

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 41

(Senator Lee)

Judicial Proceedings

Family Law – Child Custody and Visitation

This bill (1) alters statutory provisions that require a court to deny custody or visitation rights to a party in specified circumstances involving the abuse or neglect of a child and (2) establishes that reasonable efforts to protect a child or a party may not be considered an unjustifiable denial of or interference with visitation granted by a custody or visitation order.

Fiscal Summary

State Effect: The bill does not materially affect the operations or finances of the Judiciary.

Local Effect: The bill does not materially affect the operations or finances of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Custody or Visitation Proceedings – Child Abuse or Neglect

Under current law, in any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court must determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party. Unless the court specifically finds that there is no likelihood

of further child abuse or neglect by the party, the court must deny custody or visitation rights to that party. However, the court is authorized under current law to approve a supervised visitation arrangement that assures the safety and physiological, psychological, and emotional well-being of the child.

The bill alters these provisions to instead establish that in any custody or visitation proceeding, the court must deny custody or visitation rights to a party if the court finds by a preponderance of the evidence that a child has been abused or neglected by the party unless the court (1) specifically finds that there is no likelihood of further child abuse or neglect by the party and (2) states with specificity the reasons for the finding. A court may approve a supervised visitation arrangement if the arrangement (1) specifically takes into account the type of child abuse or neglect, including whether any child abuse was emotional, physical, or sexual and (2) assures the safety and the physiological, psychological, and emotional well-being of the child.

Denial or Interference with Visitation

Under current law, if the court determines that a party to a custody or visitation order has unjustifiably denied or interfered with visitation granted by a custody or visitation order, the court may, in addition to any other remedy available and in a manner consistent with the best interests of the child, take any or all of specified actions, including assessing costs or counsel fees against the party who has unjustifiably denied or interfered with visitation rights. The bill establishes that any reasonable effort to protect a child or a party to a custody or visitation order from the other party may not be considered an unjustifiable denial or interference.

Additional Comments: The bill implements recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations. The workgroup, chaired by the Secretary of State, submitted its final [report](#) in September 2020.

Additional Information

Prior Introductions: SB 57 of 2021, as amended, passed the Senate and was referred to the House Rules and Executive Nominations Committee, but no further action was taken. Its cross file, HB 748, a similar bill as amended, was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: HB 104 (Delegate Atterbear) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 18, 2022
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