

SCCAN Written Testimony SB336 Custody Evaluators Q

Uploaded by: Claudia Remington

Position: FAV



State Council on Child Abuse and Neglect (SCCAN)

311 W. Saratoga Street, Room 405

Baltimore, Maryland 21201

Phone: (410) 767-7868

Mobile: (240) 506-3050

Claudia.Remington@maryland.gov

SCCAN is an advisory body required by Maryland Family Law Article (Section 5-7A) “to make recommendations annually to the Governor and General Assembly on matters relating to the prevention, detection, prosecution, and treatment of child abuse and neglect, including policy and training needs.”

TESTIMONY IN SUPPORT OF SB 336:

CIVIL ACTIONS – CHILD SEXUAL ABUSE – DEFINITION AND STATUTE OF LIMITATIONS

****SUPPORT****

TO: Hon. William C. Smith, Jr. Chair, and members of the Senate Judicial Proceedings Committee

FROM: Wendy Lane, MD, MPH, Chair, State Council on Child Abuse & Neglect (SCCAN)

Claudia Remington, Executive Director, State Council on Child Abuse & Neglect (SCCAN)

DATE: February 2, 2021

SCCAN, an advisory body to the Governor and General Assembly on matters relating to the prevention, detection, prosecution, and treatment on issues of child abuse and neglect, strongly supports SB 336 and other recommendations of the Workgroup to Study Custody Proceedings Involving Child Abuse or Domestic Violence Allegations. Divorce and separation, all forms of child abuse and neglect, and domestic violence are all experienced by a child as adverse childhood experiences (ACEs) which may have profound lifelong consequences on all learning, behavior, and health to follow. ***How courts address allegations of child abuse and domestic violence in the context of custody hearings is not only critical to the child's well-being across his/her lifespan, but to the prosperity of our state as a whole.***¹

SCCAN strongly supports SB 336, Custody Evaluators – Qualifications and Training and its five key components: (1) Ensures appropriate credentialing of custody evaluators; (2) Requires mental health professionals have certain clinical experience (e.g., in family systems, domestic violence, child abuse, child development, childhood trauma, short and long-term impacts of parental separation, protective factors that promote recovery from childhood trauma) before being appointed as custody evaluators by the court ; (3) Requires professionals participate in an initial 20 hours of training prior to appointment as custody evaluators and 5 hours of training during each 2 year period thereafter; (4) Requires the court to provide parties information about the role, availability and cost of custody evaluators; and (5) Requires custody evaluators to provide policies, procedures, fees, and costs to parties in writing prior to engagement.

¹ As, child abuse and neglect costs Maryland taxpayers an estimated \$1.7 billion each year, reducing children's exposure to ACEs makes good economic sense. For every \$1 invested in prevention, it is estimated that the state would save \$15 on treating its long-term effects. See, “An Environmental Scan of Maryland's Efforts to Prevent Child Maltreatment”, Terry V. Shaw, Ph.D., MSW, MPH, University of Maryland, School of Social Work, 2014.

SB 336 was developed out of the work of and recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations established by SB567 (2019). The Workgroup consisted of subject-matter experts and advocates with vast experience in child-custody cases, child abuse, adverse childhood experiences (ACEs), and domestic violence. SCCAN's Executive Director served as a member of the Workgroup. 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.

The Workgroup issued its 140-page report² in September 2020 adopting over 20 recommendations focused on better protecting children through such court proceedings. Testimony from experts and parents as well research before the Workgroup provided evidence that judges give extraordinary weight to custody evaluators and that custody evaluators, depending upon their training and expertise, may focus on and/or give weight to irrelevant factors.³ Additionally, custody evaluators in Maryland are granted quasi-judicial immunity, shielding them from malpractice lawsuits.⁴ This makes holding evaluators accountable to specific educational, experiential, and training standards even more important.⁵

Ensuring proper qualifications, experience and training of custody evaluators – on childhood development, trauma, various types of child and neglect and investigations, as well as the dynamics of domestic violence – is central to the very standard judges use to decide custody, i.e., “the best interest of the child”. The proposed training includes critical science 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 SB 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 documented every two years. This is well below the 60 hours originally recommended by the Workgroup and would be a bare minimum to cover the critical subject matter enumerated in the bill.

The Workgroup also received testimony from parents that they were unaware of the existence, role, procedures, availability, and cost of custody evaluators. Especially considering the high number of *pro se* custody cases before the courts, it is critical that this information is shared both by the court and custody evaluators in writing prior to the engagement of custody evaluators.

For these reasons, SCCAN urges a favorable committee report and passage of Senate Bill 336.

²http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport_Workgroup_to_Study_Child_Custody_Court_Proceedings_Involving_Child_Abuse_or_Domestic_Violence.pdf (hereinafter “Report”).

³ Report at 35.

⁴ 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.”).

⁵ Timothy M. Tippins, *New York Law Journal*, “The Bar Won’t Raise Itself: The Case for Evaluation Standards,” July 8, 2013.

