



Senate Bill 0222

MACA supports with amendments (FWA)

Written Testimony for Maryland House Legislation – SB 0222

Submitted by: Rael LaPenta, Mothers Against Child Abuse (MACA)

Position: Mothers Against Child Abuse (MACA) supports SB 222 / HB 137 with an amendment ensuring both due-process protections and safeguarding the qualifications of Maryland custody evaluators.

Dear Respected Legislator,

My name is Rael LaPenta, and I am writing as a representative of Mothers Against Child Abuse (MACA), a national organization dedicated to advocating for victims of child abuse and protecting children from all forms of maltreatment. On behalf of MACA, I respectfully submit this testimony favorable to Senate Bill 222, with amendments (FWA). We urge the legislature to consider this simple assurance that the intent of this legislation is fulfilled by requiring a Custody Evaluation Due Process Notice (sometimes analogized as a “Custody Miranda”).

TESTIMONY IN SUPPORT OF SB 222 / HB 137

Family Law – Child Custody Evaluators – Qualifications

Favorable with Amendments

To the Honorable Members of the Senate Judicial Proceedings Committee and the House Judiciary Committee:

Thank you for the opportunity to provide testimony on SB 222 / HB 137. We **appreciate the significant work** that has gone into refining this legislation over multiple sessions. Compared to earlier versions, many of the most problematic elements have been removed, and the bill now largely mirrors existing Maryland Rule 9-205.3 by giving it legislative force.

That said, giving legislative power to an existing rule also gives us an opportunity—**and a responsibility**—to fix what has not been working well in practice.

Experience Requirements: A Practical Concern

There are some ambiguities in the experience requirements, particularly the provision allowing qualification based on experience in only one listed category.

As drafted, the bill could permit qualification based on experience in only one listed category. This creates a risk that an evaluator may meet the statutory threshold without demonstrated competence in core areas routinely implicated in custody disputes, such as family dynamics, trauma, abuse allegations, or contact refusal. (For example: a graduate-level social worker who has worked primarily with individuals with disabilities for two years—possibly even part-time—could qualify as a custody evaluator.)

Custody evaluators are not working in narrow or siloed contexts and are making recommendations that affect children’s living arrangements, parent-child relationships, and long-term psychological well-being. That work requires broad, integrated competence, not minimal threshold exposure.

I support clarifying these provisions so that all evaluators are required to demonstrate meaningful knowledge and experience across all core subject areas listed in the [CUSTODY & VISITATION-RELATED ASSESSMENTS: TRAINING GUIDELINES](#) established by the Administrative Office of the Courts pursuant to Maryland Rule 9-205.3(d)(2).

Safeguards Exist — But They Are Not Always Working

Maryland already has safeguards intended to protect the quality and integrity of custody evaluations. The problem is not that safeguards do not exist; it is that they are often fragmented, difficult to locate, and unevenly understood or enforced.

In the Maryland approved guidance, the [AFCC Guidelines for Parenting Plan Evaluations in Family Law Cases](#), lists as a best practice that custody evaluators disclose specific information (p.15). “ 4.3 Reviewing of Policies and Procedures (a) At the first meeting with each of the parties, evaluators should review key elements...” Adding this in SB0222 ensures Maryland best practices are properly implemented.

In real cases, understanding: what an evaluator may or may not do, how to challenge bias or lack of qualifications, how to raise concerns, or how to seek review or removal, can feel like a scavenger hunt through Maryland laws, court rules, administrative orders, and professional guidelines.

Not all attorneys practice regularly in custody cases. And parents—whose fundamental rights and children are at stake—are certainly not trained to navigate this system.

Proposed Amendment: A Custody Evaluation Due Process Notice

For that reason, we are proposing a simple, practical amendment: a required **Custody Evaluation Due Process Notice**, which could be compared to a “Custody Miranda.” This approach mirrors due-process advisements required in other proceedings that substantially affect individual rights and child welfare.

Before any custody evaluation begins, all parties should receive a clear, standardized notice—on the record—explaining:

- the evaluator’s role and limits,
- that the evaluator is not a treating therapist or advocate,
- that information obtained may be used in court,
- the right to object to bias, lack of qualifications, or improper methods,
- and the available processes for complaints, challenges, and court review.

This proposal does not create new rights.

It simply **makes existing rights visible, understandable, and usable.**

Why This Strengthens the Bill

Courts benefit from transparency. Clear notice at the outset reduces post-evaluation litigation, motions to strike, and appeals, thereby supporting judicial efficiency.

Qualified evaluators benefit from clarity. Clear standards safeguard well-qualified professionals, encourage participation by truly qualified experts, and promote evaluations grounded in science-based, evidence-based research.

Children benefit from decisions based on sound, well-understood processes. Most importantly, these measures reinforce that child safety—including psychological, emotional, and physical well-being—remains the central priority of custody evaluations.

Conclusion

MACA urges adoption of these amendments to ensure that custody determinations in Maryland are informed by qualified evaluators, transparent processes, and a shared commitment to child safety.

