
To: Members of The Senate Judicial Proceedings Committee

From: Family Law Section Council (FLSC)

Date: January 16, 2026

Subject: Senate Bill 222:
Family Law- Child Custody Evaluators-Qualifications

Position: UNFAVORABLE

The Maryland State Bar Association (MSBA) FLSC **opposes Senate Bill 222.**

This testimony is submitted on behalf of the Family Law Section Council (“FLSC”) of the Maryland State Bar Association (“MSBA”). The FLSC is the formal representative of the Family and Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family law and, at the same time, tries to bring together the members of the MSBA who are concerned with family 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 1,100 attorney members.

The FLSC is aware that the sponsors of SB 222 collaborated with Judiciary representatives to amend Maryland Rule 9-205.3 (Custody and Visitation-Related Assessments). The FLSC believes this outcome should be sufficient to bring the several years of proposed iterations of this bill to a successful conclusion.

The FLSC believes that the important aspects of SB 222 have been incorporated into the Maryland Rule that Judges, attorneys and litigants use when requesting and ordering child custody evaluations. The required education and mandatory topics of training for the custody evaluators are clearly enumerated in the Rule. In addition, the Rule includes the appropriate “grandfather” clause to include a waiver option for those evaluators who meet the qualifications through sufficient training and experience instead of licensure. Maryland Rule 9-205.3 has the force of law¹ and obviates the need for a separate statute as proposed by SB 222.

¹ In *Johnson v. Swann*, 314 Md. 285, 289-90, 550 A.2d 703 (1988), the Court of Appeals explained:

In fact, the FLSC is concerned that the enactment of a separate statute which overlaps Rule 9-205.3 would lead to confusion and may lead to an inconsistent application of the two laws over the ensuing years. Moreover, any amendments or revisions made in the future to the Rule and/or statute may cause increased conflict in interpretation by litigants, counsel, trial Judges and Appellate Justices. For example, any future revisions to the statute regarding the topics of knowledge and experience required for the evaluators would require proponents to successfully navigate the legislative process. Whereas revisions to the Rule require a less arduous process as the Rules committee meets throughout the year and the process is open and more accessible to the public. The appropriate training and experience required of custody evaluators is within the purview of court administration and that process should be elastic and one which can be easily addressed by the Judiciary and stakeholders in the Rules process. Maryland Rule 9-205.3 does just that; thus, a separate statute is unnecessary.

For the reason(s) stated above, the MSBA FLSC **opposes Senate Bill 222 and urges an unfavorable committee report.**

Should you have any questions, please contact Michelle Smith at 410-280-1700 or msmith@lawannapolis.com.

Section 18 of Article IV of the **Maryland** Constitution expressly grants to this Court the authority to adopt "**rules** and regulations concerning the practice [*17] and procedure in and the administration of the appellate courts and in the other courts of this state," and provides that **rules** so adopted "shall have the **force of law**." See *Montgomery County v. McNeece*, 311 Md. 194, 206, 533 A.2d 671 (1987); *Hill v. State*, 218 Md. 120, 127, 145 A.2d 445 (1958). Under this section, the legislature may rescind, change, or modify a **rule** promulgated by the Court of Appeals. *Funger v. Mayor of Somerset*, 244 Md. 141, 150, 223 A.2d 168 (1966). The **Maryland Rules** of Procedure generally apply despite a prior statute to the contrary and until a subsequent statute would repeal or modify the **rule**. See *County Fed. S. & L. Ass'n v. Equitable S. & L. Ass'n*, 261 Md. 246, 253, 274 A.2d 363 (1971).

[In re Selby, 2019 Md. App. LEXIS 121, *16-17](#)