SB0336_HTWIGG.pdf

Uploaded by: Heather Twigg

Position: FAV

Heather Twigg

556 Greene St.

Cumberland, MD 21502

240-362-4554, hwfiddle@gmail.com

February 7, 2022

SENATOR MARY BETH CAROZZA

SENATOR SUSAN LEE

SENATOR CHRISTOPHER WEST

SENATE JUDICIAL PROCEEDINGS COMMITTEE

2 EAST

MILLER SENATE OFFICE BUILDING

ANNAPOLIS, MARYLAND 21401

RE: **SB0336** FAMILY LAW – CUSTODY
EVALUATIONS – QUALIFICATIONS AND TRAINING

HONORABLE SENATORS,

My name is Heather Twigg. I am a protective and safe parent, mother, student, musician, domestic violence survivor, and advocate for survivors and victims of all forms of abuse. Most importantly, I am the voice for my children; which was ignored by family court professionals. I'm currently forced by a court order to send my children into an unsafe environment with their abusive father who is addicted to prescription medications. This is having a very negative impact on their emotional well-being, which could last them a lifetime. I hold a favorable position as to SB0336 Family Law – Custody Evaluations – Qualifications and Training.

I thank you for your time and remain supportive of these measures. I have much more to state regarding this topic and welcome you to contact me to discuss further.

SINCERELY,

Heather K. Twigg

HEATHER K. TWIGG

SB336Testimony-McLeod.pdf

Uploaded by: Hera McLeod

Position: FAV

My name is Hera McLeod. I am writing in support of Senate Bill 336 (Family Law – Custody Evaluators – Qualifications and Training). A little over nine years ago, my 15-month-old son Prince McLeod was murdered on his fourth unsupervised visit with his father. This murder occurred after over a year in Family Court in Montgomery County, Maryland.

Critics and people who've fought obtaining civil rights for children for decades will try and dismiss my case as "an extreme example," but what my case is – is an example of all the things that have gone wrong and continue to go wrong in Maryland Family Courts.

I support this bill because one of the most devastating parts of my case occurred because when the custody evaluator, who was appropriately concerned for my son's safety, recommended that my son's murderer obtain a psychological evaluation (because she, herself didn't have the training required to conduct the psychological evaluation herself). As a result, the court allowed my son's father to choose his own psychologist. Instead of choosing someone who was licensed to evaluate adults, he chose someone who only had a license in school psychology and was therefore NOT licensed to evaluate adults outside of a school setting.

The court never pulled her license, which would have verified that she wasn't qualified to evaluate an adult and give a custody opinion based on her evaluation. As a result of a school psychologist stating it was her belief that my son's father was suffering from only "mild depression," the judge lifted supervised visitation.

On his fourth unsupervised visit with his father, my toddler Prince was brutally suffocated. His father used the Maryland courts to obtain access in the elaborately pre-meditated murder of an innocent child. He'd taken over half a million dollars in life insurance out of Prince prior to the murder – something a qualified evaluator would likely have expressed concern over given the testimony and his history as a suspect in two previous murders involving life insurance policies.

If the custody evaluator in my son's case had been licensed (or had specialized training she could cite) to give an opinion on psychological functioning, the court wouldn't have needed to outsource – which ultimately opened the door for the corruption that occurred. While the therapist who testified in my son's case was later reprimanded by the Virginia Board of Psychology for practicing outside of her license (and placed on probation), that sanction came too late for my son.

When my son died, I spent a few minutes alone with him before I closed the casket for the last time. I told him I was sorry that I couldn't protect him – and that even though he wasn't the first child for whom a broken system couldn't save – I would make it one of my life's missions to ensure he was one of the last.

I've spent the last nine years since his death advocating for Family Court Reform and Children's Rights. I've spoken to both fathers and mothers, heartbroken that they must turn their children over to an abusive co-parent. In each of these cases, I see common threads that remind me of what I saw while I tried to protect my own child.

Most of these cases won't end up in newspapers across the globe like mine did, but there are so many children that we don't hear about in the news that suffer life altering abuse. I'm hopeful that you will

consider my son – those who came before him – and those who continue to come after him and pass this child protecting legislation.

Sincerely,
Hera A. McLeod

MD Bill SB 336_J Shaw Written Testimony_Feb 8 2022

Uploaded by: Jen Shaw

Position: FAV

February 8, 2022

SB 336: Family Law: Custody Evaluators – Qualifications and Training

Written Testimony, Jennifer Shaw, Psy.D.

Thank you for this opportunity to share a child-centered perspective before voting on SB 336. I am passionately committed to providing research- and trauma-informed assessment and therapy to children who have been neglected or abused, including sexual abuse in early childhood. We know how to help children begin to heal from what is too often a life-altering brain injury; this includes working with and joining a protective parent(s) and other stakeholders in that effort.

It is imperative that all stakeholders in a position to change the trajectory of a child's life understand that child abuse and neglect is a traumatic brain injury. Whether that injury is a temporary disruption of development or a wound that neuroscience confirms will persist throughout the lifespan depends on what we do as soon as the wound is discovered. In cases of custody, separation from an abusive parent often follows such a discovery. This separation from a parent places a life-altering decision in the hands of courts. When that court defers to a custody evaluator, an injured child's rehabilitation needs must be the priority of anyone tasked with determining the environment best suited to meet those needs.

