

BILL NO: Senate Bill 336
TITLE: Family Law – Custody Evaluators – Qualifications and Training
COMMITTEE: Judicial Proceedings
HEARING DATE: February 9, 2022
POSITION: **OPPOSE**

Senate Bill 336 would move qualifications for custody evaluators in family law cases, from the Maryland Rules to the Maryland Code. While the Women’s Law Center appreciates the importance of maintaining rigorous qualifications for these evaluators in custody cases in the state, the appropriate place for addressing these issues is in the Rules, not the Code. In addition, the topics the bill would require custody evaluators to be trained, may change and if the bill passes each time new research developed or best practices changed, we would have to come back to the legislature to make changes. The Rules are a better place for this.

Senate Bill 336 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 Workgroup worked tirelessly, and delved deeply into how domestic violence, child abuse, and child sex abuse effects children and families and how courts manage cases with such allegations. There were many professional experts who presented to the Workgroup. After over 18 months of meetings the recommendations were finalized. The conclusion of the Workgroup, generally, was that stakeholders in child custody proceedings, including custody evaluators used by the courts in these cases, need more education of 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.

SB 336 would require that a custody evaluator have a Master’s degree or equivalent, that evaluators have initial training of 20 hours and continuing training of 5 hours every two years. A host of other issues are included, such as an extensive list of topics that must be covered in the training, topics that skew towards a biased agenda. We do not know if 20 hours is a best practice recommendation by experts in the field of training evaluators, but recommend best practices be followed. We fully support the concept that custody evaluators, and indeed others involved in custody cases (judges and magistrates) be educated and informed on the current science and research on things such as ACEs, trauma and children’s responses to traumatic stress, and some other issues laid out in the bill. We have been involved in all too many cases where evaluators seem to completely miss what is evident violence and resulting trauma in a family.

However, currently, qualifications for a person to be a custody evaluator are contained in Maryland Rule 9.205.3 CUSTODY AND VISITATION-RELATED ASSESSMENTS. Other provisions are also addressed there. The benefit of having all of this in a rule rather than statute is that the Judiciary can change them as necessary. It was our hope after the 2021 session that the Judiciary would have conversations with the Legislature and other decision-makers to address some of the recommendations from the Workgroup. We do not know if that has happened. We do know there have been at least some recommendations to change the Rule, and they are in the process of seeking approval for those changes. It might be useful to let that play out, and then work with the Rules Committee on other changes.

Therefore, the Women's Law Center of Maryland, Inc. opposes Senate Bill 336.

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.