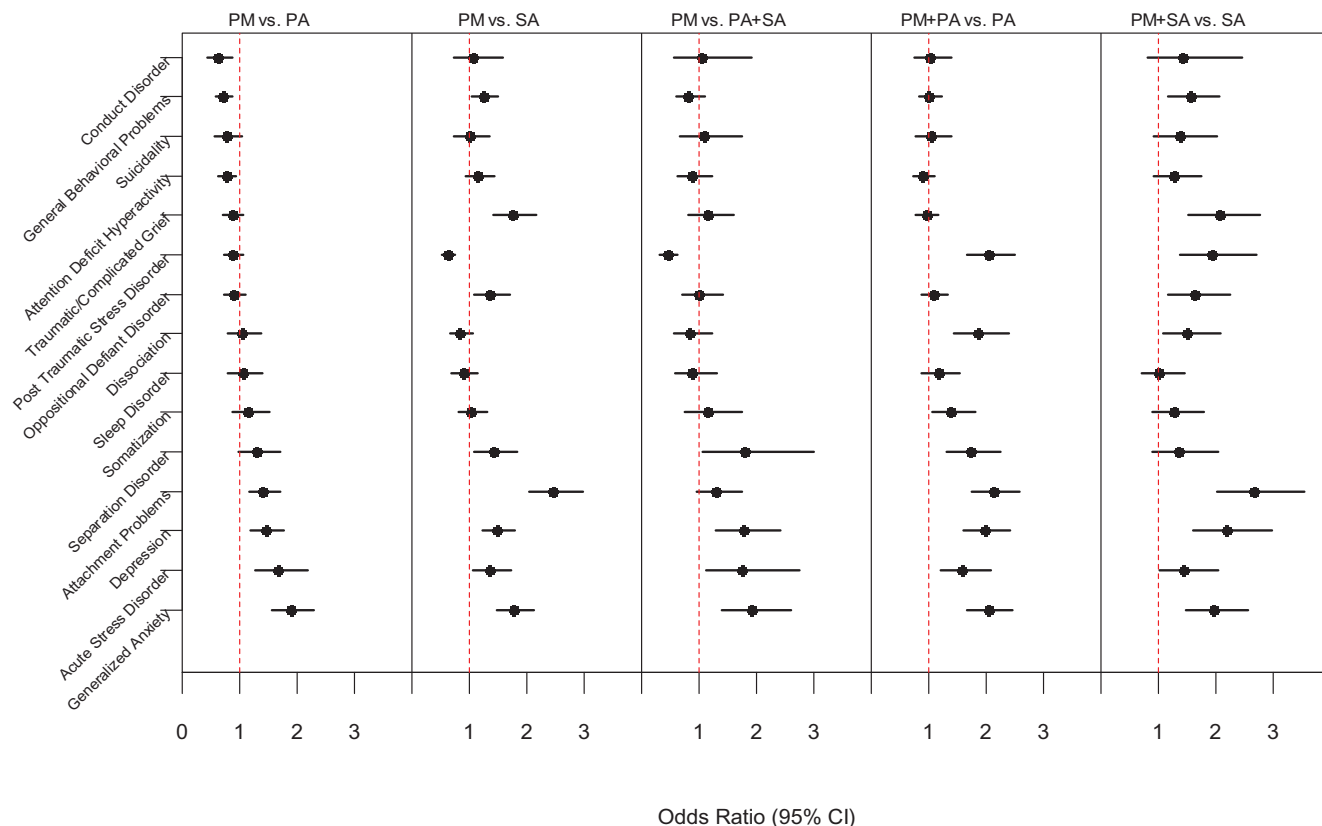


Figure 2. Estimated OR with 95% OR for clinical evaluation (SA = sexual abuse; PA = physical abuse; PM = psychological maltreatment). The dash line represents an OR of 1.

odds on the majority (18 of 27; 67%) of indicators (see Figures 1 & 2). Similarly, compared with the PA group, the PM + PA group had significantly higher odds on the majority (17 of 27; 63%) of indicators.

Model Covariates

The results presented above were from the models adjusted for gender and age at baseline, and these model covariates were significantly associated with some of the measures and indicators of interest.

Gender. Male status was associated with significantly higher mean scores on the CBCL-Ext. subscale (Achenbach & Rescorla, 2004), as well as a significantly higher frequency (30%; 8 of 27) of respondent and clinician-rated indicators. Female status was associated with significantly higher PTSD-RI scores (Steinberg et al., 2004) and with a significantly higher frequency (7 of 27; 26%) of rated indicators (See Tables 1 & 2).

Age at baseline. Older age (measured at intake) was positively associated with both CBCL-Ext. and CBCL-Int. subscale scores (Achenbach & Rescorla, 2004), and with a higher frequency of most (70%; 19 of 27) indicators. Younger age was significantly associated with 26% (7 of 27) of rated indicators.

Discussion

Using a large national sample of clinic-referred youth, the present study casts light on the potential effects of PM (i.e.,

emotional abuse and/or emotional neglect) on child and adolescent traumatic stress and associated problems in child mental health, behavior, and functioning. Our findings strongly support the hypotheses that PM in childhood not only augments, but also independently contributes to, statistical risk for negative youth outcomes to an extent comparable to statistical risks imparted by exposure to physical abuse (PA), sexual abuse (SA), or their combination (PA + SA).

The occurrence of PM was associated with a broad range of clinical impairment types, exerting predictive effects of comparable or greater magnitude or frequency than the predictive effects of PA and SA. In addition, the co-occurrence of PM with PA (PM + PA) or SA (PM + SA) was associated with a greater magnitude or frequency of the majority of study outcomes compared with those associated with PA or SA alone. Further, the occurrence of PM was found to be an equivalent or significantly greater predictor of 27 of 30 negative outcomes compared with the co-occurrence of physical and sexual abuse (PA + SA). PM was thus associated with a clinical profile that overlapped with, but was distinct from, the profiles observed in the PA, SA, and PA + SA comparison groups.

Adding weight to these findings is evidence that PM is the most prevalent form of maltreatment in the NCTSN CDS (Layne et al., 2014). A history of PM exposure was identified in the majority (62%) of more than 5,000 maltreatment cases examined in this study, with nearly one quarter (24%) of maltreatment cases comprised exclusively of PM. Although cross-sectional, these findings

point to the role that PM may play as a formidable form of childhood trauma in its own right, and strongly suggest that PM should be an integral component of ongoing efforts to understand, assess, and address the nature and sequelae of maltreatment in children and adolescents.

Impact of Psychological Maltreatment on PTSD

The PM group exhibited symptom frequencies on the PTSD-RI equivalent to those observed in the PA and SA groups. This finding is especially noteworthy given the exclusion of PM as a Criterion A event for PTSD in *DSM-5* and its prior editions (American Psychiatric Association, 2013). In contrast, the lower frequency of clinician-rated PTSD diagnosis in the PM versus SA groups may reflect, at least in part, a methodological artifact and clinical practice parameter: Clinicians may have refrained from assigning a PTSD diagnosis to the PM group—even in the presence of equivalent PTSD-RI symptom severity—precisely because the DSM does not recognize PM as a threshold stressor for PTSD. Nevertheless, equivalent PTSD-RI scores across PM, SA, and PA groups, coupled with the finding that the PM group was as likely as the PA group to receive a clinician rating of PTSD, provides support for both the inclusion of PM as a qualifying stressor for PTSD as well as healthy skepticism concerning the diagnostic utility of excluding PM from PTSD Criterion A (Van Hooff, McFarlane, Bauer, Abraham, & Barnes, 2009).

Impact of Psychological Maltreatment on Associated Clinical Indicators

Findings revealed a robust association between PM and the majority of clinician-rated diagnostic and risk indicators assessed. Compared with the SA, PA, and SA + PA groups, the PM group exhibited equivalent or higher frequency scores on the great majority of study indicators. Although the PM group exhibited slightly lower frequencies on a small number of outcomes compared with either the SA (e.g., sexualized behaviors) or PA (e.g., CD) groups, the PM group was never associated with the lowest odds ratios on any of the 27 indicators examined. In sum, the predictive potency of PM appears to be at least on par with physical or sexual abuse across a broad range of adverse outcomes. These findings lend support to the recent report by the AAP highlighting the perniciousness of this form of maltreatment (Hibbard et al., 2012).

Some evidence concerning the potentially differential (unique) effects of PM emerged in the finding that PM was the strongest and most consistent predictor of internalizing problems (e.g., depression, GAD, SAD, attachment problems). PM was also the strongest predictor of substance abuse—raising the question as to whether substance abuse may serve as an associated coping mechanism and “cascading” secondary outcome (see Layne et al., 2014). These findings are consistent with earlier research linking PM to a range of internalizing symptoms, relational insecurity, and negative self-perceptions (e.g., Trickett, Kim, & Prindle, 2011). With respect to the prediction of externalizing problems (e.g., behavioral problems, self-injury, criminal activity), PM exhibited a strong association comparable to that of PA and greater than that of SA. This finding suggests that PM, PA, and their co-occurrence (PM + PA) may be potent risk factors for eliciting or reinforcing

externalizing behavior—a proposition consistent with prior research linking maltreatment to reactive aggression (Ford, Fraleigh, & Connor, 2010).

Exacerbating Effect of Psychological Maltreatment for Other Maltreatment Groups

Consistent with prior studies suggesting that PM may potentiate the detrimental effects of SA or PA, the co-occurrence of PM with SA or PA was associated with higher PTSD symptoms, CBCL-Int., and CBCL-Ext. behavior problem scores compared with the occurrence of SA or PA alone. The co-occurrence of PM with PA or SA also significantly increased the odds ratios for a number of clinician-rated indicators including PTSD, ASD, dissociative symptoms, attachment problems, depression, and GAD. These findings add to a growing body of research demonstrating that exposure to multiple forms of trauma (Cloitre et al., 2009; Higgins, 2004) is associated with an exacerbation of psychosocial impairment.

In contrast, although the co-occurrence of PM with either PA (PM + PA) or SA (PM + SA) generally increased the risk for adverse outcomes compared with the predictive effects of PA or SA alone, the co-occurrence of PA with SA (PA + SA) rarely predicted greater outcome severity. Indeed, for a number of study indicators, the predictive effect of PA + SA was significantly lower than that of PM alone. As gauged by its incremental predictive potency, PM may represent a disproportionately more potent predictor, and candidate causal (i.e., traumagenic) contributor, to the risk for a broad array of trauma-related adverse outcomes in childhood and adolescence as compared with other more extensively studied forms of maltreatment, including PA and SA. These findings suggest that, in evaluating risk for PTSD and other adverse behavioral and psychosocial outcomes, the accumulation of multiple maltreatment types may not follow a simple equally weighted additive pattern (i.e., functional interchangeability in the relative potencies and causal pathways of different trauma types across outcomes). Consistent with the role of a vulnerability factor (Layne et al., 2009), the co-occurrence of psychological maltreatment in this study was associated with a significant increase in the prevalence and severity of a range of internalizing and externalizing problems for children exposed to either SA or PA.

This additive effect was unique to PM: the co-occurrence of PM with another type of maltreatment (PM + SA or PM + PA) was associated with significantly more severe (as measured by CBCL Internalizing and Externalizing subscale scores) and far-ranging (as measured by the wide array of clinical indices assessed) negative outcomes than when SA and PA co-occurred without PM (SA + PA). In fact, the co-occurrence of SA and PA appeared to be necessary to produce an equivalent predictive effect on several study indicators (e.g., behavioral problems at school, self-attachment problems, self-injurious behaviors) compared with PM alone. Investigating the comparative potency and potentially unique pathways by which PM contributes (both in its occurrence, as well as its co-occurrence with PA and SA) to adverse outcomes typically attributed to PA and SA, is a promising avenue for future research (see also Kiesel et al., 2014; Layne et al., 2014; Pynoos et al., 2014).

Study Strengths and Limitations

Study strengths include the size, national scope, and demographic diversity of the sample. The present study constitutes one of the largest empirical studies on the comparative predictive potencies of various forms of child maltreatment ever conducted—a study for which the NCTSN CDS is uniquely suited to carry out. The study design nevertheless carries important limitations. First, because the CDS is a quality improvement initiative consisting of a large sample of youth referred for trauma treatment services, it is neither probability-based nor nationally representative, but rather a purposive sample of youth served by NCTSN centers. Our results thus most clearly generalize to trauma-exposed, treatment-seeking U.S. youth populations. Second, we operationally defined each child's maltreatment history in terms of his or her lifetime history of exposure to three primary forms of maltreatment captured in the CDS (PM, SA, PA) and their combinations that were most conducive to testing our two study hypotheses. We did not examine other facets of maltreatment (e.g., duration, age of onset, developmental timing of exposure) that may intersect with one or more of these maltreatment types to influence child outcomes (see Pynoos et al., 2014). Third, the study design utilized linear mixed-effects regression using discrete groups (PM, PA, SA, PM + PA, etc.) and cross-sectional data, and did not involve tests of interaction (i.e., moderated/vulnerability effects). Fourth, we did not account for the contributions of other forms of interpersonal (e.g., gross neglect, domestic, school or community violence) or impersonal (e.g., serious injury/accident) trauma measured by the CDS that may precede or occur in conjunction with or subsequent to child maltreatment. We plan to pursue these questions in future studies designed to unpack the elements of risk factor caravans and their influences on maltreated youth (Layne et al., 2014). Our results nevertheless clearly underscore the risks associated with maltreatment-related polyvictimization, especially elevated risk profiles and wide-ranging negative outcomes predicted by lifetime exposure to PM.

