

---

BILL NO: Senate Bill 41  
TITLE: Family Law- Child Custody and Visitation  
COMMITTEE: Judicial Proceedings  
HEARING DATE: January 26, 2022  
POSITION: **SUPPORT WITH AMENDMENTS**

---

Senate Bill 41 would amend Family Law Section 9-101 to require the court to articulate its findings in custody cases where allegations of domestic violence or sexual assault are presented. The Women's Law Center of Maryland (WLC) supports the concept of this bill.

Senate Bill 41 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 judges and magistrates, 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 41 is an effort to make courts be more deliberate in their approach to cases where such allegations are made. Anecdotally, the common view is that courts frequently completely disregard current Family Law Code §9-101 and §9-101.1. SB 41 may reinforce to courts that they *must* address these allegations explicitly and articulate specific findings. This may help litigants, many of whom are unrepresented, to understand how a court came to its ruling, and may in turn increase faith in the court system. Detractors of SB 41 opine the court will just continue to not address allegations of domestic violence or child abuse, and that making the requirements for the court more stringent will have the opposite of the intended effect. The WLC supports requiring articulation by the court of why it has determined abuse is not likely to reoccur, especially given the number of people who are unrepresented in their family law cases.

SB 41 also amends Family Law §9-105, to add "ANY REASONABLE EFFORT TO PROTECT A CHILD OR A PARTY TO A CUSTODY OR VISITATION ORDER FROM THE OTHER PARTY MAY NOT BE CONSIDERED AN UNJUSTIFIABLE DENIAL OR INTERFERENCE WITH VISITATION GRANTED BY A CUSTODY OR VISITATION ORDER," We appreciate the effort to make clear that a "protective parent" should not be penalized, but we are also concerned about potential for abuse of the very broad language in this section in high conflict cases. We can think of myriad ways this language could be used to try to excuse unacceptable behaviors. In addition, the language on p 2, lines 30-33 seem to be redundant to p. 2, lines 21-22. We recommend striking this language entirely.

In conversation with practitioners, the concern is the language proposed on 9-105 will actually give the false impression to litigants that they get to determine if their decision to withhold a child from access to the other parent is reasonable. This is not the case. The court is the final arbiter of reasonableness.

Therefore, the Women's Law Center of Maryland, Inc. supports with amendments Senate Bill 41 to strike p 2, lines 30-33.

*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 advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.*