



PROTECTING CHILDREN, PROVIDING SUPPORT, PROMOTING CHANGE

Testimony before the Senate Judicial Proceedings Committee
Bill #SB 336: Custody Evaluators – Qualifications and Training

February 9, 2022

I am writing to support Senate Bill SB#36, regarding qualifications and training of custody evaluators. I write as both the Legal Director of Child Justice – a legal services organization that litigates child custody cases involving domestic violence and child abuse – and as a member of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations. The language for SB 336 springs from the work of and recommendations by the Workgroup.

The Workgroup consisted of subject-matter experts and advocates with vast experience in child-custody cases involving child abuse and domestic violence. Over the course of some 18 months, the Workgroup heard testimony from multiple experts as well as from parents who had gone through these contentious custody cases.

In September 2020, the Workgroup issued its 140-page report¹ adopting over 20 recommendations focused on better protecting children through such court proceedings.

The Workgroup learned that judges give extraordinary weight to custody evaluators. In addition, in Maryland, custody evaluators are granted quasi-judicial immunity, which shields them from malpractice lawsuits.² Thus, “if evaluators are not held to account in the proceeding in which they put forth their work product they are not held accountable at all.”³

¹http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport_Workgroup_to_Study_Child_Custody_Court_Proceedings_Involving_Child_Abuse_or_Domestic_Violence.pdf (hereinafter “Report”).

² See *Williams v. Rappeport*, 699 F. Supp. 501, 508 (D. Md. 1988) (“Accordingly, [custody evaluators] Drs. Rappeport and Dvoskin are entitled to the protection of absolute immunity and the grant of summary judgment.”).

³ Timothy M. Tippins, *New York Law Journal*, “The Bar Won’t Raise Itself: The Case for Evaluation Standards,” July 8, 2013.

This deference to and protection of custody evaluators would be of lesser concern if all custody evaluators were properly conducting evaluations. Unfortunately, studies have shown that custody evaluators often focus on or give undue weight to irrelevant factors.⁴

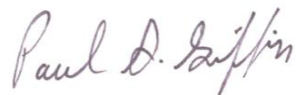
Therefore, CPMC endorses SB 336, which will require sufficient training in order to better understand the impact of traumatic events – such as being exposed to domestic violence or suffering child abuse – on children. The proposed training includes learning about early childhood brain development, how traumatic events impacts this development, state-investigatory processes and their limits, interpersonal dynamics that contribute to abusive behavior, the validity of and need for risk assessments, and preventative measures to mitigate abuse.

Under Senate Bill 336, proposed custody evaluators would receive 20 hours of this initial training before they may undertake custody evaluations, followed by an additional five hours to be conducted every two years.

The bill also requires that custody evaluators have appropriate credentialing, such as being a licensed psychologist or psychologist, a licensed clinical marriage and family therapist or a clinical marriage and family therapist, a licensed certified social worker–clinical or a clinical social worker, a licensed graduate or master social worker with at least two years of relevant experience as defined in the bill, or a licensed clinical professional counselor or a clinical professional counselor.

I believe that, only with these credentials and the rigorous training can custody evaluators take on the important work of advising judges in custody cases involving child abuse and/or domestic violence. For these reasons, I urge a favorable committee report on SB 336.

Respectfully submitted,



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⁴ Report at 35.