While the implications of this bill are complex, the request today is simply to ensure that this determination only be made by a professional with sufficient training to identify the complex implications on a child's brain when harm done is ignored and warning signs for further harm are not heeded.

On behalf of all those dedicated to both the protection and restoration of children (social workers, child advocates, protective parents, forensic interviewers, teachers and counselors, and child therapists), I ask you to consider a traumatized child cannot recover until her home proves to be a space of physical and psychological safety.

We ask you to accept the science: children cannot begin to heal until they are safe, feel safe consistently, and custodial decision-making is based on a parent's capacity to prioritize research-informed recovery needs.

We cannot begin our work when a child's right to safety is postponed, or considered secondary to an adult's right to parent, or deemed debatable as they wait for a final custody determination.

For providers and court advocates, our most important job is to put adult words to the suffering of children, including making recommendations so that their adult stewards prioritize them above all else. Some children are too young to know the words, others have learned their words won't make a difference, and others reserve them for when the world proves that their safety is the priority. We serve as trained translators for children; today we ask that all custody evaluators be asked to learn the same language before offering a recommendation for custody and visitation in cases involving an abuse allegation.

When a custody evaluation is ordered, this bill proposes that those evaluations be based on what children need most: not the perfect parent, or the one with more financial resources, or the one most equipped to present their case in a courtroom, but one with the greatest capacity to create a safe, secure, and predictable home; an environment most conducive for emotional and psychological rehabilitation, one that can be reasonably predicted to do no further harm and can invite an injured brain to resume typical development.

Whether or not a child heals depends much less on the approach of a therapist or the resiliency of a child but much more on what their world does next.

We all know children are incredibly resilient. However, we cannot rely on a capacity for resilience as justification for a passive response to an active threat to that very capacity. A developing brain either explores or retreats; thrives or survives; attaches to a healthy ally or learns the risk of harm or rejection is just too great. It can grow in the direction of tomorrow or first wait to see if tomorrow is a safe place to be. They are resilient but creating conditions to activate that resilience is on us. In most cases, children survive abuse but let's give injured children a chance to consider that their present circumstance is temporary, and the future is not determined by what has happened but rather how the world responded when it did.

As you consider SB 336, I offer an adult voice to just one of many little voices that was never heard in court.

Until a custody evaluator's report to the court could be finalized, and the protective parent could borrow enough money to pay her share of the unaffordable report, 5-year-old Liam was ordered to continue his Wednesday evenings and every other weekend visit with his father. Liam had done what we tell children to do, to tell a trusted adult if hurt or touched inappropriately. He trusted his mother most of all. Liam told his mom, his teacher, started touching his Pre-K classmates, and asked his therapist to play the penis game. A motion to deny visitation was to be considered at a future date as Liam's mother was told she had to continue dropping him off even when he screamed and hid when it was time to go. He was interviewed once by a stranger and refused to speak. Liam had already told the stories and the forensic interviewer was well-qualified but had no relationship with him.

We seem to forget we don't tell children to wait for a forensic interview with a stranger before saying they have been harmed. We don't tell them to stop sharing with us because we could be accused of coaching. We don't stop a disclosure of sexual abuse and tell them to wait until they visit an expert stranger. Telling his trusted adult, the protective parent, was considered an unfounded allegation because it was not repeated on camera and first told to his mother. From then on, with help from his attorney, Liam's abuser argued he was a victim of parental alienation. The protective parent did seek to alienate her child, as we all would if our child disclosed repeated sexual abuse while displaying all signs and symptoms consistent with the disclosure. Failing to protect includes failing to alienate him from his abuser. All subsequent court hearings centered on Liam's mother attempting to prove she was not the one who harmed her son. The court-ordered evaluator had no training in child development or child abuse, including what would have made all the difference for Liam – understanding the neuroscience behind recognizing signs of symptoms of sexual abuse in young children. The evaluator did not talk with

his daycare provider, teacher, or his therapist. The person with the most information about Liam's change in behavior and functioning was his mother, his full-time caregiver. Yet her data was an opinion just as credible as the abuser's denial.

Liam's father was wealthy; he hired a team of attorneys. He paid travel expenses for experts who testified on his father's behalf, including one who argued a 5-year-old believed in Santa Claus and the tooth fairy so we can't expect him to tell the difference between truth and fantasy. His mother drained her 401K and sold her home. Now traumatized and feeling powerless herself, she was less and less equipped to fight for Liam. Each hearing, whether continued or not, cost her up to 5K. She stopped submitting motions because she had no money to do so. While the court limited the abuser's time and court hearings were continued for one reason or another, Liam continued to travel from a place of safety to a place of danger every week. As Liam and his mother waited for a fair and child-centered hearing, Liam's father showed him his gun collection and told that his mother and his therapist would be killed if he continued to talk. As his father grew emboldened by successful attempts to discredit his mother, Liam lost control of his bladder, clung to his mother, started hitting other children, had chronic headaches and stomachaches, stopped learning in school, and nightmares interrupted his sleep. The only thing that helped him sleep was a trained guard dog who slept next to him every night.