Future Directions and Implications for Child Mental Health Services, Education, and Policy

Findings of this study carry important implications for public policy and the development, adaptation, and implementation of child trauma interventions. First, given its predictive potency and widespread prevalence, efforts to increase recognition of PM as a potentially formidable type of maltreatment in its own right should be at the forefront of mental health and social service training efforts, including incorporation of education on PM into graduate training curricula and continuing education of child service professionals (Courtois & Gold, 2009). This need is especially apparent in the child welfare system considering the low rates at which PM is currently detected. Enhancement of training initiatives for protective services personnel focused on screening and assessment of PM, as well as linking children to appropriate services, is critical. In tandem, mental health outreach, consumer resource development and public awareness initiatives are needed to achieve more widespread understanding of the detrimental consequences of PM for children and adolescents.

Second, psychometrically sound, clinically useful instruments are needed to help providers identify PM, categorize and appreci-

ate various forms of emotional abuse and emotional neglect, and assess their associated effects on a range of adverse youth outcomes. Third, effective, theoretically grounded interventions for the sizable subpopulation of traumatized youth exposed to PM are clearly needed. Of particular concern, whereas NCTSN sites have produced or adapted over three dozen empirically supported treatments for child trauma, few directly target psychological maltreatment or its subtypes (e.g., emotional abuse, emotional neglect), and no intervention has been developed to focus specifically on this widely prevalent form of trauma exposure. One partial exception is Attachment, Self-Regulation and Competency (ARC: Kiniburgh, Blaustein, Spinazzola & van der Kolk, 2005), which embeds a therapeutic focus on the effects of and response to psychological maltreatment within a “complex trauma” (Spinazzola et al., 2005; Spinazzola et al., 2013) paradigm. Nevertheless, the extent to which prevailing child trauma treatment models are applicable to, and sufficiently address the needs of, psychologically maltreated youth remains an open question. Likewise, the degree to which the extant evidence base on treatment outcome generalizes to this subpopulation of maltreated youth is unclear. Future research should seek to ascertain whether existing models sufficiently address, or can be adapted to accommodate, the needs of psychologically maltreated children and adolescents; or alternatively, whether new models or intervention components are required.

Finally, greater attention should be dedicated toward understanding the complex manner in which co-occurring forms of childhood trauma may intersect to influence traumatic stress reactions, attachment and self-image problems, affective and physiological dysregulation, risk behaviors, and functional impairment across development (D'Andrea et al., 2012). Appropriately constructed guiding theory, assessment tools, interventions, and clinical training methods are needed to support accurate risk screening and case identification, effective intervention, workforce development, and public policy. If we are to engender healing of the full spectrum of wounds inflicted by childhood trauma—both the visible and the unseen—such efforts must be guided by a clear appreciation for the variability in occurrence, intersection, etiology, developmental context, clinical course, and causal consequences of all forms of maltreatment.

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SENATE BILL 365

D4
SB 13/23 – JPR

4r1171
CF 4r1547

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:

PHYSICAL AND PSYCHOLOGICAL

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.

APA GUIDELINES for Child Custody Evaluations in Family Law Proceedings

**WORKING GROUP TO REVISE THE GUIDELINES ON THE EVALUATION OF CHILD CUSTODY IN FAMILY
LAW PROCEEDINGS**

**COMMITTEE ON PROFESSIONAL PRACTICE AND STANDARDS OF THE AMERICAN
PSYCHOLOGICAL ASSOCIATION**

ADOPTED AS ASSOCIATION POLICY IN FEBRUARY 2022



**AMERICAN
PSYCHOLOGICAL
ASSOCIATION**

The Guidelines for Child Custody Evaluations in Family Law Proceedings were revised by a Working Group established by the APA Committee on Professional Practice and Standards (COPPS), that included current and former members of COPPS, subject matter experts (SMEs), and guidelines development experts. They are Helen T. Brantley (Chair), Eric Y. Drogin, I. Bruce Frumkin, Giselle Aguilar Hass, Jemour A Maddux, and, Lisa D. Piechowski. The developers gratefully acknowledge the leadership of and consultation with the Board of Professional Affairs (BPA) and COPPS, strong input from APA boards and committees, and stakeholder groups internal and external to the Association, and members of the public. The developers especially appreciate the substantive expertise and support from APA Practice Directorate staff, including Mary G Hardiman and Bethel Yeshiwas, and other staff members across APA as this document moved through the review process in accordance with Association Rule 30-8.

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AMERICAN
PSYCHOLOGICAL
ASSOCIATION

APA GUIDELINES for Child Custody Evaluations in Family Law Proceedings

**WORKING GROUP TO REVISE THE GUIDELINES ON THE EVALUATION OF CHILD CUSTODY IN
FAMILY LAW PROCEEDINGS**

**COMMITTEE ON PROFESSIONAL PRACTICE AND STANDARDS OF THE AMERICAN
PSYCHOLOGICAL ASSOCIATION**

ADOPTED AS ASSOCIATION POLICY IN FEBRUARY 2022

APA Working Group on the Evaluation of Child Custody in Family Law Proceedings (WG-CCG)

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Introduction

Purpose

The overarching purpose of these Guidelines is to promote evidence-based and ethically informed practice concerning what are commonly termed *child custody* evaluations, involving disputes over decision making, parenting time, and access in the wake of relationship dissolution. These Guidelines endeavor to keep pace with research and legal developments in an expanding range of evaluation questions. Some factors to consider in these determinations include relocation, interference with parenting time, undermining the quality of the child's relationship with a parent, allegations of domestic violence and child abuse, and the child's own perspective. Psychologists strive to identify the presence and potential consequences — using scientific evidence and ethical practices — of such phenomena as child abuse, child neglect, intimate partner violence, and various pathogenic parenting practices (including loyalty binding, enmeshment, role reversal, and alienating behaviors). They also seek to recognize and to appropriately interpret the effect of high-conflict divorces on both children and families. As assessment techniques and the professional literature evolve, so do court decisions and legislative mandates. In keeping with previous iterations (APA, 1994, 2010), these Guidelines continue to acknowledge a clear distinction between the forensic custody evaluations described in this document and the advice and support psychologists provide to families, children, and adults in the normal course of psychological treatment (e.g., psychotherapy and counseling).

Terminology

Relevant terminology may be defined and operationalized by state law, regulations, and the courts, including tribal courts of separate jurisdiction(s). Some states have begun to favor use of such terms as *parenting plan* or *parental rights and responsibilities* instead of *custody*, in part to shift parties from a focus on "litigating custody" (DiFonzo, 2014, p. 213) and "winning custody" (Langan, 2016, p. 437). These terms are neither fully synonymous nor mutually exclusive; a *parenting plan* can be a central component of a *custody arrangement* that delineates *parental rights and responsibilities*. The majority of legal authorities and scientific

treatises still refer to custody when addressing the resolution of the right to make decisions about custodial placement and parenting time disputes regarding children. To avoid confusion — and to ensure that these Guidelines are accessed and utilized as widely as possible by evaluators, judges, lawyers, guardians, parenting coordinators, treatment providers, litigants, and members of the general public — the current Guidelines apply the term custody generally to these ideas, unless otherwise specified.

Child custody proceedings may involve parents who were never married, grandparents, stepparents, guardians, and other adult caregivers. These Guidelines apply the term *parents* generically when referring to persons who seek legal recognition as sole or shared custodian(s). Many states recognize some form of joint or shared custody that affirms the decision-making and caregiving status of more than one adult, so the previous paradigm of a sole custodian and a visiting parent is no longer assumed. As noted above, the legal system also recognizes that disputes in question are not exclusively marital, and therefore may not involve *divorce*. Some parents may never have been married, may never have lived together, or may never have sustained any long-term relationship with one another. Disagreements regarding children may also occur after years of cooperative parenting, potentially with changes in circumstances of the children or of the parents.

Addressing parent-child contact problems can be a controversial concept in child custody proceedings (Fidler & Bala, 2020; Nielson, 2018). These problems may be subsumed under such terms as resist-refusal dynamics, alienating behaviors, domestic violence and/or child abuse, restrictive gatekeeping, and parental alienation, among others. While there is a large body of research and literature on this topic, there are also many nonscientific-based texts. The concept is a complex and multifactorial one (Johnston, 2003; Johnston & Sullivan, 2020; Judge & Deutsch, 2017) and has occasionally been misinterpreted (See Guideline 5), polarizing psychologists and other professionals, including lawyers, judges, social workers, and parents. Psychological science may help clarify these issues for other professionals who work in this area of alienating behaviors. In the Guidelines, the terms alienating behaviors or parent-child contact problems are used to denote these issues. Further information may be obtained from the following sources, including but not limited to: Specialty Guidelines for Forensic Psychology (APA, 2013c); Guidelines for Psychological Evaluations in Child Protection Matters (APA, 2013b), and Guidelines for the Practice of Parenting Coordination (APA, 2012).

Many child custody evaluation court orders contain specific referral questions, whereas others may designate the scope or focus of the evaluation. Different jurisdictions may prefer one set of terms over another, and psychologists need to be aware of their local court preferences. For the purposes of these Guidelines, the term *referral question* will also include scope or focus as designated in the court order.

“Best Interests of the Child”

Parents may have numerous resources available to help them resolve their conflict, including psychotherapy, counseling, consultation, mediation, parenting coordination, and other forms of conflict resolution. However, if parties are unable to reach an agreement, courts must intervene to allocate decision-making, physical residence of the children, and parenting time, applying a *best interests of the child* legal standard in determining this restructuring of rights and responsibilities. *Best interests of the child* is defined in many state statutes. The legal standard generally reflects criteria “related to the child’s circumstances and the parent or caregiver’s circumstances and capacity to parent, with the child’s ultimate safety and well-being the paramount concern” (Child Welfare Information Gateway, Department of Health and Human Services, 2020, p. 2). A custody evaluation typically involves relevant facets of the child’s needs as well as the parenting qualities and capacities of each of the adult parties.

Most child custody disputes, however, are settled without the need for a court-ordered evaluation (Lund, 2015). In some situations, a “collaborative law” approach is taken that explicitly favors consensus-based dispute resolution over traditionally adversarial strategies and tactics (Schepard & Hoffman, 2010), often involving participation by psychologists. Where disputes have not been resolved, psychologists render a valuable service, as they provide competent, impartial, and adequately supported opinions with direct relevance to the *best interests of the child* (Symons, 2010).

Scope

These Guidelines provide general recommendations for psychologists whom seek to increase awareness, knowledge, and skills when performing their child custody evaluations. Psychologists are sometimes asked to perform a “brief focused evaluation” (Cavallero & Hanks 2012; Deutsch, 2008, p. 45) that targets well-defined, often narrowly tailored questions, in family matters.

Although such evaluations often address issues relevant to child custody, they are beyond the scope of these Guidelines. These Guidelines are not intended for psychologists functioning either in a consultant role or as a non-evaluating investigator in child custody litigation. Child protection evaluations are separate and distinct from child custody evaluations. For professional resources on child protection, see “Guidelines for Psychological Evaluations in Child Protection Matters” (APA, 2013b).

Users

These Guidelines are intended for use by psychologists, and to provide assistance to those with an interest in child cus-

tody evaluation services, such as other mental health providers, attorneys, judges, and consumers. These Guidelines address ethical and aspirational aspects of child custody evaluations and may be informative to anyone with a professional or personal interest in such procedures.

Documentation of Need

Since the most recent prior iteration of the Guidelines (APA, 2010), there have been changes in state laws (e.g., regarding same-sex marriage) as well as a growth in research relevant to this field on such topics as the following: implicit bias, subspecialty areas in child custody evaluation (e.g., child maltreatment, relocation, abduction risk, parent-child contact problems), culture, trauma-informed practice, and psychological testing (Neal et al., 2020). Many training programs offer limited forensic exposure to family law matters, and psychologists who are asked to perform child custody evaluations have varying levels of supervised experience in this area. These Guidelines provide aspirational direction to all psychologists asked to perform child custody evaluations.

Development Process

The Guidelines for Child Custody Evaluations in Family Law Proceeding (APA, 2010) were reviewed, found in need of revision, and sent out for public comment to solicit further evaluation of the 2010 Guidelines, all in accordance with Association Rules 30.8 and APA policy on guidelines. In the spring of 2018, a Working Group was formed under the auspices of the Committee of Professional Practice and Standards (COPPS), in consultation with the Board of Professional Affairs, with the charge to revise the Guidelines for Child Custody Evaluations in Family Law Proceedings (APA, 2010). The six members of the Working Group were selected with different areas of expertise and levels of experience in conducting child custody evaluations.

The Working Group began meeting the summer of 2018, initially using approximately monthly conference calls as its means of communication. In the spring of 2020, weekly and biweekly calls were initiated, and two-day, face-to-face meetings were conducted in April 2019 and January 2020. Various suggestions were proffered by individual members, after which the Working Group as a whole refined these suggestions with an eye toward maintaining requisite guidelines format and content. The Office of Legal and Regulatory Affairs of APA provided information regarding jurisdictional differences in family laws.

In the summer of 2020, the proposed revision document was submitted for legal review. Thereafter, the document underwent review by APA Boards and Committees, and it was submitted for a 60-day public comment period, in accordance with policies and procedures per Association

Rules 30.8 and APA policy on guidelines. The document was revised in response to comments received, and a final revision was submitted for risk management review by APA Board of Directors and a substantive review by the APA Council Leadership Team and to Council of Representatives for review and adoption as Association Policy. Once approved, the document was submitted for posting on the APA website and disseminated through official APA communications channels. The document was also submitted for consideration for publication in the *American Psychologist*.

Selection of Evidence

The Working Group conducted a broad review of the literature through their own study and discussion of professional and scholarly resources and via a review of results of the public comment process. The literature then received suggestions for additional citations and references from various collegial sources throughout the development process. The literature reviewed and cited in the text of these Guidelines by the Working Group is as inclusive, representative, seminal, relevant, empirically based, and current as feasible. The introductory and guidelines sections are explicitly informed by the APA Ethical Principles of Psychologist and Code of Conduct (APA, 2017a) (hereafter referred to as the “APA Ethics Code”; APA, 2017), as well as additional APA guidelines and reports.

