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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 9, 2021

Senate Judicial Proceedings Committee

Senate Bill 775 - Family Law – Child Custody and Visitation – Abuse

This legislation derives from Recommendation #4 from the [Workgroup to Study Child Custody Court Proceedings Including Child Abuse or Domestic Violence Allegations](#). It aims to bring domestic violence protections to a level more in-line with protections for child victims of abuse in 9-101. This bill creates a measure similar to provisions in 21 other states, where a rebuttable presumption against custody is established if there is a judicial finding of domestic violence.

SB 775 is not a presumed joint custody bill. That misguided bill has been introduced and defeated repeatedly in the Maryland General Assembly. The concept that every child's interest is best served with an automatic formula cuts against the whole purpose of the best interest factors as objective and case specific. Quite differently a rebuttable presumption against custody for domestic violence victims treats a class of individuals in a prudent manner based on their behavior, only after a factual finding that abuse occurred to the degree required to trigger this provision. There is no lost judicial discretion under this legislation, as long as reasoning is used.

Please read the report page 20, where it provides that a rebuttable presumption of this nature would be in line with statutory provisions identified in 21 other states and accompanying footnote that highlights a recent scholarly article on topic.¹

For these reasons I respectfully request a favorable report on SB 775.

¹ Debra Pogrud Stark, Jessica M. Choplin, & Sarah E. Wellard, *Properly Accounting for Domestic Violence in Child Custody Cases: An Evidence-Based Analysis and Reform Proposal*, 26 MICH. J. GENDER & L. 1, 6 (2019).