The court ordered child therapy, once a week for 45 minutes as if Liam could heal when his injury was ignored or reopened in between his sessions. If any of us were assaulted and informed the police, I doubt we could function if we were then ordered to have dinner with the assailant on Wednesdays and trust him not to do it again every other weekend, at least until our case could be heard in court next year. No one would pick us up and force us out of the car until the accused had a fair hearing. We would not survive psychologically, and we have adult brain capacity.

Whether or not a child heals does not depend on the type of therapy he receives; rehabilitation depends on how the world responds once the visible or invisible wound is discovered. In short, this bill is part of a comprehensive but common-sense effort to ensure no child citizen's right to safety is postponed and no protective parent needs to buy a guard dog, find a pro-bono attorney and pro-bono therapist, or is asked to choose between handing her injured child to an abuser, or be threatened with contempt of court for refusing to do so. Liam was not safe until he was 8 years old, only after physical evidence was considered sufficient for the court to stop requiring Liam to have dinner with his abuser on Wednesdays and trust him every other weekend. This was a full 3 years after he first showed his mom and his therapist how to play the penis game.

Today, you're hearing all the reasons why this bill is so important. I ask you to consider the impact on the recovery of a traumatized child should we fail to require child or custody evaluators sufficient training in all relevant areas of child abuse.

written testimony SB 336.pdf

Uploaded by: Kathryn Spearman

Position: FAV

**Testimony of
Kathryn Spearman
In Support of Maryland Senate Bill 336
February 9, 2022**

We desperately need legislative change to improve the qualifications and training for the individuals who are tasked with the assessment, evaluation, and decision-making authority to protect vulnerable children.

Thank you Senator Carozza for sponsoring this bill and the opportunity to testify before the Senate Judiciary Committee.

I am a protective parent. I am risking the safety of my children, their continued access to me, as well as my own safety, by sharing it with you. The details and facts that I will share with you are already a matter of public record.

My case started on July 2, 2015. I was married, and a stay-at-home mother to 3 children, ages 4, 2.5, and 5 months old. My then 4-year-old son disclosed to me that his biological father, my then-husband, was sexually abusing him.

I fled with my children. I reported it in good faith: to CPS and the police, as I am required to do by Maryland Law (Maryland Family Law Statute 5-705): “...a person in this State other than a health practitioner, police officer, or educator or human service worker who has reason to believe that a child has been subjected to abuse or neglect shall notify the local department or the appropriate law enforcement agency.”

My son explicitly recounted the sexual abuse he had experienced, at different times, to 2 other adults, including to a therapist at a nationally accredited child advocacy center.

Involvement of Custody Evaluator

My ex-husband and his attorneys requested a custody evaluator, Dr. Gina Santoro. While I brought up concerns about her lack of expertise in child sexual abuse to my attorneys, my attorney at the time assured me that “*Dr. Santoro is a licensed psychologist and has also been a school psychologist. Her experience would include children who have been abused...She has been qualified as an expert in several counties in Maryland – the qualification would be in the area of psychology.*” (Email from C. Nicholson, September 1, 2015). Furthermore, I was told by my attorney that I must consent to a custody evaluator, because the court would view my refusal negatively and would view me as uncooperative. Because of the allegations of sexual abuse made by my son against his father, I was told by my attorney that I was already at risk of losing complete access to my children. I consented. **Dr. Santoro’s fee for conducting a child custody evaluation was \$25,000.** This doesn’t include fees required for any travel, court time, depositions, or any of her preparation time, which ultimately cost me several thousand dollars more. Dr. Gina Santoro was assigned to my custody case by consent order.

Dr. Gina Santoro had a PhD in school psychology. Yet, none of my children were school age at the time – they were all aged 4 or under.

When Dr. Santoro (GS) was asked under oath involving her qualifications (additional questions on her experience and training from her deposition provided in Appendix 1):

Q. Did you take any course only focused on any type of sexual or domestic violence?

GS: No.

Q. ...did you do any work evaluating or investigating or treating child sexual abuse?

GS: No.

Q. ... did you ever evaluate a child to determine if he or she was a victim of sexual abuse?

GS: No.

Q. Did you ever evaluate a child to see if he or she was a victim of any type of abuse?

GS: No.

Q. Have you ever been qualified as an expert in child sexual abuse?

GS: No.

Q. ... Have you ever been qualified as an expert in any type of child abuse?

GS: No.

Q. Have you ever been qualified as an expert in domestic violence or intimate partner violence?

GS: No.