Distinction between Standards and Guidelines / Compatibility with APA Ethics Code

As noted above, these Guidelines are informed by the APA’s Ethics Code. The term *guidelines* refer to statements that suggest or recommend specific professional behavior, endeavors, or conduct for psychologists (APA, 2015). Guidelines differ from standards, in that standards are mandatory and may be accompanied by an enforcement mechanism. Guidelines are aspirational in intent. They are intended to facilitate the continued development of the profession, and to facilitate a high level of practice by psychologists. Guidelines are not intended to be mandatory or exhaustive, and they may not be applicable to every professional situation. They are not definitive nor intended to take precedence over the measured, independent judgment of psychologists (APA, 2015).

It is not possible for these Guidelines to identify every course of action that a child custody evaluator might be encouraged to pursue or avoid. For these reasons, it would not be accurate for legal and other advocates to assume that these Guidelines offer a comprehensive and definitive overview of all relevant issues. In addition, psychologists should refrain from using these Guidelines as an exclusive blueprint for conducting child custody evaluations; instead, psychologists should acquire from other sources the requi-

site knowledge, skill, education, experience, and training for doing so.

Conflict of Interest

The Guidelines developers did not receive external support for this project. No funding was received to assist with the preparation of these Guidelines or for conducting the underlying literature review. No funds, grants, or other support was received in support of this project other than what was allocated in support of APA boards and committees to meet and develop guidance. The Guidelines developers complied with APA's policy on conflicts of interest.

Expiration

These Guidelines are scheduled to expire 10 years from February 2022. After that date, users are encouraged to contact the APA Practice Directorate to determine whether this document remains in effect.

I. Scope of the Child Custody Evaluation

GUIDELINE 1

The purpose of the child custody evaluation is to assist in identifying the best interests of the child, in recognition that the child's welfare is paramount.

Rationale

Psychologists with appropriate clinical and forensic training can investigate the needs, conditions, and capacities of all family members. Courts rely on this input when crafting a legal decision that identifies and promotes the best interests of the child (Child Welfare Information Gateway, 2020).

Application

Psychologists are encouraged to weigh and incorporate many factors that, in combination, are sufficient to identify the best interests of the child. Parental factors may include parenting style and practices; ability and willingness to co-parent; family interactions; interpersonal support; cultural and environmental variables (APA, 2019); relevant challenges; and functioning and aptitudes of all examined parties. Factors concerning children may include their developmental, educational, physical, social, recreational, cultural, and psychological needs, as well as the child's wishes. Psychologists are aware that considerations of the children's wishes are often regulated by law, and that children's expressed preferences may be influenced by several factors, including age and developmental status, manipulation and/or undue influence by a parent (Parkinson & Cashmore, 2007), fear of consequences (Cashmore & Parkinson, 2008), traumatic bonding with an abusive parent (Reid et al., 2013), and coercion (Warshak, 2015). Careful consideration of children's perspectives is frequently recognized as a valid component. Psychologists may include assessment of the children's vulnerabilities and special needs, including any disabilities, as well as the strength of the children's healthy bond to the parents and other family members, effects of separation, and the health of the parent-child relationship. Psychologists strive to consider each of the best interest factors described in state statutes.

In addition, foci of a child custody evaluation may encompass, among other factors, threats to the child's safety and well-being, such as physical and emotional abuse, neglect, coercion, and the presence of parental alienating behaviors, as well as exposure to parental conflict, violence, abuse, and antagonistic interactions between extended family members. Psychologists endeavor to assess the risk

of physical, psychological, and/or sexual violence within the family, and to understand child protection laws, research, and guidelines in child protection matters (APA, 2013b). Psychologists understand that custody evaluations may be exploited by the parents as a tool for further control and harassment after separation. Children may be affected negatively by the child custody evaluation process, as well as by the conflict it seeks to address. Parents who are undergoing an evaluation may advance their concerns in a forceful and contentious manner, drawing children into their conflicts. To protect children, psychologists strive to provide instructions to caregivers at the beginning of the evaluation as to appropriate parent-child communications about interviews.

GUIDELINE 2

The evaluation focuses upon parenting abilities, the children's needs, and the resulting fit.

Rationale

From the court's perspective, the most valuable contributions by psychologists reflect a clinically astute and scientifically sound approach to legally relevant matters. Issues that are central to the court's ultimate decision-making obligations in child custody matters include parenting abilities, the child's needs, and the resulting fit (Ackerman et al., 2021).

Application

The most useful evaluations generally focus on assessment of the needs of the children and on parenting dimensions to compare parents between each other and with normative groups. Comparatively little weight may be afforded to evaluations that are limited to a general personality assessment that fails to address parenting capacities and the child's needs. Psychologists strive to address issues of central importance to custody and to related psycho-legal constructs that are relevant to the matters before the court. Psychologists aspire to contextualize the evaluation data within relevant theory and to use scientific data to help the court understand the best interests of the child. Psychologists endeavor to provide the court with information specifically germane to its role in apportioning decision-making, caregiving, and parenting time. Similarly, psychologists strive to

educate the court about issues related to cultural sensitivity (APA, 2019), child development, best practices, and theoretical developments in the understanding of human behavior as they apply to families and parenting.

“Parent-child fit” refers to the nexus between the parent’s characteristics, strengths, and weaknesses, and the child’s developmental, emotional, physical, and psychological needs. Psychologists seek to assess these needs through observation of the children, developmentally appropriate interviewing, psychological testing, record review, and collateral interviewing (see Guideline 13). Psychologists strive to identify each parent’s capacity and functioning using an evidence-based, multitrait-multimethod matrix (MTMM), assessment approach (see Guideline 10). Assessment of the goodness of fit between the child’s needs and parental capabilities is further enhanced by informed observation of parent-child interactions.

GUIDELINE 3

Psychologists endeavor to identify the child custody evaluation’s stated purpose, anticipated use, specific scope, and agreed-upon time frame before accepting referrals.

Rationale

The scope, purpose, and anticipated use of the child custody evaluation clarify what is expected and how psychologists can assist the court, if at all. This understanding also helps psychologists to decide when communication is needed concerning continued services, new information, and the evaluation’s status. It also confirms how and with whom such communication will take place. Depending upon the requirements of the child custody evaluation, the referral could call for services that the psychologist is not competent to provide or cannot deliver in a timely manner. For example, the psychologist may lack suitable familiarity with the only language spoken by members of the family in question, or may have a schedule conflict that makes it impossible to meet a court’s stated deadline.

Application

Child custody evaluation referrals may differ in scope, such as when relocation questions, substance use disorder, child abuse issues, and parent-child relationship problems are specified (see Guideline 5). Before agreeing to conduct a child custody evaluation, psychologists seek to clarify the referral question, the specific scope of the evaluation, and who will receive the final report. They also endeavor to determine whether they are expected to provide recommendations — and if they may potentially provide scientifically-based opinions or recommendations — that are accurate, impartial, fair, and independent in response to the referral questions (APA, 2013c, Guideline 1.02). It may be helpful to have the psychologist’s understanding of the specific scope of the evaluation confirmed in writing in a court order, or by stipulation of all parties and their legal representatives. Psychologists strive to ensure that the time frame is reasonable, considering both the evaluator’s and the parties’ schedules. Lengthy delays have the potential to increase anxiety and exacerbate other mental health conditions in ways harmful to adults and children alike. Should new information arise, psychologists endeavor to communicate promptly, to clarify, and to adhere to any revised agreements governing the evaluation’s purpose, scope, or time frame. Psychologists strive to remain alert not only to the original referral questions, but also to emerging issues and unanticipated developments during the evaluation. As these concerns arise, psychologists may seek appropriate consultation with counsel and the courts, as appropriate, for any necessary modifications to the referral questions or to the course of the evaluation.

II. Competence

GUIDELINE 4

Psychologists aspire to obtain and maintain the necessary competencies to provide child custody evaluations consistent with the highest standards of their profession.

Rationale

Child custody evaluations are a domain of forensic psychology that requires skills, training, knowledge, and competence in the forensic assessment of children, adults, and families. Child custody and other evaluations have a significant impact on people's lives (APA, 2021), and involve public scrutiny and trust

Application

Psychologists continuously strive to update and augment their existing skills and abilities, consistent with a career-long dedication to professional development. The child custody evaluator seeks to maintain familiarity with the empirical social science research regarding children's psychological and developmental needs, including health impairments, educational needs, and cultural or linguistic concerns (APA, 2020a), other case-specific issues, and the child's best interests. Psychologists strive to gain an evolving and up-to-date understanding of the following: parenting; family dynamics and the child's place therein; child and family psychopathology; separation and divorce stress; impact of abuse, relationship conflict, and separation on children; adult development and pathology; forensic psychological assessment; relevant laws and regulations; and the specialized child custody literature (as addressed in Guideline 5). In addition, when making recommendations, psychologists endeavor to remain current and knowledgeable about treatments, interventions, and resources to address different dysfunctions that are accessible for the evaluatees, as well as the types of custody arrangements that promote healthy patterns. Psychologists strive to update routinely their child custody evaluation practices, in accordance with developments in the peer-reviewed literature.

When the specifics of a case are such that the psychologist does not possess the requisite competency to conduct the custody evaluation, psychologists generally decline involvement and suggest a more suitable evaluator. Exceptions to this guidance may exist when the custody evaluation takes place where no other more appropriate referral

source is available or when there are distinctive attributes or qualities of an individual or family (APA, 2019; e.g., clinical condition). In such situations, rather than withdrawing from the case, the psychologist might consider obtaining the appropriate consultation or supervision so that the custody evaluation can proceed when otherwise it could not.

GUIDELINE 5

Psychologists endeavor to acquire and maintain specialized competencies to address complex and high-risk issues in child custody evaluations.

Rationale

Families requiring custody evaluations are complex, and are often characterized by high-risk situations and difficult experiences. Some specialized areas of child custody evaluations are well-grounded in scientific literature, while other areas are not as well informed. For example, a child may experience physical challenges requiring unique support services; a parent may be diagnosed with a communication disorder necessitating specialized assessment techniques; or parent-child bonds may reflect a highly atypical interpersonal history.

Application

High-risk issues for families undergoing child custody evaluations may include, but are not limited to: relocation, attachment, **parent-child contact problems**, determining the presence of intimate partner violence versus situational couple violence, or **child maltreatment including alienating behaviors** (see Guideline 15), effects of substance use disorder (see Guideline 16), and mental health, including personality dysfunction. Psychologists strive to understand and evaluate factors affecting the child's adaptation to relocation that include, but are not limited to, loss of contact with one parent, level of parental conflict, and difficulty of travel (Austin et al., 2016; Stevenson et al., 2018).

Attachment of the child with each parent (Forslund et al, 2022, Sroufe, Coffino, & Carlson, 2010) and with siblings (Shumaker et al., 2011) are important assessment issues in child custody evaluations. The quality of attachment and caregiving patterns is significantly correlated with important developmental outcomes for children. Psychologists

strive to evaluate holistically the child's emotional attachment to each parent and how each parent meets the child's attachment needs (Issacs et al., 2009), and to integrate this knowledge into the opinion and recommendations with the goal of finding ways to optimize those relationships when possible.

There is a plethora of reasons why, after separation, children may resist contact with or reject one of the parents. Factors found to influence the alignment of the child with one parent and showing a negative reaction against the other include having been abused, neglected, or poorly parented by the rejected parent; having witnessed domestic violence; responding to the high-conflict custody litigation; reacting to the custody evaluation (Fidler & Bala, 2020; Kelly & Johnston, 2001); or having a preexisting preference for one parent over the other, among other reasons (Walters & Friedlander, 2016). Resisting or rejecting contact with a parent is not necessarily a byproduct of the malicious influence of a parent whom intends to undercut the parent-child relationship (Fidler & Ward, 2020), but this dynamic can occur. When there is verifiable evidence that a parent purposely behaves with the intent of alienating the child from the other parent, the evaluator is confronted with a high-risk situation in which the parent may not be acting in the child's best interest. Children who are triangulated in the couple's conflict, or who are forced or manipulated to choose a side, may suffer significant long-term emotional damage that interferes with the ability to have a healthy relationship with both parents. The anger, hatred, rejection, and fear towards one parent and emotional alignment with the other entail a significant loss that disrupts development (Baker & Ben-Ami, 2011). Alienating behaviors are sometimes alleged by one party in an attempt to deflect allegations of domestic violence and/or child abuse made by another party. Psychologists seek to differentiate these types of allegations with appropriate assessment methods, since continued exposure to conflict has long-term detrimental effects on children, as noted previously.

Psychologists strive to evaluate hypotheses when assessing a case of resistance-refusal, including the possibility that distressing experiences with the target parent, and alienating behaviors from the other parent, are occurring simultaneously. They also endeavor to understand and identify the nuances of the resistant-refusal behavior and its role in the family dynamic. Psychologists who work with these cases will often consider engaging in frequent continuing education regarding the state-of-the-art scientific knowledge of this phenomenon. Competencies may be enhanced by participation in case supervision, peer consultation, and continuing education, particularly when complex issues unexpectedly arise that are outside the psychologist's scope of expertise.

GUIDELINE 6

Psychologists conducting child custody evaluations strive to engage in culturally competent practice.

Rationale

Psychologists encounter unique issues and special considerations when evaluating persons of diverse backgrounds. These issues often reflect such overlapping elements including (but not limited to) gender, gender identity, sexual orientation, culture, racial and ethnic minority status, socioeconomic status, ability identity, immigration status, tribal law, religion and spirituality, language diversity, relative assimilation with the dominant culture, and age (APA, 2017b; APA, 2019; Howard & Renfrow, 2014; Weiss & Rosenfeld, 2012).

Application

Psychologists consider how culture, broadly defined, influences children and parents as well as the evaluator's own values and expectations (APA, 2019; Gallardo, 2014). In particular, psychologists strive to understand the challenges, strengths, and diverse issues that impact co-parenting, family dynamics, and child adjustment, and that are based in frameworks different from an evaluator's own background. One approach to working with diverse individuals is to consider that a person's identity is shaped by multiple social and cultural contexts or viewed in bio sociocultural contexts (APA, 2017a and Principle E; APA, 2017b).

