
BILL NO: Senate Bill 889
TITLE: Family Law – Child Custody Actions – Considered Judgment of Minor Children
COMMITTEE: Judicial Proceedings
HEARING DATE: March 10, 2022
POSITION: **OPPOSE**

Senate Bill 889 would create a rebuttable presumption that a child of 13 or older has considered judgment and is entitled to counsel in any custody case. The Women's Law Center opposes this bill as its underlying premises are completely flawed.

Social science indicates that it is traumatic for most children to be put in the position of deciding how their parent's child access will work if the parents are not together. Having the children be parties to their own custody cases, including filing motions, arguing, and being present in the courtroom for what can be a very contentious trial is a terrible thing to do to children.

Furthermore, determining if a child has considered judgment is not magical – it does not occur exactly on the child's 13th birthday. There is lot of relevant material and information to be gathered to determine if a child has considered judgment¹. It is completely illogical to have laws that protect a child until their 13th birthday and then a law like this that would do a complete 180 degree turn on the birthday and say the child understands the consequences of their actions as of that birthday (see, for example this year's SB 20, extending the tender years doctrine for children under age 13) and should be considered a party to their own child access case. This is inconsistent reasoning.

In addition, SB 889 does not explain how the enormous cost of having counsel for virtually every child 13 or over (even in an uncontested case, as the bill is written) would be met (at the time of writing this there is no fiscal note, but will the state pay for this right to counsel?). How will low income families pay for this sometimes very expensive cost? What if there are three children in a family who are 16, 14 and 13 years old and all have a different preference for where they will live and how much time they will spend with each parent? That would require three separate attorneys for one case. Will the child get an attorney even if the parents can't afford to have their own attorneys, as we know occurs for at least one party in family law cases in Maryland now? A better use of funds would be to provide counsel for self-represented litigant parents.

Therefore, the Women's Law Center of Maryland, Inc. urges an unfavorable report on Senate Bill 889.

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. It operates the statewide Family Law Hotline, serving thousands self-represented litigants a year on that line with information and referral.

¹ See MD Rules Attorneys - Appendix 19-D –Maryland Guidelines for Practice for Court-Appointed Attorneys Representing Children [in custody cases].