



BILL NO: Senate Bill 775

TITLE: Family Law - Child Custody and Visitation - Abuse

COMMITTEE: Judicial Proceedings

HEARING DATE: March 9, 2021

POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 775.**

It has long been the guiding principle and law in Maryland that the best interest of the child governs court decisions and rulings in child custody and visitation matters. MNADV believes that the best interest of the child should remain the determinative factor in all matters of custody and visitation. The court should be focused on each family and child's unique circumstances and needs when making custody and visitation determinations. Senate Bill 775 undermines and alters this central premise of Maryland's custody and visitation laws in cases where there is domestic abuse by requiring a court to impose certain conditions, monetizing custody and visitation, creating a rebuttable presumption, and creating a new standard of assessment in cases where both parties are abusive to determine who was the primary aggressor.

First, Senate Bill 775 requires a court to impose one or more of six conditions if custody or visitation is authorized by the court in a case where there is domestic abuse. The court can already impose any conditions it deems in a child's best interest, so in that regard, this section is duplicative. However, MNADV is more concerned about this section of the bill because it detracts from an individual assessment of each case and monetizes access to the child or children involved. Several conditions delineated in the bill require the abusive party to pay costs and this would disproportionately impact low-income families. If a court determines it is in the best interest of a child for a parent to have custody and visitation then the law should not create economic barriers to effectuating what is in a child's best interest. MNADV is especially concerned about the provision requiring an abusive party to post a bond for the return and safety of a child (page 2, line 29-30). It is either safe and in the child's best interest for the abusive party to have custody or visitation or not.

Next, Senate Bill 775 would create a rebuttable presumption (page 3, lines 3-7) that it is not in a child's best interest for a court to award sole or joint legal or physical custody to a party who has committed abuse against any child in the household, the party's spouse, or the other parent of

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the party's child. MNADV is opposed to changing the best interest of the child standard and creating a rebuttable presumption. Custody and visitation decisions should be made absent any presumptions and by carefully weighing all the factors. MNADV does support the court stating the basis for its decisions on the record.

Finally, SB 775 creates a new standard of assessment in cases to determine who was the primary aggressor in cases where the court determines that both parties engaged in abuse. MNADV is particularly concerned about the "relative severity of the injuries" factor (page 3, line 23). Domestic violence can manifest in a variety of ways including physical abuse, sexual abuse, emotional or verbal abuse, coercion, and economic abuse. MNADV urges against the weighting of any one type of abuse as more severe over another. SB 775 also contains language regarding coercive control which is undefined in Maryland law. MNADV would strongly caution against adding coercive control to the Maryland Code as it has proven to negatively impact survivors of domestic abuse in other states. Family Law §4-506 already provides for situations when both parties are abusive and MNADV believes that should be the standard applied.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on SB 775.**