Psychologists aspire to assess and understand how diversity issues impact the balance of status, power, and equality between the parents in multiethnic families, families with diverse identities (i.e., same-sex marriages, disability, etc.) and families embedded in community networks (i.e., Indigenous, religious, etc.). Psychologists seek to recognize evidence of structural racism, discrimination, lack of resources, and other contextual considerations that impact the family and are relevant to the child's best interests to contextualize the data gathered, and to offer appropriate recommendations.

In particular, when conducting examinations (i.e., Lewis-Fernandez et al., 2016), interpreting data, and formulating opinions, psychologists consider how the structure and functions of diverse families may differ from cultural stereotypes, especially in areas such as attachment, parenting attitudes, child development, child and partner abuse, family functioning, childrearing practices, gender role including caregiving roles, and disability in children (Saini & Ma, 2012). Psychologists remain aware of their need to relate and work effectively across cultures, bearing in mind how their own explicit and implicit biases might compromise data collection, its interpretation, and the subsequent

development of valid opinions and recommendations (APA, 2017b; APA, 2019).

Cultural considerations may require changes in customary procedures, such as the use of interpreters and test translations. When possible, psychologists strive to work with interpreters whom are qualified, professionally trained, and a good fit to the characteristics of the case (e.g., Maddux, 2010; Wagoner, 2017). Psychologists who work with interpreters are encouraged to seek training and consultation to acquire the competence, communication style, and cultural sensitivity required to conduct psychological evaluations in a foreign language. Psychologists strive to consider the extent to which evaluations with these changes may affect the data they collect and the change in dynamics that the presence of an interpreter may bring.

III. Preparing for the Child Custody Evaluation

GUIDELINE 7

Psychologists strive to obtain informed consent when this is both feasible and appropriate.

Rationale

Providing informed consent in written form as “an explanation of the nature and purpose of the assessment, fees, involvement of third parties, and limits of confidentiality” and allowing the opportunity to “ask questions and receive answers” (APA Ethics Code, Standard 9.03) enhances valid participation and supports the shared legal and ethical goals of fundamental fairness (APA, 2021).

Application

Psychologists endeavor to have all capable adults participating in the evaluation sign an informed consent form (APA Ethics Code, Standard 3.10). If an adult is not capable of giving consent, then consent is sought from that person’s legal representative (APA Ethics Code, Standard 3.10). A full explanation of procedures, specific referral questions, policies, expectations regarding parent-child communications about interviews, timelines, interpretive sessions, fees, release of records, and consideration of publicly available social media activity enables persons to raise questions before the evaluation is initiated. When a custody evaluation is court ordered, informed consent may not be necessary (APA Ethics Code, Standard 3.10; APA 2013c), although seeking the assent of all parties is strongly encouraged.

Psychologists attempt to document all efforts to obtain informed consent. If informed consent is not obtained (e.g., the parent does not understand the purpose of the evaluation or is unwilling to consent to the parameters of the custody evaluation), they strive to notify the referral source. Psychologists seek to ensure that all parties understand with whom information may be shared and any other limits of confidentiality. There is likely no privileged information or communication in a child custody evaluation.

In the process of obtaining informed consent consistent with the law of that jurisdiction, psychologists seek to inform the parties that written or oral communications germane to the child custody evaluation will be sent to the court and to counsel for each party. For example, court-appointed psychologists may find it prudent to raise — directly with the court — payment issues or potential withdrawal from an

evaluation due to personal conflicts; while, in some instances, privately retained psychologists may appropriately raise similar or other concerns directly with the attorneys who hire them. It is worth bearing in mind that communications intended to be confidential may subsequently be ordered by the court to be disclosed to all parties and may sometimes be shared by attorneys on their own initiative.

Explanations of how findings of the evaluation will be communicated, and to whom, may be included in the informed consent process. For example, the informed consent may describe if and how the psychologist will explain assessment findings to examinees. Psychologists also consider how to make clear how communication will take place regarding the status of the evaluation (APA, 2013c).

Clarification about who “owns” the report may be useful to the litigants in the informed consent. For example, court-ordered evaluations are controlled by the court that, in addition to other sources of law, may monitor and/or prevent further distribution. Non-court-ordered evaluations may be controlled by the examinees. Psychologists seek to include in the informed consent an explanation of mandatory obligations, such as those triggered by child abuse, elder abuse, human rights abuses (APA, 2021), or other legally defined circumstances.

Psychologists aspire to give children an age-appropriate explanation of the purpose of the evaluation, consistent with each child’s cognitive abilities and verbal skills, in order that assent may be obtained (Calloway & Lee, 2017). Legal guardian(s) may have the right to provide consent on children’s behalf in the absence of a court order. Psychologists also aim to provide collateral sources, whether the evaluation is court-ordered or not, with “information that might reasonably be expected to inform their decisions about participating” (APA, 2013c; p. 13). Such information may include who has retained the psychologist, the nature, purpose, and intended use of the information they provide, and the limits of confidentiality and privacy regarding the information they offer (APA, 2013c).

GUIDELINE 8

Psychologists aspire to identify, request, and review relevant records.

Rationale

Background and historical information obtained from relevant records improves psychologists' ability to obtain a fuller sense of the family's functioning and dynamics. Records also assist in understanding the chronology of the challenges the family has encountered over the course of their development. Information from children's medical, educational, mental health treatment, and other relevant records is useful for understanding children's challenges, resilience, family relationships, and current and future needs.

Application

Psychologists strive to identify in a timely manner which records should be reviewed. To facilitate collection of particularly sensitive information, such as child protective service documentation, psychologists may request that permission to obtain particular records is incorporated into a court order for the evaluation. Psychologists undertake to consider the content of obtained records when organizing interview questions and testing protocols, which can inform efforts to gather further information regarding such issues as school performance, as well as document review, parent and child interviews, parent-child interactions, psychological testing, collateral (e.g., teachers, physicians, and therapists) interviews, substance use disorder and family violence screenings, and legal histories (APA Ethics Code, Standard 9.01). When psychologists identify a potential delay in the receipt of some records, they may find it prudent to begin conducting initial examinations to ensure that the overall evaluation is completed in a timely fashion.

GUIDELINE 9

Psychologists endeavor to structure child custody evaluations in accordance with psychological science and evolving practice standards.

Rationale

Each case presents its own set of demands. Codes and guidelines are continually updated, and psychological tests are periodically revised. Interview procedures, informed by analyses reflected in the professional literature, improve with the psychologist's increased experience and with the availability of ongoing peer supervision. Psychological science contributes to the development and refinement of each of these components and enriches the plan that would guide the implementation of the evaluation and outcomes.

Child custody opinions that reflect the psychologist's familiarity with such considerations, and which best fit the case, are the most valid, accurate, and appropriately persuasive.

Application

Psychologists seek to structure child custody evaluations in case-specific ways, and to update templates regularly. Psychologists consider including such components as conducting parent interviews, observing parent-child and caregiver-child interactions, reviewing documents, interviewing and/or observing each child, administering psychological testing to parents and children, interviewing cohabitating partners, interviewing and obtaining materials from collateral sources (e.g., teachers, physicians, and therapists), and screening for substance use disorder, and family violence (including intimate partner violence and child maltreatment). The plan-direction inclusion of specific steps and tasks provides structure that guides an evaluation to its final product.

Psychologists aspire to make informed decisions that enable the most appropriate and timely execution of the evaluation. Relevant issues include time management, compensation and financial arrangements, external consultations that may be needed, choice and order of administration of assessment instruments, and methods to utilize, collateral information to review, and necessary adaptations considering the particulars of the family. Psychologists consider that decisions about these issues are based on the referral question, and that are consistent with psychological science and evolving practice standards. Psychologists attempt to anticipate challenges, reduce risks and obstacles, and build reasonable flexibility into the structure of the evaluation. Evaluation methodologies may change based on the court order and the issues of the case. Psychologists seek to understand how psychological science and practice standards inform any procedural changes that may occur, as well as the limitations that those changes may place on the conclusions of the evaluation.

GUIDELINE 10

Psychologists strive to construct an evidence-based, multimethod, and multitrait assessment format that reflects valid and reliable methods of data gathering.

Rationale

Evidence-based multimethod assessment practices include the selection of assessment instruments with sound psychometric properties that draw upon complementary data sources (Mihura, 2012). Multitrait and multimethod assessments help balance the limitations on reliability and validity of single measures by deliberately selecting data sources with contrasting strengths and weaknesses. Similarly, when integrating data from different modalities, and when convergences and divergences are assessed, multitrait assessment allows relevant aspects of an examinee's functioning to be analyzed directly (Hopwood & Bornstein, 2014). Unreliable, invalid, and scientifically unsupported or otherwise poorly chosen methods may be harmful to the parties as well as to the process in which these persons are engaged.

Application

Psychologists endeavor to create an assessment battery that employs scientifically valid and reliable methods relevant to the issues being assessed (Otto et al, 2010; King, 2013). Psychologists are mindful that the terms "reliability" and "validity" may need clarification for the courts. When addressing the sufficiency of forensic mental health assessment techniques, it may be helpful for psychologists to convey that "validity" refers to whether a test or other measure assesses what it is meant to measure, and that "reliability" refers to the consistency of the obtained results.

Multimethod assessment practices yield stronger, more clinically useful data (Hopwood & Bornstein, 2014; AERA et al., 2014). Psychologists attempt to develop an assessment battery consisting of psychological tests, instruments, techniques, and other data gathering sources that are suited to the characteristics of the case, have demonstrated validity evidence for its use, and are fair and appropriate to the characteristics and context of the evaluation (APA Ethics Code, Standard 9.2; APA, 2020b, Guideline 6). This battery considers specific family members' cultural and demographic characteristics and addresses the referral questions (Council of National Psychology Associations for the Advancement of Ethnic Minority Interests, 2016; Weiss & Rosenfeld, 2012; King, 2013). Direct methods of data gathering typically include psychological testing, forensic interviews, and behavioral observations (Ackerman et al, 2021). Person-focused rather than test-focused evaluations are described in the empirical literature as providing more individualized, context-relevant, and reliable findings

(Groth-Marnat & Wright, 2016). Additionally, psychologists are aware that psychological tests are typically not used in isolation, but are part of a comprehensive assessment.

Psychologists recognize the importance of utilizing pertinent evidence-based frameworks when appropriate. One example is to be mindful of possible etiologies for behavior, including but not limited to neuropsychological issues, substance use, cultural factors, characterological traits, and trauma and attachment histories. When clinical issues are present in any of the parties, psychologists are encouraged to understand the unique etiologies that may exist. There is no clinical condition or level of intellectual functioning that would automatically render a parent unfit to parent. A child custody evaluator aims to make a functional assessment, integrating these mental health issues with parenting capacity in the best interest of the child. Likewise, a child who has special needs may be better suited by a division of parenting time, based on the child's unique characteristics and the relative strengths and weaknesses of each parent. Psychologists are also encouraged to access documentation from a variety of sources (e.g., schools, health care providers, childcare providers, therapists, agencies, and other institutions) and to contact members of the extended family, friends, acquaintances, and other collateral sources when the resulting information is likely to be relevant, while bearing in mind the potential biases of such informants. Likewise, psychologists have in some instances accessed publicly available social media postings as a source of potentially relevant data in forensic evaluation. Ongoing discussion exists about the utility and ethical implications of such practices, concerning which psychologists would best be advised to document informed consent and the precise sources of such data with particular care (Pirelli et al., 2016).

IV. Conducting a Child Custody Evaluation

RELATIONSHIPS

GUIDELINE 11

Psychologists strive to function as fair and impartial evaluators.

Rationale

Child custody evaluations address complex and emotionally charged disputes over highly personal matters, and the parties are usually deeply invested in a specific outcome. The volatility of this situation is often exacerbated by a growing realization that there may be no resolution that will satisfy every person involved. In this contentious atmosphere, cognitive, confirmatory, implicit, or other biases may compromise a custody evaluation (APA Ethics Code, Principles D and E).

Application

Psychologists are encouraged to be skeptical of their own objectivity and monitor actively their own values, perceptions, and reactions, and to seek peer consultation and education (e.g., anti-bias education) in the face of threats to impartiality, fairness, or integrity. Child custody evaluators may have overt or unacknowledged opinions about some topics such as alienation, gender, family dynamics, victim credibility or behavior, or high-conflict families. Psychologists strive to familiarize themselves with current scientific studies that dispel such bias, which may interfere with their impartiality, such as assuming joint custody is better for children than sole custody in all cases (Steinbach & Augustijn, 2022). In particular, psychologists are mindful about implicit biases, which are unconscious attitudes and stereotypes that are not accessible without sustained introspection or external assistance. These biases influence decisions that may not comport with the psychologist's avowed or endorsed beliefs or principles, and may signal impaired neutrality. Implicit biases may predispose the psychologist to make premature decisions and to construe the merits of the data accordingly. Psychologists consider how the language they employ in reports, testimony, and communications with counsel and others may inadvertently reflect and/or encourage bias. For example, gratuitous criticism of one of the parties, or sweeping baseless generalizations with respect to such factors as single parenting, low-income

parents, consensual non-monogamy (also called ethical non-monogamy), or parenting by fathers or grandparents may erode credibility and undercut the weight otherwise afforded a forensic psychological opinion. Psychologists remain aware that perceptions of fairness and impartiality can be enhanced when evaluators utilize the same assessment techniques for all parties when both feasible and reasonable, in terms of the selection of psychological tests, the length and scope of interviews and observations, and the pursuit of collateral sources of information.

GUIDELINE 12

Psychologists aspire to avoid conflicts of interest and multiple relationships.

Rationale

The presence of real or apparent conflicts of interest may increase the likelihood of unfairness, undermine the court's confidence in psychologists' opinions and recommendations, and potentially harm all parties involved. Engaging in roles other than evaluator with persons being examined or consulted also has the potential to place psychologists in conflict with ethical standards regarding multiple relationships (APA Ethics Code, Standard 3.05).

