
BILL NO: Senate Bill 775
TITLE: Family Law - Child Custody and Visitation - Abuse
COMMITTEE: Judicial Proceedings
HEARING DATE: March 9, 2021
POSITION: **OPPOSE**

Senate Bill 775 would require courts to order certain provisions if ordering child access in a custody case where there has been domestic violence or child abuse. While we certainly support protecting children from abusers, the Women's Law Center of Maryland (WLC) opposes this bill as it is poorly drafted and poorly conceived for a number of reasons.

Senate Bill 775, like some others bills already heard this session, arises out of recommendations made by the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, constituted by statute in 2019. The Women's Law Center was appointed to this Workgroup. The conclusion of the Workgroup, generally, that courts are not carefully and fully considering evidence of harm to victims when making custody decisions in the best interests of the child.

SB 775 seeks to impose requirements on the court when it finds, in a custody case, that one party has abused either a party or a child in the family. However, as drafted, the bill would seem to require a court to mandatorily impose one of the listed conditions or requirements (page 2, line 11- page 3, line 2). We cannot support *requiring* a court to do any of these things if it is not appropriate under the specific circumstances of a case. Does this list complies the only things a court can do? In addition, courts already have the authority to impose conditions in child access cases so we see no utility to this bill. Of particular concern is page 2, lines 29-30, regarding ordering a party to post a bond for the "return and safety of a child." If a court has such serious concerns about the safety of a child the court should not be ordering that child to go with that parent. If a court does want to do this, it might also negatively impact low income parties, and should not create a bar to seeing one's child absent other issues.

In addition, the WLC cannot support a rebuttable presumption about the best interests of a child (p. 3, lines 3-7). We have always opposed presumptions in the area of child custody, and it would be inappropriate to support this presumption in light of that long held position. Each case should be viewed on its facts using the best interests of the child standard.

Finally, if a court determines both parties have engaged in abuse, we recommend the court mirror what is in our Code, Family Law §4-506 rather than creating a new standard of assessment. The factors in the bill also raise serious concerns. Severity of the injuries causes the most concern as it does not fully develop the reality of these cases. Is physical injury more serious than mental injury? And the term "coercive control" is not currently defined in our laws.

Therefore, the Women's Law Center of Maryland, Inc. opposes Senate Bill 775.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.