Professionals such as Dr. Santoro, the custody evaluator in my case, should have adhered to the ethical and professional code of conduct that govern her practice as a custody evaluator, but she did not. Per the Association of Family and Conciliation Courts Model Standards of Practice for Child Custody Evaluation: "Evaluators shall only conduct assessments in areas in which they are competent. Evaluators shall have the professional knowledge and training needed to conduct assessments in which special issues are reasonably likely to arise. Such special issues may include...acknowledged or alleged child maltreatment including child sexual abuse..." Dr. Santoro is the president-elect of the Maryland chapter of the Association of Family and Conciliation Courts. And by her own testimony, she conducted an assessment and custody evaluation in an area she acknowledged she had no training and no expertise.

Involvement of Best Interest Attorney

Before the issue of sexual abuse and custody had been adjudicated, and during the time period when my children were still having supervised visits with their father, **I expressed concern that the BIA (Ms. Renee Ades) and supervisor, with the knowledge of the custody evaluator (Dr. Santoro), were allowing the man my child had said had sexually abused him to bathe the children during his supervised visits.**

The best interest attorney, Renee Ades, an appointed member to the 2014 Maryland Commission on Child Custody Decision Making, responded by sending this email to the custody evaluator: "I am not happy that Katie is circumventing baths with the boys. Hopefully, the boys will get filthy playing outside today so there will be no choice but [for father] to give them a bath. Thoughts?" [email from Renee Ades, Esq. to Dr. Gina Santoro on November 1, 2015]

11/2/2015

Webmail 6.0 - Inbox

From: "Renée Bronfein Ades" <renee@adesfamilylaw.com>
Subject: Fwd: Transition notes 11/1
Sent date: 11/01/2015 12:54:15 PM
To: "gina@santoropsychological.com"<gina@santoropsychological.com>

I am not happy that Katie is circumventing baths with the boys. Hopefully, the boys will get filthy playing outside today so there will be no choice but to give them a bath. Thoughts?

Renée Bronfein Ades, Esq.
The Law Offices of Renée Bronfein Ades, LLC
201 N. Charles Street, Suite 1660
Baltimore, Maryland 21201
Phone: 443-438-1244
Fax: 443-438-1245
e-mail: renee@adesfamilylaw.com

The Honorable Michael DiPietro, the presiding judge for my case and now Judge-In-Charge of Family Court in charge of Baltimore City family court Judge DiPietro saw this email, which was admitted as evidence, during the trial. So, while the judiciary opposes SB 336 and argues that existing training and Court Rules are sufficient, it has clearly not been sufficient. Training is needed.

Ms. Ades is faculty of the Judicial College of Maryland and co-chairs the Maryland State Bar Family and Juvenile Law Section and the co-chair of continuing education for the Maryland Bar Family and Juvenile Law section, and Dr. Santoro is the president elect of the Maryland chapter of the Association of Family and Conciliation Courts – responsible for training. These individuals hold some of the highest leadership positions responsible for training custody evaluators, attorneys, and judges in the family court system in the state of Maryland. And, **this is how they communicate about children in a child sexual abuse case in their discoverable professional correspondence.**

Judicial Ruling

In Judge DiPietro's own words from his oral ruling: *"I know that there was testimony suggesting that Dr. Santoro did not have the requisite knowledge, training and skills to perform this evaluation, or the evaluation in this case given the nature of the allegations. **I disagree.**"* [emphasis added]. DiPietro further stated, *"So testimony was received from Dr. Santoro that to a reasonable degree of certainty, that it was extremely unlikely that abuse occurred... I do find [her] testimony credible and afford it great weight."*

Dr. Santoro recommended to the court that I lose full physical and legal custody of my children and only be permitted to have supervised telephone calls for a period of 4-6 months. I had been my children's primary caretaker their entire lives. After that time, she recommended that I may gradually be permitted to have unsupervised visitation with my children, if I was assessed by an independent mental health professional, having undergone cognitive therapy, and if I completed a course in child development and behavior. Dr. Santoro made these recommendations, even knowing the full history of my relationship, including my ex-husband's well documented sexual addiction, extramarital affairs engaging prostitutes, frequent pornography use, and patterns of coercive controlling behavior - including a history of physically holding me down to prevent me from leaving the home, and pulling out a knife, opening and shutting the blade in a threatening manner, when I confronted him.

Domestic violence is about a pattern of behavior, and Dr. Santoro completely disregarded all evidence I produced, leading one expert to write:

"Dr. Santoro stated in her affidavit that [father] was not verbally or psychologically abusive to [mother], as [mother] claimed. There is no way Dr. Santoro can make such a definitive statement unless she lived with the parties 24/7 and they were never out of her sight during their entire relationship. It is unethical for Dr. Santoro to make such a misleading statement while presenting no evidence, documentation, or her written evaluation to support it. It demonstrates a lack of professional neutrality and objectivity, for which child custody evaluators must strive to maintain (Association of Family and Conciliation Courts, 2006). The American Psychological Association (December, 2010) stated "it is crucial that evaluators remain as free as possible of unwarranted bias or partiality (p. 864)"

The worst day of my life was July 21, 2016. Judge DiPietro gave his oral ruling: I lost full legal custody, and 50% physical custody of my children to the person my son had told me and 2 other adults had sexually abused him. Judge DiPietro said: *"Again, if [mother] is of the belief that [father] is an abuser, then I do not believe that she will make legal custody decisions that would necessarily be in the best interest of the children. For example, I'm concerned about giving [mother] sole authority over the choice of medical and therapeutic treatments for the boys. I'm concerned about whether that would be necessarily in their best interest or would it be done to further some other objective."* **I lost legal custody, according to Judge DiPietro, because I had believed the abuse occurred. I believed my son.**

Judge DiPietro further ordered that “extended family members, except for [paternal grandparents], are precluded from visiting the Children” for months after his ruling. **My children could not see any members of my extended family: my children’s cousins, aunts, uncles, grandparents. A huge part of their social support, and my own.**

The psychological trauma from his ruling was so severe that I lost consciousness. The court halted the proceeding, called 911, and paramedics came into the court room to care for me.