Application

Psychologists refrain from serving as a child custody evaluator "when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to result in (1) impaired objectivity, competence, or effectiveness, or (2) expose the person or organization with whom the relationship exists to harm or exploitation" (APA Ethics Code, Standard 3.06). Multiple relationships, which may or may not rise to the level of conflict of interest, are subject to similar analysis. Multiple relationships exist when "psychologists are in a professional role with someone and are (1) at the same time in another role with that person, (2) at the same time is in a relationship with another individual closely associated with or related to that person..., or (3) promises to enter into another future relationship with the person or with another individual closely associ-

ated with or related to that person” (APA Ethics Code, Standard 3.05). Conducting child custody evaluations with one’s current or prior psychotherapy clients/patients and conducting psychotherapy with one’s current or prior child custody examinees are examples of multiple relationships. Similarly, moving from a custody evaluator to a parenting coordinator may also be a conflict of interest and an example of multiple relationships. When serving in more than one role is unavoidable, psychologists endeavor to disclose their dual roles, clarify role expectations, and explain how confidentiality may be affected (APA Ethics Code, Standard 3.05)

METHODOLOGY OF CONDUCTING EVALUATIONS

GUIDELINE 13

When evaluating children, psychologists strive to select and utilize developmentally appropriate and empirically supported evaluation techniques, and to interpret the results in a way that facilitates understanding of the best interests of the child.

Rationale

The purpose of the child custody evaluation is to assist the court’s determination of the child’s best interests. Children typically mature with age, so it is critically important that psychologists employ a developmentally appropriate, multimethod approach to assessment. The most effective and persuasive evaluations reliably and validly ascertain not only children’s individual needs but also the best fit between the parents and children (see Guideline 2). Children’s participation in evaluations may also reduce the negative impact of separation and divorce conflict on them (Gal & Duramy, 2015).

Application

Methods of child assessment are likely to include, but are not limited to, observation of the child, observation of parent-child interactions (see Guideline 18), developmentally appropriate interviewing, psychological testing (see Guideline 17), record review (see Guideline 20), and collateral interviewing. Each of these approaches depends on such factors as the age and maturity of the child, and on the defined scope of the evaluation.

Psychologists remain aware that interviewing children requires specific knowledge and skills. They strive to utilize approaches consistent with each child’s age, language ability, and developmental level. Psychologists seek to be aware of the concerns that may be engendered by such factors as repeated questioning or subtle suggestibility that may influence children’s responses. Psychologists seek to avoid exacerbating a child’s distress during this process, and

they aim to remain sensitive to any inadvertent risk of harm that may be occasioned by the evaluation process itself.

Psychologists consider that the use of psychological tests with children in child custody evaluations may not be necessary or appropriate if such testing does not help elucidate the best interests of the child (see Guideline 17). When using psychological tests with children, psychologists remain aware of such test-specific factors as reliability, validity, potential admissibility as a witness in court or in an affidavit, and overall appropriateness for child custody evaluations, as well as such child-specific factors as age, developmental level, and reading ability.

Psychologists seek to identify and interview collateral sources who can best help them understand the child’s needs. Such sources may include teachers, pediatricians, extended family members, childcare providers, and other adults with whom the child interacts on a regular basis. When conducting these interviews, psychologists undertake effort to focus on the collateral source’s direct observations and the factual basis for any opinions expressed.

When there are special issues, including but not limited to domestic violence, parent-child access, parenting time, mental health, physical health, developmental concerns, mixed religious or immigration statuses (APA, 2021), and high conflict, psychologists aspire to augment their evaluations with pertinent assessment techniques, informed by the most current scientific studies relevant to these concerns. Psychologists remain aware of children’s mental and physical health concerns, the potential need for clinical interventions, and the impact of these issues on children’s welfare.

GUIDELINE 14

When interviewing parents, psychologists strive to collect and assess information relevant to parenting strengths and weaknesses, to ascertain the best interests of the child.

Rationale

Parent interviews are sources of information for understanding parents’ concerns, self-perceptions, and experience for enhancing their parental competence. The information obtained from these interviews provides a context for the overall evaluation data collected. Such interviews assist in identifying best interest factors with regards to the child and the co-parenting relationship, both during the relationship and after relationship conflict and separation. The quality of the co-parenting relationship has been found to be a contributor to children’s well-being, their

adjustment to the new circumstances, and their parent-child relationships (Emery, 2011; McHale & Lindahl, 2011).

Application

Psychologists strive to interview the parents to assess functional parenting strengths, weaknesses, skills, and other information relevant to the best interest of the child. While the approach may be structured or unstructured, psychologists aim to avoid pursuing irrelevant information. They also seek to establish more than just a cursory assessment of issues that are relevant (e.g., domestic violence and problematic substance use, among other factors). Psychologists undertake to address several specific issues. Such issues may include, but need not be limited to, the parent's childhood experiences, culture (APA, 2019), educational history, social life, vocational/financial history, recreational interests, legal history, child protection history, support system, substance use history, risk of abduction, current health status and medical history, mental health history and current functioning. In addition, relationship history, parenting history, parenting competencies (Johnson et al., 2014), psychological functioning, and the parent's view of their child's needs and functioning are part of an overarching multimethod approach. The assessment of the parents' ability, willingness, and practice of co-parenting or parallel parenting is also of concern. Psychologists seek to understand the parents' struggle to resolve disagreements and their commitment to facilitating the child's relationship with the other parent. Psychologists try to be aware of parental impression management during interviews, which may require confirmation of their perceptions by other sources of information. Psychologists consider recency versus primacy effects when assessing parents (Drozd et al, 2013; Neal & Grisso, 2014).

Contextual complexities (e.g., military families, relocation cases) may make in-person interviewing impractical or even impossible. Psychologists may seek alternatives to in-person interviewing if a participant would otherwise be unable to participate or when participation is unduly burdensome (APA Ethics Code, Principle D). Whether necessitated by crisis conditions, financial constraints, looming deadlines, or insurmountable distances, telepsychology is an increasingly common mode for interviewing that can make a significant contribution when utilized responsibly (Daffern et al, 2021; APA 2013c). Psychologists strive to consider how the use of this technology may affect the reliability of obtained results, and to explain any resulting limitations on their professional opinions, just as they would when departing from established child custody evaluation practices (APA 2013c). If permissible, use of videoconferencing in these evaluations needs to be considered carefully and with thought given to numerous factors (Dale & Smith, 2020; APA, 2013a). These factors include, among others, the

ability to establish a working alliance with evaluatees, to ensure privacy of family members, and to ensure safety for parents and children.

GUIDELINE 15

Psychologists endeavor to conduct appropriate screening for family violence, child maltreatment, intimate partner violence, and resultant trauma.

Rationale

Separation, custody disputes, and renewed parent-child contact may generate or increase risks of violence, alienating behaviors, and child abuse. Parenting skills may become compromised in an environment of intimidation and fear. An extensive literature links violence and other forms of maltreatment to relationship conflict and separation and to problems with custody and post-separation co-parenting (e.g., Ellis et al., 2015; Zeoli et al., 2013).

Application

With respect to the screening process, psychologists are endeavoring to preserve, protect, and promote safe, healthy and functional relationships and living arrangements. Psychologists strive to identify potential physical or sexual abuse, child abuse including alienating behaviors, intimate partner abuse, power imbalance or coercion and control behaviors on the part of family members or caregivers, and to utilize these findings, as appropriate, in their assessment processes and recommendations. A rigorous multimethod and multitrait approach seeks to anticipate lack of disclosure and other challenges associated with investigating these risk factors.

Psychologists strive to maintain an in-depth knowledge of abuse dynamics to screen appropriately for abuse and coercive behaviors, including their nature, impact, and known indicators of risk and danger (such as lethality, stalking, and abduction) (Walker, 2017). Psychologists consider that a thorough screening would optimally include both parents as well as any other individuals (such as stepparents, partners, grandparents, siblings, and extended family members) whom have significant contact with the children. Such screening contributes to the identification of information, behaviors, or disclosures indicating that violence, abuse, coercion, or intimidation is or may become an issue. Screening is ideally an ongoing process throughout the custody evaluation, rather than a one-time event. Psychologists strive to implement screening across all types of cases, including those in which no allegations or judicial findings of intimate partner violence have been made.

Psychologists consider how the methods of assessment and communication to the parties may impact safety to the parties, and they are prepared to seek court guidance as needed. When making parenting recommendations concerning parental decision-making and child parenting time, psychologists endeavor to ensure that these recommendations explicitly link and account for the effect of intimate partner violence, if any, on children, parenting, and co-parenting (Austin & Drozd, 2012, Silberg & Dallam, 2019). Psychologists inform the appropriate authorities of newly uncovered incidents that invoke mandatory reporting obligations, which may vary by jurisdiction. These obligations to report typically remain in place regardless of the forensic nature of the evaluation.

GUIDELINE 16

Psychologists endeavor to screen examinees for substance use.

Rationale

Excessive use of alcohol, cannabis, opioids, prescription medications, and other substances may impact parenting capacity, including the ability to ensure the safety of the child and to engage effectively in co-parenting. The stress of relationship conflict, separation, and custody disputes may trigger problem substance use.

Application

Psychologists endeavor to address the potential effects of various forms of substance use. When assessing substance use, psychologists remain aware that some allegations made by one party against another may be false or exaggerated. Psychologists are encouraged to consider whether inquiries into substance use might extend beyond adults to children, given the recognized potential for such difficulties across the lifespan (Bracken et al., 2013; Tucker et al., 2013). Numerous instruments exist to support this type of screening (National Institute on Drug Abuse, 2018; Substance Abuse and Mental Health Services Administration, n.d.). In some cases, it may be appropriate to inform the court or retaining counsel that referral for a separate, more specialized evaluation of these issues may be indicated.

When substance use appears to be present in one or more family members, psychologists strive to determine how this abuse may impair parenting and co-parenting capacity in a variety of ways that could include, but would not necessarily be limited to:

1. The physical safety of children (e.g., driving while intoxicated)
2. The ability to attend to the children's emotional, physical, and cognitive needs
3. The ability to interact appropriately with the other parent
4. The ability to fulfill responsibilities and obligations on a consistent basis;
5. The ability to abstain from substance use while caring for children at home;
6. The risk of engaging in interpersonal violence
7. The effect of parent's modeling of substance use on children.

GUIDELINE 17

Psychologists strive to utilize robust and informative psychological assessment measures that are administered in a standardized and methodologically sound fashion.

Rationale

Due to the scientifically informed, robust, and evidence-based nature of their development and the seeming objectivity of their results when properly applied, psychological tests may be weighted heavily in child custody proceedings both by the legal and psychological professionals. Psychological testing is typically recognized as the purview of appropriately trained, duly licensed psychologists.

Application

Psychologists strive to obtain competency with respect to the psychological tests they employ, and to understand the particular strengths and weaknesses of each of those tests for custody cases. Psychological tests are developed for a variety of applications beyond child custody evaluations. As a result, it should be considered how the tests functionally inform the pertinent psycho-legal constructs to be considered, such as parenting capacities or the best interests of the child. Psychologists aspire to maintain familiarity with current research that augments the information contained in the test manual. As uniformity in assessment measures across parties is usually the custom, when parties are administered different tests due to accessibility issues or

court questions, such decisions should be ethically, clinically, and empirically supportable. If a test needs to be adapted in some fashion, such as with language translations or special accommodations in test administration, psychologists endeavor to take into consideration the impact on the reliability and validity of the data obtained through such adaptations (APA Task Force on Psychological Assessment and Evaluation Guidelines, 2020).

Before administration, psychologists seek to analyze critically the tests that may be employed, in terms of the potential admissibility of results, and with due attention to such factors as a test's general acceptance in the field, history of peer review, cultural relevance, and known error rates. Proper attention to these factors may augment the court's ability to arrive at a scientifically informed legal opinion. Psychologists strive to be aware of normative data for divorced parents, and they endeavor to base their test data interpretations upon standardized scoring where indicated, and to consider the context of the evaluation as well as the characteristics of individual family members. For instance, it is important to consider how test results may be influenced by such factors as, but not limited to, religion, ethnicity, country of origin, age, gender, sexual orientation, language, acculturation, and the like (APA, 2020b).

When appropriately delegating others (e.g., assistants, students) within the boundaries of applicable law and ethics to administer and/or score psychological tests, psychologists seek to ensure that these persons are adequately trained and supervised. Psychologists delegate testing only to those persons who can competently perform these services either independently or with the level of supervision available and provided (APA Ethics Code, Standard 2.05; 9.97).

Psychologists consider the benefits and challenges associated with the presence of recording devices or third-party observers (APA, 2013a; APA, 2007) and the impact these circumstances may have on the reliability and validity of assessment results. For example, benefits of recordings or observers may include increased transparency and, perhaps, increased reliability and validity of assessment results or they may alter the evaluatees' responses, reducing reliability and validity of the evaluation. Both effects are possible. In addition, recording may be governed by law. The explicit discouragement of surreptitious recording by examinees, counsel, and others can be a useful component and important consideration of the informed consent process. Psychologists strive to be aware of the distinction between computerized scoring of tests and computer-generated, interpretive reports. Computerized scoring of a test may be a useful tool for reducing scoring errors and producing a richer set of interpretive data. While computer-generated interpretive reports may generate helpful hypotheses, they need to be evaluated regarding their relative potential contributions to supplement the psychologist's interpretive process, and are not meant to supplant the psychologist's

clinical and forensic judgment. Psychologists who make use of any computer-generated interpretive statement strive to understand its empirical and/or theoretical bases and how its interpretive statements apply to the specific person evaluated (APA Ethics Code, Standard 9.09).

