
To: Members of The House Judiciary Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Daniel Renart, Esquire and Ilene Glickman, Esquire

Date: February 18, 2021

Subject: **House Bill 748:**
Family Law – Child Custody and Visitation

Position: **SUPPORT WITH AMENDMENTS**

The Maryland State Bar Association (MSBA) FJLSC **SUPPORTS WITH AMENDMENTS House Bill 748 – Family Law- Child Custody and Visitation.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

The FJLSC acknowledges that the issue of abuse in custody and visitation matters is often not adequately addressed in litigation and supports efforts to improve the way in which the issue is handled by the Courts. The FJLSC supports HB 748 provided the following amendments are made to the bill:

1. The FJLSC position is based on our understanding that all of the amendments outlined on the attached, *Amendments To Senate Bill 57*, will also be made to HB 748.
2. The FJLSC believes that Lines 23 – 26 on page 3 of the original bill (proposed Family Law Section 9-105 (B) should be removed. The FJLSC opposes this provision. The Section is concerned that this provision will regularly result in the wrongful withholding of children and will, in too many families, disrupt the stability and predictability (and all of the benefits thereof) that the court ordered custody and visitation order is designed to

provide. The FSLC strongly advocates for the protection of children from abuse and believes that there are already several avenues available for a concerned parent to protect a child from abuse. These include: (1) the Domestic Violence statutes; and (2) a Request For Emergency Hearing. As a result the potential benefits of this proposed modification are outweighed by the risks of its abuse.

3. The FJLSC believes it is critical to make clear that the findings required of the Judge in the proposed changes to Family Law Section 9-101 (i.e. that there is no likelihood of further child abuse or neglect) may be made by the Judiciary either orally from the bench or in a written opinion.
4. The FJLSC proposes that the bill be amended to allow more discretion to the Judiciary cases where there are reasonable grounds to believe that abuse or neglect has occurred so that the Court is able to fashion a custody and visitation award which assures the best interests of the child(ren) at issue. A “one size fits all” approach to abuse is too limiting and will often result in an outcome that is contrary to the best interests of the child(ren) at issue. The FJLSC would support an amendment providing for such and further requiring the Judge acknowledge the abuse allegations and findings and to state how the custody and visitation ordered assures the safety and well-being of the child(ren). As practicing family law attorneys we are often involved in complex matters where addressing the allegations of abuse requires an intricate solution unique to the case.

For the above reasons, the FJLSC urges the House Judiciary Committee to issue a favorable with amendments (as stated above) report on HB 748.

Should you have any questions, please contact Michelle Smith at msmith@lawannapolis.com or by telephone at (410) 280-1700 OR Ilene B. Glickman, Esquire by e-mail at Ilene@lawhj.com or by telephone at (410) 591-9602.



SB0057/273926/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

12 FEB 21
10:51:31

BY: Senator Lee

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 57

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “establishing” in line 9 down through “factors” in line 14 and substitute “requiring the court, in a custody or visitation proceeding that involves domestic violence or child abuse, to refer to certain provisions of law before considering any factors relating to the best interest of the child”; in line 14, after “court” insert “, in determining the best interest of the child in a custody or visitation proceeding,”; in line 15, strike “providing for the scope of certain provisions of this Act;”; in line 20, strike the first comma; in the same line, strike “9–101.1.”; and after line 22, insert:

“BY repealing and reenacting, without amendments,

Article – Family Law

Section 9–101.1

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 5 and 6; in line 11, strike “(b)” and substitute “(A)”; in line 12, strike “(C)” and substitute “(B)”; and in line 23, strike “(C)” and substitute “(B)”.

On pages 2 and 3, strike in their entirety the lines beginning with line 32 on page 2 through line 1 on page 3.

On page 3, in lines 2 and 8, in each instance, strike the brackets; in line 2, strike “(C)”; in line 8, strike “(D)”; and strike beginning with “THIS” in line 29 down through

(Over)

“SUBTITLE” in line 30 and substitute “IN ANY CUSTODY OR VISITATION PROCEEDING THAT INVOLVES DOMESTIC VIOLENCE OR CHILD ABUSE, THE COURT SHALL REFER TO §§ 9-101 AND 9-101.1 OF THIS SUBTITLE BEFORE CONSIDERING ANY FACTORS RELATING TO THE BEST INTEREST OF THE CHILD”.

On pages 4 through 6, strike in their entirety the lines beginning with line 1 on page 4 through line 23 on page 6, inclusive.

On page 6, in line 24, strike “(G)” and substitute “(B)”; in the same line, strike the first “THE” and substitute “IN ANY CUSTODY OR VISITATION PROCEEDING, IN DETERMINING THE BEST INTEREST OF THE CHILD, THE”; and in the same line, after “FACT” insert “AND ANY FACTOR THAT THE COURT CONSIDERED”.

On pages 6 and 7, strike beginning with the comma in line 25 on page 6 down through “CONSIDERED” in line 5 on page 7.