Consequences of reporting abuse

As a further consequence of reporting abuse: I was forced to file Chapter 7 bankruptcy due to extraordinary legal fees. I lost my home. Nearly 7 years later my wages continue to be garnished by **the Best Interest Attorney, Renee Ades, who charged over \$360,000 in my case - an amount which was approved by Judge DiPietro.** \$352,777.98 of which was charged for 12 months of work from the period of August 2015 and August 2016. In the state of Maryland, I learned, BIA fees are non-dischargeable in Chapter 7 bankruptcy.

To even get the case to trial in order for a judge to hear the issue of child sexual abuse cost me over \$700,000, the vast majority of which was borrowed from my parents since I was unemployed as a stay-at-home mom and had no assets of my own, except a retirement account which I liquidated to pay legal fees. My parents, who live in another state, paid approximately \$7,000/month in loans for years, which they took out to pay Maryland attorneys fees to protect my children in the custody case in 2015-2016.

Post-separation abuse: Abuse does not stop when you leave.

Since Judge DiPietro’s ruling in 2016 – which I could not afford to appeal - my ex-husband – a high earner who made \$2.94 million in 2020 – continued to file motions and/or lawsuits against me in multiple courts: family court, district court, federal bankruptcy court – and disclosing as recently as last year in the family law case that he was spending over \$19,500 per month in legal fees to litigate against me.

Yet, despite having **full legal custody granted to him by Judge DiPietro and ordered to cover the children’s health insurance and costs, my son’s father (who makes over 7 figures a year) refused to pay \$30 for a cast for a broken arm for my son – the same son who disclosed abuse.** My children have had multiple medical, dental, and mental health needs that have not been met, because their father has prevented them from receiving care.

About a month after he filed the last motion to change custody, **my children’s father left all 3 of our children unattended with a firearm.** A hunting rifle. Which my oldest son picked up thinking it was a toy, in a room with his younger siblings.

Legislation and training around danger assessments, lethality assessments, coercive control, and post-separation abuse are also desperately needed. Accountability is also needed.

My story reflects systemic issues that protective parents and victims of family violence face when they seek safety, and how we are harmed by the very systems we turn to for help and protection. My story is not unique. I am providing testimony to the Senate Judiciary Committee in support of SB 336, because Maryland desperately needs legislative change to protect children in custody cases involving domestic violence and/or child abuse. By speaking out, I am taking an enormous risk. I am terrified of how this testimony will be used against me in family court, how a judge might rule in my case because I have spoken out about my experiences to the legislative branch. I am fearful that I am jeopardizing my children’s access to me and our safety. Custody evaluators need to have training on domestic violence,

child abuse, coercive control, and lethality assessments. Checks and balances are needed. Legislation is the only fix. Please support SB 336.

Appendix 1: Excerpts Dr. Gina Santoro's deposition regarding her experience and training

Q. Would you agree that the phrases "child sexual abuse" "child abuse" and "sexual abuse" do not appear anywhere on your CV?

GS: Yes.

Q. Do you agree that the phrase "forensic interview" and "forensic interviewing" don't appear anywhere on your CV?

GS: Yes

Q. Did any of that coursework include a course in child sexual abuse or anything related to it?

GS: No.

Q. Did - at any point during your doctoral programs when you were getting both your Ph.D and your Ed.S., did you take any courses that were specifically about child sexual abuse?

GS: No.

Q. Did you take any course focused only on sexual abuse?

GS: No.

Q. Did you take any course only focused on any type of sexual or domestic violence?

GS: No.

Q. Okay. When you got your master's degree in school psychology at Towson University, did you take any courses that were focused primarily on child sexual abuse?

GS: No.

Q. Did you take any courses during your master's program that were focused primarily on sexual abuse?

GS: No.

Q. Did you take any courses that were focused primarily on forensic interviewing?

GS: No.

Q. When you got your bachelor's degree in psychology from Salisbury University, did you take any courses that focused on either child sexual abuse, sexual abuse or forensic interviewing?

GS: No.

Q. How about - and this may be even harder --when you were getting your master's, do you recall how many courses had some focus --

GS: Uh-huh.

Q. -- some coverage of child sexual abuse?

GS: I don't recall.

Q. Okay. When you were getting your Ph.D., do you recall how many courses covered the issue of sexual abuse?

GS: I don't.