Several specialized forensic tests, instruments, and procedures have been developed specifically for use in child custody evaluations. As with any form of testing, psychologists endeavor to remain aware of the normative groups on which these tests were standardized, as well as whether tests are appropriately reliable and valid for their intended use. Psychologists prefer to avoid employing assessment measures that introduce, perpetuate, or otherwise contribute to bias of any sort. Psychologists strive to report test results in a full, accurate, and fair fashion, and to afford test data and test materials alike the protections described in the APA's Ethics Code (2017), Specialty Guidelines for Forensic Psychology (APA, 2013c), and Record Keeping Guidelines (APA, 2007), consistent with applicable tribal, state, and federal laws.

GUIDELINE 18

Psychologists strive to include an observation of parent-child interactions when conducting child custody evaluations.

Rationale

Observing parent-child interactions often provides highly relevant information for determining the best interests of the child, and can increase the ecological validity and scientific rigor of the overall assessment process (Saini & Polak, 2014). This approach may also offer a valuable opportunity to assess the statements that were made by parents and children when those parties were interviewed separately, and to assist in the formulation of questions for follow-up interviews.

Application

Psychologists endeavor to understand the importance of prioritizing the child's safety and well-being when gauging the appropriateness of observing parent-child interactions. In child custody evaluations, observation techniques generally focus on developmentally and scientifically informed parent and child variables that may have particular meaning to the court and that can serve to clarify the fit between a child's needs and an adult's parenting attributes. Observations may occur in a variety of settings, such as the home or clinical office. When observations are slated to occur in public or quasi-public settings—such as airports,

schools, or waiting rooms—psychologists strive to consider with special care the confidentiality and informed consent ramifications (see Guideline 7) of these arrangements, as well as the impression management inherent in public social encounters.

When observing parent-child interactions, psychologists seek to focus on elements that may include (but need not be limited to) the nature of the parent’s guidance, limit setting reflected in the parent’s attempts to redirect the child, the supportive aspect of the parent’s role in collaborative undertakings, the parent’s evident affection for and sensitivity to the child, the extent to which the child heeds the parent’s guidance and redirection, the child’s willingness to collaborate affirmatively with the parent, the child’s subtle ways of demonstrating the quality of connection to the parents and the child’s evident affection for, and search for reassurance by, the parent.

Psychologists take into consideration cultural factors that may influence the way parents demonstrate these aspects (APA, 2019). Psychologists strive to report these interactions as behavioral observations, and to take care that methods of documenting these interactions are both valid and reliable. Psychologists remain aware that some behaviors may reflect an acute awareness of being observed (Henry et al., 2015; Goodwin, et al., 2017).

Familiar with professional literature on different approaches to observation, psychologists endeavor to explain why parent-child interactions were arranged in a particular manner for the evaluation (e.g., structured, unstructured, with siblings present, with both parents present, with the psychologist physically in the room). Psychologists may postpone or opt against observing parent-child interactions to protect the child’s safety, based upon such factors as the parent’s problematic presentation, the child’s expressed wishes, or situations in which the child has never met or has no recollection of the parent. Psychologists strive to understand the impact of such factors on the resulting opinions.

Observations of parent-child interactions are not in and of themselves “attachment” evaluations (as the latter concern the quality of the organization of the parent-child relationship), which require special training and settings (Issacs et al., 2009). When the situation requires a formal attachment evaluation, psychologists endeavor to make a referral for this type of procedure if they do not have the formal training to conduct one themselves.

GUIDELINE 19

Psychologists strive to collect sufficient data to address the scope of the evaluation and to support their conclusions with an appropriate combination of examinations.

Rationale

Poorly conceived and cursory examinations erode the confidence of courts and other concerned parties in the evaluation process and its results. Child custody opinions are most valid and effective when they reflect thorough examinations of each parent and child, to address parenting abilities, children’s needs, and the resulting fit.

Application

Psychologists strive to remain aware that opinions regarding the best interests of the child are optimally based on an appropriate evaluation of all relevant parties, including the parents, the children, and other persons (e.g., stepparents, stepsiblings, grandparents) whom reside in the home. Psychologists may consider obtaining a court order to encourage relevant parties to participate in the child custody evaluation process. If a desired examination cannot be arranged, due to unwillingness to participate, scheduling problems, or financial concerns, psychologists endeavor to notify the referring party of the limitations imposed by such circumstances. If the evaluation proceeds, psychologists strive to document their reasonable efforts and the result of those efforts, and then to clarify the probable impact on the reliability and validity of their opinions, limiting their conclusions and recommendations appropriately (APA Ethics Code, Standard 9.01). They provide opinions about individuals’ psychological characteristics only after they have conducted an examination adequate to support their statements and conclusions (APA Ethics Code, Standard 9.01(b)). Although the court may ultimately be required to render an opinion regarding persons who are unable or unwilling to participate, psychologists have no corresponding obligation.

Psychologists strive to remain aware of the scope and limitations of the specialized roles to which they may occasionally be assigned. For example, psychologists may be asked to evaluate only one parent, or to evaluate only the children. In such cases, psychologists endeavor to refrain from comparing the parents and offering recommendations on decision-making, caregiving, or parenting time. In other cases, courts may ask psychologists to share their general expertise on issues relevant to child custody, but not to conduct a child custody evaluation per se (testifying instead, for example, on child development, family dynamics, effects of various parenting arrangements, relevant parenting and co-parenting issues pertaining to culture or diversity). In the

latter circumstance, psychologists strive to refrain from relating their conclusions to specific parties in the case at hand (APA, 2013c, 9.03). Finally, treating psychologists, whose roles differ from those of custody evaluators, endeavor to refrain from offering recommendations regarding child custody, parenting time, or decision making.

technological recording (APA, 2013a). Psychologists are encouraged to follow legal, ethical, and licensing board guidance regarding how long they are expected and/or required to retain records, and are advised to develop a uniform and readily trackable system for managing retention. Psychologists remain suitably aware of the legal obligations and restrictions regarding the release of records (APA, 2007).

GUIDELINE 20

Psychologists strive to create, develop, maintain, convey, and dispose of records in accordance with legal, regulatory, institutional, and ethical obligations.

Rationale

Psychologists have a professional and ethical responsibility to develop and maintain records (e.g., paper, video, and electronic) for several reasons, including to facilitate provision of services and to ensure compliance with the law (APA Ethics Code, Standard 6.01). Given the breadth and complexity of child custody evaluations, thorough documentation allows the psychologist to better organize and interpret the data obtained, thereby ensuring greater accuracy of and support for the psychologist's opinions. In addition, the documentation created during the evaluation process may be used as evidence in legal proceedings and, as such, is subject to legal requirements regarding the preservation of evidence.

Application

Psychologists strive to maintain records developed or obtained during child custody evaluations with appropriate awareness of applicable legal mandates, with the APA's "Record Keeping Guidelines" (APA, 2007), and with other relevant sources of professional guidance. Psychologists attempt to identify optimal procedures for respecting the privacy and confidentiality of all parties (APA, 2007), in compliance with applicable laws and regulations regarding security and retention of records, including copyrighted tests materials. Such records—preserved in either paper or electronic formats—may include, but are not limited to, test data, interview notes, interview recordings, correspondence, legal records, clinical records, occupational records, and educational records. Psychologists are encouraged to remain aware of the complex and evolving nature of records created and preserved in electronic form. They aspire to present an accurate and complete description of the data upon which they rely that can be facilitated by monitoring trends and adopting professional practices concerning

V. Interpreting and Communicating the Results of the Child Custody Evaluation

GUIDELINE 21

Psychologists strive to integrate and analyze evaluation data in a contextually informed fashion that is based on psychological science and referral questions.

Rationale

Integration and analysis of evaluation data are guided by identified referral questions and incorporate case-specific factors, as well as information derived from psychological science. Evaluation data reflect the evolving contexts and situational factors that are unique to each family. The use of psychological science may be helpful in identifying potential risk factors and other relevant variables. Integration and analysis that incorporate these factors are demonstrably more fair, accurate, and useful.

Application

When integrating and analyzing data, psychologists strive to consider the importance of situational factors, such as the ways in which involvement in a child custody dispute may impact the behavior of persons from whom evaluation data are collected. Psychologists endeavor to remain aware, for example, that relationship conflict and separation as well as the evaluation process itself can be exceptionally stressful for one or more of the parties. These issues may lead to assessment results that reflect temporary, situationally-determined states. Disasters, public health emergencies, or a pandemic environment will likely diminish safety, security, and resources, and pose threats to child and family health and well-being, having detrimental impacts upon persons, families and communities well into the future. As such, they should be considered in the custody evaluation process, particularly in the assessment of trauma, traumatic losses, and bereavement, such as a loss of a grandparent or member of the extended family, or assessment of risks and, in some cases, heightened risks of abuse.

Psychologists remain mindful of contextual and cultural issues (Guideline 6) when integrating and analyzing the evaluation data. As part of this process, psychologists endeavor to consider the likely effects of any changes that were made to such customary evaluation procedures as conducting interviews (Guideline 14), administering testing (Guideline 17), or observing parent-child interactions

(Guideline 18). Psychologists strive to account for the implications of these circumstances when attempting to understand and describe family members and family dynamics. Psychologists aspire to manage their own biases when integrating and analyzing evaluation data (Zappala et al., 2018).

Psychologists endeavor to remain current with developments in psychological science (Guideline 4) and are encouraged to consider such information when integrating and analyzing evaluation data. Awareness of current developments can be particularly important when attempting to identify potential risk factors, and when responding to specific and complex referral questions that address compound issues (e.g., as relocation, parent-child access problems, and domestic violence).

GUIDELINE 22

Psychologists endeavor to ensure that their recommendations address and support the best interests of the child.

Rationale

Courts and retaining counsel may or may not solicit recommendations when commissioning child custody evaluations. Several factors determine the usefulness of recommendations, such as the analyses from which they are derived, the availability of empirical support, and the psychologist's objectivity, evaluation data, and methods. Such recommendations, if provided, commonly address physical custody, legal custody, parenting time, parenting resources, clinical services, and other custody-related matters. Maintaining a primary focus on the best interests of the child enables psychologists to support the court's essential function, while minimizing allegations of partisanship and avoiding enmeshment in secondary, competitive disputes between the parties.

Application

If offering recommendations, psychologists strive to ensure that these opinions reflect an identified referral question, a careful review of evaluation data, a solid grasp of relevant

psychological science, a focus on feasibility and practicality, and a keenness to avoid foreseeable harm. Psychologists endeavor to refrain from providing recommendations that have not been requested, as well as recommendations that are not adequately supported by case-specific assessment results and psychological science (Amundson & Lux, 2019).

Psychologists attempt to convey their recommendations in a respectful and logical fashion, reflecting articulated assumptions, detailed interpretations, and acknowledged inferences that are consistent with established professional and scientific standards. Although the profession has not reached consensus about whether psychologists should make “ultimate issue” recommendations concerning the final child custody determination, psychologists seek to remain aware of the arguments on both sides of this issue (Melton et al., 2018; Tippins & Wittman, 2005), and are prepared to substantiate their own perspectives in this regard.

Psychologists endeavor to anticipate and address the viability of potential recommendations that might differ from their own. When formulating recommendations, psychologists strive to employ a systematic approach that is designed to avoid biased and inadequately supported decision making, and they attempt to become familiar with approaches already described in the specialized child custody evaluation literature (e.g., Davis, 2015; Austin et al., 2016), particularly when such literature is suitably attuned to matters of equity, diversity, and inclusion (APA, 2020a).

GUIDELINE 23

When generating written reports and testifying about child custody evaluations, psychologists strive to convey their findings in a manner that is clear, concise, accurate, and objective.

Rationale

Written reports are likely to be entered into evidence during child custody proceedings, and testimony may occur during hearings and trials. Reports and testimony are the most tangible documentation of the custody evaluation, and of the information and recommendations received by referral sources.

Application

Psychologists remain mindful of the weight that may be placed on their reports and testimony, and they endeavor to provide a transparent, fair, and accurate depiction of each aspect of the evaluation. Psychologists strive to ensure that

their written reports and testimony accurately depict the complete evaluation by attempting to identify data sources, tests, and procedures, to present data in a complete fashion and with appreciation of cultural context, and to include data necessary to support the opinions expressed. Psychologists remain aware of the importance of including relevant data—even data that could be perceived as contradicting their opinions—and strive to explain the contributions of that data to the final opinion. Psychologists endeavor to avoid choosing data to confirm a particular position while ignoring contradictory information. Psychologists strive to acknowledge significant limitations to the available data (e.g., missing or uncorroborated information or adaptations related to contextual or situational factors).

Psychologists attempt to create written reports that are well-organized, easy to follow, appropriately succinct, and readable, with appropriate grammar and spelling. They endeavor to avoid the use of jargon that may confuse the reader and lead to misunderstanding or eventual misrepresentation of their opinions. Psychologists remain aware that readability, and thus understanding, may be enhanced when data and opinions are described in separate sections of a written report, and they strive to note when data obtained from one source could not be corroborated by other sources. Psychologists aspire to present their findings in a transparent manner that allows others to understand how they arrived at the opinions in question.

Psychologists attempt to ensure that their reports and testimony are objective and unbiased with respect to all parties. They endeavor to describe persons who have been evaluated or consulted, and the work of other professionals, in a respectful and appropriate manner. Psychologists are aware of the critical importance of respecting the privacy of individuals being evaluated or consulted, and they strive to include in their written reports “only information germane to the purpose” of the evaluation [APA Ethics Code, 2010, Standard 4.04].

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AMERICAN
PSYCHOLOGICAL
ASSOCIATION

Testimony for HB 405 - Marisa Sanchez.pdf

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Position: FWA

HB 405 Family Law – Child Custody Evaluators – Qualifications and Training

To the Honorable **Delegate Kaufman**:

HB405 seeks to improve the ability of courts to recognize and respond to child physical abuse, child sexual abuse, and domestic violence. It also aims to enable courts to make appropriate custody decisions that prioritize safety and well-being. Your sponsorship of this bill demonstrates your commitment to the safety of Maryland's children.

