
BILL NO: House Bill 1036
TITLE: Child Custody - Cases Involving Child Abuse or Domestic Violence – Training
COMMITTEE: Judiciary
HEARING DATE: March 4, 2021
POSITION: **OPPOSE**

House Bill 1036 would require a certain number of hours and certain curriculum for judges who will sit on family law cases. In addition, it would require a certain number of hours for BIAs, Best Interest Attorneys, who represent children in custody cases. The Women's Law Center of Maryland (WLC) opposes this bill for a variety of concerning reasons.

House Bill 1036 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, was that stakeholders in child custody proceedings, including judges and magistrates, need more education on newer research, and that courts are not carefully and fully considering evidence of harm to victims when making custody decisions in the best interests of the child.

The WLC supports the concept of judges and other stakeholders in court proceedings involving custody being trained on the current science about childhood trauma, ACEs, the effect of violence in the household of children, domestic violence and other things relevant to determinations on what is in the best interests of a child. However, we question whether the legislature has the ability to interfere with how the Judiciary effectuates this – is there a separation of powers issue here? We understand there has been a request to the Attorney General's office about this question. Furthermore, we question the wisdom of placing this in statute, and we have concerns over what constitutes the training as laid out in the statute. Currently the Chief Judge of the Maryland Court of Appeals and the Maryland Rules are responsible for determining what training judges and BIAs are required to undergo. A better path is cooperation between the judiciary and knowledgeable stakeholders to have input into what the training should contain.

Furthermore, we have grave concerns about adding the language in §9-101.4 to our laws. The current Lethality Assessment is only validated for use by first responders. It is not predictive. The bill does not explain who would conduct the assessment and what result would arise. It is wildly simplistic to add this here and think it is anything other than potentially dangerous to force an inappropriate use of this product in these cases. The Maryland Network Against Domestic Violence, can further elucidate this issue.

In order to be appointed as a BIA in a case, there is already required training for attorneys, contained in the Maryland Rules and in Maryland Guidelines for Practice for Court-Appointed Attorneys Representing Children in Cases Involving Child Custody or Child Access and we are not convinced this should be moved to a statute. Finally, we support the appropriate number of hours for training for both judges and BIAs, but do not know if 60 hours is best practice.

Therefore, the Women's Law Center of Maryland, Inc. urges an unfavorable report on House Bill 1036.

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.