Q. Okay. Do you - how about for your master's?

GS: No, I don't.

Q. Okay. When you were getting your doctorate, do you recall how many courses, if any, covered, at least in part forensic interviewing?

GS: No, I don't.

Q. Did you evaluate any children to determine if they had been sexually abused when you were at Millersville?

GS: No.

Q. Did you evaluate any children to determine if they had been physically abused or mentally abused when they - when you were at Millersville?
GS: No.
Q. Okay. Did you conduct any forensic interviews when you were at Millersville?
GS: No.

Q. When you worked in the local school system, did you do any work evaluating or investigating or treating child sexual abuse?
GS: No.
Q. So as a school psychologist, from when you finished your Ph.D. program until you stopped being a school psychologist, did you ever evaluate a child to determine if he or she was a victim of sexual abuse?
GS: No.
Q. Did you ever evaluate a child to see if he or she was a victim of any type of abuse?
GS: No.
Q. Did you ever conduct any forensic interviews?
GS: Forensic interviews as a school psychologist?
Q. Yes.
GS: No.

Q. Okay. Now, of the 139 court ordered psychological evaluations [listed on Dr. Santoro's CV], did you ever do an evaluation to determine if a child had been the victim of child sexual abuse?
GS: No.
Q. Of the 139 court ordered psychological evaluations, did you ever do an evaluation to determine if the child had been a victim of any type of abuse?
GS: No.

Q. In what fields or areas of expertise have you been found qualified by a judge to be an expert witness?
GS: Also something I don't keep exact track of. So I have been qualified as an expert in custody evaluations, in psychological assessment for different age groups, for children or adolescents or adults. I have been qualified as an expert in pediatric psychology, in reunification. Topic specific. I believe I've been qualified as an expert in autism and ADHD.
Q. Have you ever been qualified as an expert in child sexual abuse?
GS: No.
Q. Have you ever been qualified as an expert in child abuse more generally?
GS: No.
Q. Okay. Have you ever been qualified as an expert in any type of child abuse?
GS: No.
Q. Have you ever been qualified as an expert in any type of sexual abuse?
GS: No.
Q. Have you ever been qualified as an expert in domestic violence or intimate partner violence?
GS: No.

SB 336 - CPMC testimony re custody evaluator train

Uploaded by: Paul Griffin

Position: FAV



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

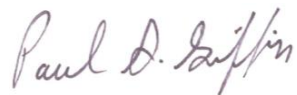
Therefore, CPMC endorses SB 336, which will require sufficient training in order to better understand the impact of traumatic events – such as being exposed to domestic violence or suffering child abuse – on children. The proposed training includes learning about early childhood brain development, how 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,



Paul Griffin

Legal Direct, Child Justice, Inc.

⁴ Report at 35.

SB 336 Senator Carozza Testimony.pdf

Uploaded by: Senator Mary Beth Carozza

Position: FAV

MARY BETH CAROZZA
Legislative District 38
Somerset, Wicomico,
and Worcester Counties

Education, Health, and Environmental Affairs
Committee



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 314
Annapolis, Maryland 21401
410-841-3645 • 301-858-3645
800-492-7122 Ext. 3645
Fax: 410-841-3006 • 301-858-3006
MaryBeth.Carozza@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 9, 2022

The Senate Judicial Proceedings Committee
SB 336 Family Law- Custody Evaluators-Qualifications and Training
Statement of Support by Bill Sponsor Senator Mary Beth Carozza

Thank you Chair Smith, Vice Chair Waldstreicher, and members of the distinguished Senate Judicial Proceedings Committee for this opportunity to present Senate Bill 336, Custody Evaluators – Qualifications and Training, and to respectfully ask for your support for this bill which would help ensure the safety and well-being of children and protective parents involved in State custody proceedings involving child abuse or domestic violence allegations.

Serving on the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations has been one of my most important public service assignments, given the magnitude of the trauma that many children and protective parents experience going through court custody proceedings involving child abuse or domestic violence allegations. I have been granted the opportunity to continue working on domestic violence issues and advocating for children with my recent appointment to the Governor’s Family Violence Council this past October.

My bill, co-sponsored by Senators Susan Lee and Chris West, focuses on the Workgroup’s recommendations dealing with custody evaluators. After hearing from parents, advocates, and legal child custody experts over the past three years, it has become clear that there are no consistent qualifications or training for custody evaluators. This is especially concerning when the courts follow the recommendations in the custody evaluations in over 90 percent of custody cases.

This bill simply requires that certain qualifications and training requirements be met before an individual may serve as a court custody evaluator in these most sensitive cases involving child abuse and domestic violence allegations. The urgent need to establish basic qualifications and training for custody evaluators is heightened by a protective parent, Katie Spearman, who will painfully recount how the custody evaluator assigned to her was a school counselor with no formal training on cases involving sexual abuse.

I know this Committee recognizes that custody evaluators have an important role in assisting family law courts in determining custody outcomes in some of the most sensitive and difficult cases involving allegations of domestic violence and child abuse. We have an obligation to ensure a custody evaluator meets certain qualifications and has completed 20 hours of training and five hours of continued training every two years.