We are available to meet, discuss further, and provide additional resources or clarification regarding this testimony. We appreciate your attention to this critical matter and for your dedication to Maryland’s children and families.

Respectfully,

Rael LaPenta

Mothers Against Child Abuse (MACA)

Appendix A: Proposed Custody Evaluation Due Process Notice

Custody evaluations substantially affect fundamental parental rights and child safety.

This section ensures meaningful informed consent, transparency, and procedural fairness, and prevents adjudication by evaluator without due process.

Custody Evaluation Due Process Notice *(Required Notice of Rights in Custody Evaluations)*

(a) Mandatory Notice; Condition Precedent

Before the commencement of any custody evaluation, parenting coordination process, reunification-related assessment, or court-ordered family evaluation, the court shall provide each parent or legal guardian with a written and oral notice of rights, on the record. No evaluation activity may begin ***until this notice is provided.***

(b) Required Contents of Notice The notice shall advise each parent or legal guardian of the following:

(1) Purpose and Limited Role

You are the subject of a court-ordered custody evaluation.

The purpose of the evaluation is to assist the court in determining the best interests and safety of the child.

The evaluator is not a treating therapist, advocate, or decision-maker and does not represent any party.

(2) Neutrality and Qualifications

The evaluator must be neutral, objective, and impartial and may not advocate for any parent or the child.

The evaluator must meet statutory training requirements and expert-evidence standards applicable in custody proceedings.

(3) Scope of the Evaluation

The evaluation may include interviews, observations, record review, and collateral contacts.

No recommendation may be made regarding a parent who has not been evaluated, absent consultation with another qualified neutral professional.

(4) Informed Consent and Use of Information

Participation constitutes informed consent, meaning:

- Information obtained may be used in court
- Confidentiality is limited
- You have the right to understand the evaluator's role, methods, and limitations

(5) Right to Object and Seek Court Review

You have the right to:

- Object on the record to bias, conflicts of interest, lack of qualifications, or procedural irregularities
- Object to recommendations lacking adequate evaluation or evidentiary basis
- Request clarification of methods or conclusions
- Seek court review if the evaluation deviates from statutory or professional standards

(6) Limits on Evaluator Authority

The evaluator may not:

- Engage in ex parte communications with the court on the merits
- Pressure a child to express a custodial preference
- Withhold information relied upon in forming conclusions
- Exceed the scope of the court's order

(7) Child Safety Standard

The evaluation must consider the physical, psychological, and emotional safety of the child, including exposure to coercive control, psychological maltreatment, or interference with parent-child relationships.

(8) Remedies for Noncompliance

If the evaluation fails to comply with law or professional standards, you may:

- File a written objection or motion to strike all or part of the evaluation
- Request limitation on its use
- Request a corrective evaluation or replacement evaluator
- Seek any other relief necessary to protect due process and child safety

(c) Removal or Resignation of Evaluator

Consistent with court rules governing custody evaluations:

- The court may remove an evaluator for good cause
- An evaluator may resign only upon good cause, notice to the parties, an opportunity to be heard, and court approval
- Parents may raise concerns supporting removal or disqualification at any stage upon discovery

(d) Acknowledgment

Each parent or legal guardian shall sign a written acknowledgment confirming receipt and understanding of this notice.

The acknowledgment shall be filed with the court.

Failure to obtain acknowledgment creates a rebuttable presumption that informed consent was not obtained.

(e) Effect of Failure to Provide Notice

Failure to provide this notice prior to commencement of the evaluation may constitute grounds for:

- Exclusion or limitation of the evaluation
- Disqualification of the evaluator
- Remedial orders necessary to prevent prejudice and protect due process

This proposal is consistent with nationally recognized custody evaluation standards emphasizing informed consent, transparency, and evaluator neutrality.

Association of Family and Conciliated Courts (AFCC) Guidelines for Parenting Plan Evaluations in Family Law Cases

<https://www.afccnet.org/Portals/0/PDF/Guidelines%20for%20Parenting%20Plan%20Evaluations%20in%20Family%20Law.pdf?ver=TdRIBVhq6scPHg4WC8ZQSg%3d%3d>

CHILD CUSTODY EVALUATION STANDARDS Published by AMERICAN ACADEMY OF MATRIMONIAL LAWYERS(AAML)

https://aaml.org/wp-content/uploads/MAT201_3.pdf

Deconstructing Custody Evaluation Reports Published by AMERICAN ACADEMY OF MATRIMONIAL LAWYERS(AAML)

https://aaml.org/wp-content/uploads/MAT210_2.pdf

The Supreme Court of Ohio Custody Evaluation Toolkit. <https://www.supremecourt.ohio.gov/docs/JCS/courtSvcs/resources/CustodyEvaluatorToolkit.pdf>

Administrative Orders of Delaware County Common Pleas Court https://www.delcopa.gov/sites/default/files/2025-08/AdministrativeOrder_82525_Rule1915.11-1ParentingCoordination.pdf