The bill attempts to achieve these worthwhile goals by specifying who qualifies as an expert witness in domestic violence cases and qualifications and ongoing training required for custody evaluators. It also requires the training to only rely on research that is recognized by professionals with substantial experience in assisting survivors of domestic violence or child abuse.

There is a need for such a bill because the intricacies of domestic violence cases are often counterintuitive. Without specific training and experience in how victims and perpetrators of domestic violence present themselves and other technical information about domestic violence, evaluators and courts are liable to dismiss a case and subject children to continued violence. Likewise, false allegations of alienation can be made to deflect abuse allegations. Evaluators and courts need the training and tools to be able to validate the abuse allegations in this context.

Unfortunately, this bill addresses these issues by endorsing a very narrow perspective of domestic violence. The restrictive qualifications for expert witnesses exclude valuable sources of information that the bill's limited pool of experts does not include. It also violates the Daubert standard. This diminishes an innocent party's ability to prove his innocence and receive due process as does evaluator training that is narrow in scope. The bill also fails to acknowledge the existence of false allegations of domestic violence and the real problem of parental alienation (which is also a form psychological abuse). This is contrary to the AFCC/NCJCJ joint policy statement (<https://bit.ly/4b8Vo3x>) on parent-child contact issues sanctions that courts should take parent-child contact issues seriously.

Instead of taking a balanced approach that trains evaluators about all types of abuse and how to distinguish between false from legitimate allegations of all types, this bill seeks to censor this knowledge from evaluators and to prevent the courts from having access to experts who do rely on a solid scientific basis (see <http://dx.doi.org/10.1037/dev0001404>). It is those very professionals with experience in assisting survivors of domestic violence (that this bill puts in charge of deciding what recognized research is) often have no qualifications to make this determination.

During the Covid pandemic, my sister's then-husband "kidnapped" her own two daughters from their marital home and moved himself and children in with his parents. He refused to allow her to see the children for several weeks. For several months, he did not allow her to see the children

HB 405 Family Law – Child Custody Evaluators – Qualifications and Training

without being supervised by his mother. After many months of prolonged agony in not having her daughters with her, the courts began hearing her case and a child custody evaluator was assigned. The child custody evaluator conducted a short home visit via Zoom with each parent and children present. During these many months the children's father repeatedly manipulated the children to believe that their mother was unsafe and unfit (all of this was eventually proven false in the final custody hearings). However, the child custody evaluator, not understanding child psychological abuse and domestic abuse by proxy, recommended that the children primarily reside with the father with extremely limited (8 hours per month) time with their mother. This recommendation resulted in catastrophic harm to my nieces by keeping them in the care of a psychological abuser. My sister is a well-educated, professional, nurturing and loving mother who was very active in the children's school, PTA, and extracurricular activities whose children were not protected by the very person who was assigned to do so.

We all want to protect children from harm. The way to do this is by acknowledging and addressing all forms of physical and psychological abuse. We suggest that the following changes will make this bill favorable:

- Add psychological abuse and parent-child contact problems into the training.
- Expand the list of expert witnesses to be consistent with the Daubert standard and not limited to a small pool of self-selected domestic violence advocates.
- Expand the list of eligible instructors to include alienation experts, shared parenting experts and others who can provide evaluators with a broad perspective of all the facets involved in these cases.
- Remove all references to unsupported theories and belief systems (which is an attempt to ignore parent-child contact issues).

With these amendments in place, this will be a good bill that will not only safeguard Maryland children, but will also insure stronger families and protect due process. Without these amendments, the fallout for Maryland families will be catastrophic. We urge you to adopt these amendments for **HB405**. If these amendments cannot be implemented, we respectfully request that you reconsider your sponsorship of this bill.

Thank you,

Marisa Sanchez, PhD

Saint Leonard, MD

Aunt of two teenage girls in MD who have been separated from their mother for 4 years

Volunteer community mediator involved in family cases of forced separation and rejection

[Marisa S Sanchez@hotmail.com](mailto:Marisa_S_Sanchez@hotmail.com)

HB 405 FWA.pdf

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To: Members of the House Judiciary Committee and the JPR:

The intent of HB405 & SB365 to insure appropriate training for custody evaluators is commendable and is necessary for MD to qualify for an increase in STOP grant funds under Title XV of VAWA (Kayden's Law). The large number of sponsors of the House bill attests to its importance. We agree with the need for an evaluator training bill.

I am writing to you today on the behalf of two international organizations:

- Parental Alienation Study Group (PASG) was founded in 2010 with the purpose of educating mental health and legal professionals and the public regarding parental alienation theory (including research, practice, and related topics). PASG consists of 900 members in 65 countries.
- Global Action for Research Integrity in Parental Alienation (GARI-PA) is an international organization that investigates and corrects scientific fraud that relates to parental alienation.

I am using the term parental alienation (PA) since it is the term that is used in scientific literature; but alienating behaviors are really a recognized form of coercive control, just by a different name. It is caused when one parent or other significant adult turns the child against the other parent or family members. It is a condition in which a child (usually one whose parents are engaged in a high-conflict divorce) allies strongly with one parent and rejects a relationship with the other parent *without legitimate justification*.

This parent child contact refusal dynamic can adversely affect children (see <https://doi.org/10.3390/children9040475>) and it has become a major public health issue. Contrary to the anecdotal claims of critics, it is not gender specific and it is not a ruse to deflect domestic violence allegations. There is an emerging scientific consensus on its prevalence, effects, and professional recognition of parental alienation as a form of child abuse (<http://dx.doi.org/10.1037/dev0001404>).

Unfortunately, people sometimes make false allegations of alienation just like they sometimes make false allegations of domestic violence. Instead of collaborating to address all forms of abuse and developing protocols to identify false allegations, certain domestic violence advocates have chosen to attempt to discredit the whole science of alienation. Regrettably, as the science of alienation has developed, the science denial tactics of these critics have increased.

Part of this science denial campaign is the attempt to exclude the admissibility of parental alienation in court and by indoctrinating court officials in this "flat earth" theory. This is regrettably the underlying intent of this bill. Page 5 lines 9-10 state that the evaluator training should NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS UNSUPPORTED BY THE



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RESEARCH DESCRIBED IN ITEM (II) OF THIS PARAGRAPH. This is a reference to parental alienation and this was specifically stated in the bill in previous legislative sessions. The term “belief system” is a term used by stakeholder Jean Mercer in her book *Challenging Parental Alienation* to discredit the scientific standing of parental alienation. It typifies the science denial campaign of many of the stakeholders.

An international team of researchers and clinicians wrote three books which expose the vast misinformation and public policy deception that is espoused by many of the stakeholders who are promoting Kayden’s Law across the country, including Maryland. To date, the perpetrators of this misinformation have offered no real rebuttal other than ad hominem attacks and further science denial tactics. The books are available at:

- Child Safety First Report: <https://bit.ly/3t5VuYx>
- Challenging Parental Alienation: <https://bit.ly/3NnYMgp>
- Report of UN Special Rapporteur on parental alienation: <https://bit.ly/3GHbgMG>

PROFESSIONAL COMMUNITIES POSITION ABOUT PARENTAL ALIENATION

While this bill attempts to discredit and exclude parental alienation, major organizations support its concept and thus its inclusion in training and courts:

- The 2022 [American Psychological Association’s Guidelines for Custody Evaluations in Family Law Proceedings](#) mentions over 20 times the importance of addressing alienation. It also mentions the importance of input from experts from a diverse area of specialties and the importance of differentiating between valid and false allegations of all types.
- *Kaplan and Sadock’s Comprehensive Textbook of Psychiatry*, Tenth Edition, discusses PA as a form of child maltreatment on page 3829.
- Maryland Courts: CUSTODY & VISITATION-RELATED ASSESSMENTS: TRAINING GUIDELINES (<https://www.courts.state.md.us/sites/default/files/import/family/pdfs/custodyvisitationtrainingguidelines.pdf>). This training lists parent-child contact failure as part of the training
- The American Academy of Forensic Psychology Specialty: Child Custody Evaluation (80 hours) includes Allegations of Alienation or Child Sexual Abuse in Custody Evaluations in their training (<https://concept.paloaltou.edu/course/Allegations-of-Alienation-or-Child-Sexual-Abuse-in-Custody-Evaluations?hsLang=en>).
- The AFCC and NCJFCJ issued a JOINT STATEMENT ON PARENT-CHILD CONTACT PROBLEMS in 2022 which states that PA is a factor that should be taken into consideration in custody decisions.
(<https://www.afccnet.org/Resource-Center/Center-for-Excellence-in-Family-Court-Practice/afcc-and-ncjfcj-joint-statement-on-parent-child-contact-problems>)



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- Authors of the DSM-5 chapter on “Other Conditions” explain that PA is included in the DSM-5 under the diagnosis of Child Affected by Parental Relationship Distress (code V61.29). ([https://www.iaacap.org/article/S0890-8567\(16\)30175-7/fulltext](https://www.iaacap.org/article/S0890-8567(16)30175-7/fulltext))
- A study found that the concept of PA was found to be material, probative, relevant and admissible in at least 1181 US appellate court cases between 1985 and 2018. (<https://psycnet.apa.org/record/2020-31425-006>)

AMENDMENTS NEEDED

The underlying legislative intent that permeates the current bill is concerning and presents a real danger to the children and families that the bill is trying to safeguard. Amendments are needed to make this a safe and effective bill. Specifically, the bill’s position on parent-child contact issues is not supported by the scientific and research communities.

In consideration of the above, the following amendments are suggested to make this bill sustainable:

- Page 2 lines 10-15: This attempt to limit expert witnesses to individuals with expertise in working with victims of abuse excludes other experts that are material, probative and relevant. This seems to contradict the Daubert standard and places a limit on judicial discretion. The determination of all forms of abuse and the ruling out of false allegations requires an understanding of the scientific method and how to make clinical findings. Crucial to this process is input from experts in family systems, personality disorders, pattern recognition, forensic science, knowledge about how to interview children, suggestibility of children and others. False allegations do exist, and courts need knowledge about these considerations.

We suggest the following:

IN A CHILD CUSTODY OR VISITATION PROCEEDING IN WHICH A PARENT IS ALLEGED TO HAVE COMMITTED ABUSE UNDER THIS SECTION, EXPERT EVIDENCE FROM A COURT-APPOINTED OR PARTY-RETAINED PROFESSIONAL RELATING TO THE ALLEGED ABUSE MAY BE ADMITTED ONLY IF THE PROFESSIONAL **SATISFIES THE DAUBERT STANDARD.**

- Page 3 line 15: **PARENT-CHILD BONDING; INCLUDING UNHEALTHY ATTACHMENTS.** There is a need to acknowledge that only one of the four bonding or attachment styles is healthy for a child. What externally looks like a warm, loving relationship might actually be a pathogenic enmeshment.
- Page 3 line 26: **PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF A CHILD, INCLUDING ABUSE IN PARENT CHILD CONTACT ISSUES.**



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- Page 3 line 27: **COERCIVE CONTROL, INCLUDING IN PARENT CHILD CONTACT ISSUES.**
- Page 4 line 20: **COERCIVE CONTROL, INCLUDING IN PARENT CHILD CONTACT ISSUES.**
- Page 4 lines 24-25: **LONG– AND SHORT–TERM IMPACTS OF DOMESTIC VIOLENCE AND CHILD ABUSE ON CHILDREN, INCLUDING PSYCHOLOGICAL ABUSE AND PARENT CHILD CONTACT ISSUES.**
- Page 5 lines 1-6: **BE PROVIDED BY A PROFESSIONAL WITH SUBSTANTIAL EXPERIENCE IN ASSISTING SURVIVORS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING A VICTIM SERVICE PROVIDER; AND IF POSSIBLE, A SURVIVOR OF DOMESTIC VIOLENCE OR CHILD PHYSICAL OR SEXUAL ABUSE;**

This section essentially insures that the stakeholders can indoctrinate evaluators with their agenda and the preference for domestic violence survivors adds a built-in bias to give credence to false allegations. Evaluators need training in many areas that these people do not have. Trained evaluators must be equally qualified in knowing how to use the scientific method to make clinical findings. Likewise, since there is a high prevalence of false allegations in these cases, the instructors must also have a working knowledge of the dynamics occurring in alienation and domestic violence cases. Last, the term “substantial” is too subjective.

There is a need to include other experts that are material, probative and relevant such as experts in family dynamics, personality disorders, forensic science, parental alienation, suggestibility of children and others. We suggest the following:

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

- Page 5 lines 7-8: **RELY ON EVIDENCE–BASED RESEARCH BY RECOGNIZED EXPERTS IN THE TYPES OF ABUSE DESCRIBED IN ITEM (I) OF THIS PARAGRAPH;**

In truth, much of the information that has been produced by domestic violence organizations (including Professor Joan Meier’s Child Custody Outcomes study) has weak or no peer-review. Many claims by the stakeholders are not recognized by the scientific community (e.g. the Center for Judicial Excellence Child Safety First Report contains over fifty citations that are misquoted, taken out of context, or patently fraudulent). Nevertheless, domestic violence advocates claim that their conclusions are evidence-based since they are endorsed by the echo chamber of domestic violence advocates. The real intent behind this section is to exclude parent-child conflict research. **This section must be deleted from the bill.**



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- Page 5 lines 9-10: **NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS UNSUPPORTED BY THE RESEARCH DESCRIBED IN ITEM (II) OF THIS PARAGRAPH;**
This section needs to be deleted.
- Page 5 line 13: **RECOGNIZE AND RESPOND TO CHILD PHYSICAL AND PSYCHOLOGICAL ABUSE,**
- Page 5 lines 16-18: **MAKE APPROPRIATE CUSTODY DECISIONS THAT PRIORITIZE PHYSICAL AND PSYCHOLOGICAL SAFETY AND WELL-BEING AND ARE CULTURALLY SENSITIVE AND APPROPRIATE FOR DIVERSE COMMUNITIES.**

With these amendments, this bill is a step forward toward addressing many issues. In its present form, the bill empowers an agenda of science denial and public policy deception to usurp the family court system and wreak havoc upon Maryland children and their families. We urge you to support HB405 and SB265 only with these amendments. Please contact me with any questions that you may have about these amendments.

