



HB1036 Child Custody - Cases Involving Child Abuse or Domestic Violence - Training for Judges and Child's Counsel

House Judiciary Committee – March 4, 2021

Testimony of Joyce Lombardi, Director of Government Relations and Legal Services

Position: **SUPPORT CONCEPT**

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Center for Hope (CFH) writes in support of HB1036 to the extent that it requires better training for judges and child's counsel who deal with cases concerning custody and visitation in cases with allegations of child abuse.

Center for Hope takes no position on the separation of powers issues that have been raised in relation to this bill. Nor does Center for Hope take a position on the exact number of hours needed by the bench or best interest attorneys and children's counsel. Rather, Center for Hope supports the intent of this bill for the Maryland legislature to help understand and amplify the need for members of the judiciary and members of the bar handling family law cases to better understand the complicated nuances of child abuse and childhood trauma cases. Many of those cases also include allegations of domestic violence, making the evidence even more difficult to obtain and the gulf between the parties even wider.

Center for Hope's expert child advocacy center training staff trains lawyers handling complex child abuse and CINA cases, and we know that many of these lawyers welcome low cost or free quality training and the professional time to pursue it.

Emerging research in brain science is making it slowly to our institutions, as evidenced by wider recognition of adverse childhood experiences (ACEs) and the effect of trauma on young brains. The dynamics of disclosure of child abuse are complicated and generally outside of lay experience ("if it's true, why isn't he crying when he talks about what happened?")("if it's true, why does she still hug her dad?"). Honing in on those particular issues can only help members of the bar and bench and navigate these difficult cases.

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.”

There’s no doubt this is happening. So what do we do about it? One answer is that 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. Many want more training- they just need institutional support to get it.

Poor custody outcomes also likely 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, and in keeping with false allegations in other types of cases. See e.g. D. Finkelhof et al (1993).

The Center for Hope’s legal team routinely seeks to help 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, are almost always women, and describe poor treatment by courts in custody/visitation to a surprising degree. That was eye-opening.

Some protective parents report that court does not get to hear or know how to assess 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. While experts can be brought in for each case, that is often expensive and something reserved for well-resourced litigants. It is more cost effective for families healing from complex trauma to have specific members of the bench and bar adequately trained in these issue.

We urge a favorable report for HB1036 to the extent it stimulates better routine training for the bench and bar on these issues.

Joyce Lombardi, Director of Government Relations  
Center for Hope

*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.*