



Senate Bill 57- Family Law – Custody and Visitation
Senate Judicial Proceedings Committee – January 26, 2021
Testimony of Joyce Lombardi, Director of Government Relations and Legal Services
Position: **SUPPORT WITH AMENDMENTS**

Center for Hope (CFH) writes in support of SB57, which enumerates factors for judicial decisions concerning custody and visitation in cases with allegations of child abuse. The bill gives more guidance to courts in deciding these difficult and often dangerous cases.

Center for Hope supports a very limited amendment that would clear up confusion over whether the custody statute in question applies to and is used in CINA (child in need of assistance) cases. According to child welfare lawyers in Maryland, the laws in question in SB57 are indeed used in CINA cases (along with other laws elsewhere in the Md code) and exempting them could be detrimental to children in foster care. Thus the Center for Hope supports amending the bill in the limited clarifying sense by removing the sentence on page 2, line 32 that says “This section does not apply to a Child In Need of Assistance case.”

Center for Hope, a subsidiary of LifeBridge Health, helps clients heal from acute violence such as child abuse, domestic violence, street violence and elder abuse through integrated, evidence-based programs that extend beyond hospital walls. Center for Hope provides trauma-informed crisis intervention, forensic interviews, medical exams, mental health, wraparound case management, family advocacy and workforce development services. Center for Hope now includes the Baltimore Child Abuse Center, one of the state’s oldest and largest children’s advocacy centers. Children’s advocacy centers in Maryland must be available in each county, must meet accreditation standards, and must engage multidisciplinary teams of experts to respond to allegations of child abuse. Md. Cts and Jud Proc §11-928.

Research and anecdote shows that family law judges and magistrates do not always make sound decisions in custody cases, and often end up granting unfettered access to abusers. As reported in the 2020 Final Report of the *Governor’s Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations* (of which I was a part) it has been estimated that up to 58,000 children each year in this country are ordered by a court into some form of unsupervised contact with a physically or sexually abusive parent. Some of the children end up abused again; others are subsequently killed by the abusive parent. The Final Report also noted that in 2018, the U.S. House of Representatives adopted a resolution “declaring that allegations of domestic violence and child abuse are often discounted in child custody litigation, thereby placing children at ongoing risk when abusive parents are granted custody or unprotected parenting time by courts.”

This alarming fact occurs in part because many well-meaning court personnel are not adequately trained in the nuances and difficulty of gathering evidence and assessing evidence in child abuse cases – especially evidence from the children themselves. It also occurs in part because of the pervasive bias among most of us, that also permeates courtrooms: that allegations of abuse in custody cases are often fabricated. Though difficult to measure, studies show that “fabrication” and false allegations of child abuse happen in only about 2-10% of cases, a number far lower than many professionals believe. See e.g. D. Finkelhof et al (1993).



The Center for Hope’s legal team often helps distraught parents find counsel to navigate family law courts in custody and visitation cases after an allegation of abuse has been made. These cases have increased during the pandemic. The protective parents are almost always pro se, are often survivors of domestic violence, and describe poor treatment by courts in custody/visitation cases to a surprising degree. A few protective parents have reported being threatened with contempt despite simply trying to protect their children and credit the allegations of abuse. This occurs, reportedly, even though they have an open CPS investigation or a CPS Safety Plan, or a forensic interview that supports their (and the child’s) need to modify visitation, and/or a child who habitually screams, hides or wets the bed before the times s/he must visit dad’s house.

Some protective parents report that court does not get to hear important evidence such as a child’s videotaped out of court statements to a trained forensic interviewer, or testimony from a caregiver or independent witness regarding a child’s physical manifestations of emotional distress such as bed wetting, stomach or eating problems, nightmares, protective play, etc.

Helping the courts navigate these difficult cases by putting their findings of likelihood of abuse on the record and by providing several factors the courts must consider can help make sure that all available evidence is considered and weighted. It creates a cleaner record on appeal (if any) but also helps parties understand what types of evidence can be considered in difficult contested matters. Furthermore, while existing Maryland law requires the court to determine whether more abuse or neglect is likely to occur, SB57 now requires the court to “state with specificity the reasons for the finding that there is no likelihood of further child abuse or neglect by the party.”

We urge a favorable report for SB57, with the minor amendment as noted.

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LifeBridge Health is a regional health system comprising Sinai Hospital of Baltimore, Levindale Geriatric Center and Hospital in Baltimore; Northwest Hospital; Carroll Hospital and Grace Medical Center (formerly Bon Secours). At LifeBridge Health and Center for Hope, we are committed to convening national best practice and trauma experts to respond to violence, abuse and exploitation of our area’s most vulnerable populations.