Respectfully yours,

Yaakov Aichenbaum, on behalf of the Parental Alienation Study Group (www.pasg.info)
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HB405-SB365 with Proposed Amendments.pdf

Uploaded by: Yaakov aichenbaum

Position: FWA

SENATE BILL 365

D4
SB 13/23 – JPR

4r1171
CF 4r1547

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:

20 **Article – Family Law**

21 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:

PHYSICAL AND PSYCHOLOGICAL

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 HB 405.pdf

Uploaded by: Alissa Sherry

Position: UNF



MUNEVARSHERRY™
PSYCHOLOGICAL CONSULTING

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February 6th, 2024

House Judicial Committee
101 Taylor House Office Building
6 Blanden St
Annapolis, MD 21401

UNF Oppose – HB 405

Dear Chairman Clippinger and Honorable Members of the House Judicial 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 HB 405.

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, HB 405 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 HB 405.

Sincerely,



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

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.

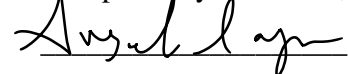
As the senior court evaluator, I have the distinct honor of managing the daily operations of the Custody Evaluator's Office. I have also conducted over 350 custody evaluations. That number represents the lives of children and families whom I have been afforded the privilege of assisting in various capacities. 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

HB 405 - 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 • legal@hruthmd.org

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

Bill No.: House Bill 405
Bill Title: Family Law – Child Custody Evaluators – Qualification and Training
Committee: Judiciary
Hearing Date: February 15, 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. House Bill 848 requires the court, when determining legal and physical custody, to consider certain factors. **We urge the House Judiciary Committee to unfavorably report on House Bill 405.**

House of Ruth believes it is important that court custody evaluators are fully trained in many, but not all, of the areas outlined in the bill. A child custody evaluation is a process in which a mental health expert, often a psychologist or social worker, evaluates a family and makes a recommendation to the court for a custody, visitation, or parenting plan that is in the child’s best interests. It is extremely important for custody evaluators to be fully trained on the adverse childhood experiences, trauma, domestic violence, child abuse and emotional abuse.

House of Ruth generally supports the intent of this bill but is concerned about moving the educational and training requirements for court custody evaluators from the Maryland Rules of Court to statute while leaving the rest of the conditions governing custody evaluators in the Maryland Rules. We believe that the Maryland Rules of Court are the correct place for all of the conditions governing custody evaluators as the Court needs to be able to adjust and amend these conditions as necessary to meet its needs and not wait for the next legislative session.

The House of Ruth urges the House Judiciary Committee to report unfavorably on House Bill 405.

Letter to MD about SB 365 - Serious Issues with SB

Uploaded by: Joan Kloth-Zanard

Position: UNF



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C/O Joan T. Kloth-Zanard
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203-770-0318

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

HB 405 - WLCMD - UNF.pdf

Uploaded by: Laure Ruth

Position: UNF

BILL NO: House Bill 405
TITLE: Family Law – Custody Evaluators – Qualifications and Training
COMMITTEE: Judiciary
HEARING DATE: February 15, 2024
POSITION: **OPPOSE**

House Bill 405 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. HB 405 is also in some conflict with the Rule.

The WLC refers the legislative body to the written testimony provided by the MSBA Family Law Section Council and the Judiciary. Both review in great detail the drafting problems within HB 405. 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 cannot 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 HB 405 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 House Bill 405 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.

House Bill 405-5.pdf

Uploaded by: Lawrence Heller

Position: UNF

MEMORANDUM

TO: House Judicial Proceedings Committee

FROM: Lawrence Heller, Ph.D. Chief Medical Officer, Baltimore City Circuit Court, 111 N. Calvert Street, Baltimore MD 21202

RE: House Bill 405

Family Law – Custody Evaluators – Qualifications and Training

DATE:

POSITION: Oppose

My name is Larry Heller, and I am a licensed psychologist and the Chief Medical Officer of the Circuit Court Medical Division in Baltimore City. The Medical Division conducts the custody evaluations for the Circuit Court in Baltimore City, among many other types of evaluations. On average, we evaluate about 350 individuals each year who are involved in custody cases. I have worked as a psychologist in the Circuit Court for 27 years and have conducted hundreds of custody evaluations. Thank you for allowing me to speak to you today in opposition of House Bill 405.

The goal of every clinician involved in custody evaluations in Maryland is to provide recommendations that are in the best interests of the children involved and, foremost, to ensure their safety. This bill as it is currently written will increase the risk of harm to children, especially to low-income families. Here is why:

DISQUALIFY THE MAJORITY OF EXPERIENCED CUSTODY EVALUATORS

First, in its current form the bill will disqualify the majority of custody evaluators in my office and throughout the State, most of whom have years of experience conducting custody evaluations, from performing their vital work.

(a) the bill states that the court appointed custody evaluators must possess demonstrated expertise and clinical experience in working with victims of abuse that is not “solely forensic in nature.” As an example, this vague language would disqualify seasoned clinicians whose primary experience has been working for the Public Defender’s Office, State’s Attorney’s office, or DSS assisting in cases of domestic violence and child abuse because their work has been “solely forensic in nature.” Also, the language “demonstrated expertise” and “working with victims” is vague and could lead to litigants arguing over who qualifies as an expert and thereby prolong proceedings.

(b) the bill states that the custody evaluator must have training in “psychological testing.” Many of the custody evaluators are social workers and psychiatrists who have little to no training in psychological testing. When cases require psychological testing, which is not often, social workers and psychiatrists request a consultation with a psychologist, like me. We perform the testing, and work with the social workers and psychiatrists. There is no reason a custody evaluator should be mandated to have training in psychological testing. This clause would disqualify 90% of the custody evaluators in Baltimore City and Baltimore County, and in many other counties as well.

ENORMOUS INCREASE IN REFERRALS

Second, in its current form the bill will result in an enormous increase in referrals for custody or mental health evaluations which would overwhelm my office, and offices like mine, to the point where it will shut down our ability to perform the range of forensic services we provide to the courts .

The bill states that when the Court identifies one or more of a set of issues, such as substance abuse or child neglect, then the Court must appoint a custody evaluator or licensed health care provider. Most of the cases heard in the Family Division Courts would involve at least one of these issues. This clause would therefore result in a massive percentage of family division cases being referred for evaluations. In 2023, our office was referred about 3% of the total custody cases before the Court, and even this resulted in us evaluating about 350 individuals, and we are already scheduled out weeks to months.

The proposal that every case involving allegations of substance abuse or neglect be referred for evaluations is, frankly, absurd and unworkable. A mental health professional does not need to be involved in every case where alcohol abuse is alleged. Some reasonable amount of discretion must be left to the presiding judges or magistrates.

REDUNDANT TRAINING REQUIREMENTS

Third, the training requirements in the bill are redundant to the training that we are required to undertake as mental health professionals. The training required in the bill will have the unintended consequence of making it much more difficult to retain the evaluators we have, and to hire new evaluators. There is a chronic shortage of custody evaluators. My office has had an open position for a custody evaluator for nearly a year. The standards to hire someone who is qualified to do custody evaluations is high, and there are not enough mental health professionals

who want to step into this complex, difficult, and challenging work. Currently , custody evaluators must: (1) meet the competence requirements to conduct custody evaluations according to our professional ethical guidelines which include staying up to date with current practice and research on child and family psychopathology, impact of abuse and relationship conflict, and other areas.(2) We are required to have a minimum of 40 hours of continuing education training every two years , such as workshops and training in custody evaluation-related topics. (3) Moreover, Maryland Rule 9-205.3 requires evaluators to have current knowledge and training in domestic violence and child abuse, along with other areas.(4) And the newest requirement is that we complete an additional training program which conforms to guidelines established by the Administrative Office of the Courts. I completed this excellent three day training last May, where we had specific training in Domestic Violence and Children, Assessing for Intimate Partner violence, and Child abuse/Neglect. It is therefore an unnecessarily onerous and redundant burden to require mental health professionals to gain another 20 hours of training, and then 15 hours every three years in areas in which we already have plenty of training and are required to stay trained and up to date. This mandate would give us less time to do the clinical work we are trained to do and force us to obtain unnecessary training at the expense of other important areas of expertise that we also need training in to conduct high quality evaluations.

BILL WOULD HARM LOW INCOME FAMILIES THE MOST

I estimate that about 85% of the hundreds of individuals my office sees for custody cases are low income and not represented by attorneys. They are dealing incredible stresses in their lives, including whatever brought them to the point where a judge has ordered a custody evaluation. Our main goal is educating the Court through a thorough examination of the child's environment including examining school/medical records, conducting home inspections, mental health evaluations of the caregivers, and reviewing CPS records. If we are concerned about abuse, violence, or neglect, we immediately contact Child Protective Services. Custody evaluations are one of the most useful evaluations we do for the Courts because we are assisting in placing children in the most stable and safe environment possible. We provide the judges with information they otherwise would not have.

The unintended consequence of this bill will be to disqualify the majority of evaluators, and make it much more difficult to hire evaluators, when it is already very difficult to find qualified people. The result will be a huge backlog of cases

with families, who cannot afford a private evaluation, waiting many months for an evaluation. This will cause the families who are in the most need for evaluations to wait even longer, and thereby increase the risk of danger and violence to the children involved. This bill is harmful to the children that need the most protection from the court system of Maryland.

hb405final.pdf

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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: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 405
Family Law – Custody Evaluators – Qualifications and Training
DATE: January 24, 2024
(2/15)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 405. 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.

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.

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 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.”

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.

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. Aaron Kaufman
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	

HB 405_FLSC_UNF.pdf

Uploaded by: Lindsay Parvis

Position: UNF

To: Members of House Judiciary Committee

From: Family Law Section Council

Date: February 15, 2024

Subject: **House Bill 405:**
Family Law – Custody Evaluators – Qualifications and Training

Position: **OPPOSE/UNFAVORABLE**

The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **opposes House Bill 405: 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.

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. HB 405’s goal of well-informed, highly qualified custody evaluators is commendable. But, the manner in which HB 405 goes about it is fraught, for the reasons discussed below (listed in the order appearing in HB 405):

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 HB405’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 HB405 passed, the lack of definition of types of evaluations causes confusion because HB405 requires “training” in “psychological testing”. Not all custody evaluations or other types of evaluations involve psychological testing. Does HB405’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 HB405? What about the other types of evaluations under Maryland Rule 9-205.3?
- Also unclear: the applicability of HB405 to evaluators who perform home studies, mental health evaluations, and specific issue evaluations, since these are not mentioned.
- Additionally, HB405’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 HB405 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. Families will be subjected to multiple custody evaluations, potentially around the same facts. How will this work in action in domestic violence protective order cases, with ex parte temporary 7-day orders while custody evaluations take months to complete? Can a parent be deprived of their due process rights under an ex parte order while a custody evaluation is pending?
- 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 HB405 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 by 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 HB405) 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 HB405.
- 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.
- HB405 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.



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For the reason(s) stated above, the MSBA FLSC opposes **House Bill 405** and urges an **unfavorable committee report**.

Should you have any questions, please contact:

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Mary Stengel testimony House final.pdf

Uploaded by: Mary Stengel

Position: UNF

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.

Although I am here to speak to you today in opposition to Senate Bill 365/House Bill 405 and about what we do as custody evaluators, I am impressed with the dedication the supporters of this bill have to the welfare of children and families in these difficult cases.

As mental health professionals, not lawyers, the last thing any of us want to do is to do the work without the training needed to be able to defend our work in a court room. Rather, we want to have as much training specific to forensic evaluations, which, like it or not, these evaluations are. As a result, we take training related to how to perform custody evaluations. That training by its nature, includes maintaining a constant awareness of the interplay between clinical issues and their impact on the family. Those clinical issues include child abuse and neglect, sexual abuse, domestic violence, parent/child refusal. And we also have to understand the impact of any kind of conflict on children at different developmental stages.

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 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, medical, dental, and mental health records of children, when allowed, 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. 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 intruding into their private matters. In many courts an evaluator starting salary is \$65,000.00. 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.

HB 405_MNADV_UNF.pdf

Uploaded by: Melanie Shapiro

Position: UNF



BILL NO: House Bill 405
TITLE: Family Law - Child Custody Evaluators - Qualifications and Training
COMMITTEE: Judiciary
HEARING DATE: February 15, 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 House Judiciary Committee to issue an unfavorable report on HB 405.**

House Bill 405 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. HB 405 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 HB 405. 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 HB 405 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 on HB 405.**

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org

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HB 405 - Oppose - MPS WPS.pdf

Uploaded by: Thomas Tompsett

Position: UNF



February 13, 2024

The Honorable Luke Clippinger
House Judiciary Committee
House Office Building, Room 101
Annapolis, MD 21401

RE: Oppose – HB 405: Family Law - Custody Evaluators - Qualifications and Training

Dear Chairman Clippinger 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 House Bill 405: Family Law - Custody Evaluators - Qualifications and Training (HB 405) 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. Before becoming a licensed psychiatrist, one would need to complete four (4) years of graduate level education, four (4) to six (6) years of residency or fellowship training, and twelve thousand (12,000) to sixteen thousand (16,000) hours of patient care hours. The additional educational mandate proposed under HB 405’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 405. 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

HB405 - INFO - DHS.pdf

Uploaded by: Rachel Sledge Government Affairs

Position: INFO

February 15, 2024

The Honorable Luke Clippinger
Chair, Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

RE: TESTIMONY ON HB 405 - Family Law - Child Custody Evaluators - Qualifications and Training - POSITION: LETTER OF INFORMATION

Dear Chair Clippinger and Members of the Judiciary Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide a letter of information regarding House Bill 405 (HB 405). 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 HB 405 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. HB 405 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