This is the third year in presenting this legislation to this Committee. In an effort to work in good faith and address some of the issues raised by the Judiciary, the bill has been revised to eliminate the Master's degree requirement if other qualifications are met, and the number of hours of training has been reduced from 60 to 20 hours to be consistent with the number of hours in Senate Bill 17 sponsored by Senator West.

Given that the Maryland General Assembly last session unanimously approved legislation (SB 159) sponsored by Vice Chair Waldstreicher to require education and training requirements for animal control officers (80 hours of training and 6 hours of continued training every two years), I believe we can take this same commonsense approach and move forward in approving SB 336 this session. We can ensure that custody evaluators meet certain qualification and training requirements which would result in better protecting the safety and well-being of those children, many of who are experiencing trauma, as they go through a custody court proceeding involving child abuse or domestic violence allegations.

Mr. Chair and Vice Chair, I respectfully urge the Senate Judicial Proceedings Committee Members for a favorable report on Senate Bill 336. Thank you for your kind attention and consideration.

2022 PANDA SB336 Senate Side.pdf

Uploaded by: Suhani Chitalia

Position: FAV

Mid Atlantic P.A.N.D.A. Coalition

5900 Abriana Way, Elkridge, Maryland 21075

From: Mid Atlantic P.A.N.D.A. Coalition

To: Chairman William Smith Jr.

Re: Family Law – Custody Evaluators – Qualifications and Training

Date: January 22, 2022

Dear Chairman Smith,

The Mid-Atlantic P.A.N.D.A. is in Favor of SB 336

We represent the Mid Atlantic P.A.N.D.A. Coalition (Prevent Abuse and Neglect through Dental Awareness). We were established in 2000, our mission is “To create an atmosphere of understanding in dentistry and other professional communities which will result in the prevention of abuse and neglect through early identification and appropriate intervention for those who have been abused or neglected.” Dentists and Dental Hygienists (Dental Professionals) are mandated by the State of Maryland to report suspected cases of abuse and neglect. Our coalition has established a Continuing Education (CE) course that educates Dental Professionals and others how to recognize, report, or refer. The Maryland State Board of Dental Examiners has deemed this course as a mandatory CE requirement for Dentists and Hygienists to renew their licenses. We also address domestic violence, elder abuse, human trafficking and bullying in our CE course.

Through experience our Coalition knows that sound decisions cannot be made without proper education, that is the main purpose of our continuing education course. It is imperative that that a custody evaluator be required to meet educational and experiential requirements in order to serve as an evaluator for the courts. Evaluations must be based on sound information. Due to changes that occur over time it is important to update this information and receive 5 hours of ongoing education and training every 2 years. We have seen in the Dental community that a plan like this works resulting in positive outcomes.

Thank you for your consideration of SB 336 and ask for a favorable vote.

Respectfully submitted,

Mid-Atlantic P.A.N.D.A. Coalition

Carol Caiazza, RDH President

Susan Camardese, RDH, MS, Vice President

Maryland Senate Bill 336 Support for custody evalu

Uploaded by: Daniel Saunders

Position: FWA



SCHOOL OF SOCIAL WORK
1080 S. University Ave.
Ann Arbor, MI 48109-1106
saunddan@umich.edu

Date: February 4, 2022

From: Daniel G. Saunders, Ph.D., Professor Emeritus

To: Maryland Senate Judicial Proceedings Committee

Re: Maryland Senate Bill 336: Custody Evaluators Qualifications and Training

POSITION: Support with Amendment

Chairman Smith, Vice-Chair Waldstreicher, and Members of the Committee, I am grateful for the opportunity to voice my support for Senate Bill 336 and recommend an amendment.

I am a Professor Emeritus at the University of Michigan's School of Social Work. In October 2019, I provided in-person and written testimony to Maryland's "Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations" (my written testimony is [here](#)).

The implementation of the Workgroup's recommendations will significantly improve the lives of Maryland's families by increasing the safety and well-being of survivors of domestic abuse and their children. This bill stems from the Workgroup's recommendations.

Our federally funded research at the University of Michigan shows that training on domestic violence is associated with custody evaluators' recommendations that are more likely to keep children and parents safe. The most crucial training areas were domestic violence screening, danger assessment, and post-separation abuse ([Saunders, Faller & Tolman, 2011](#)).

A clear strength of the bill is the requirement that evaluators have 20 hours of initial training and 5 hours of continuing education every two years. Research shows that ongoing training is necessary for effective responses to domestic abuse in the health care field and similar "booster sessions" are likely to be needed for custody evaluators.

Another clear strength is that the bill requires training on all forms of domestic violence, including sexual violence, stalking, and psychological aggression. As recommended by the Workgroup, "coercive behavior" is a specific topic. This form of abuse can occur without physical abuse yet can be extremely harmful to abuse victims

and their children. It is also a means to abusively pressure victims in custody proceedings.

The list of required training topics is comprehensive. It includes the essential topics of lethality assessment and the impacts of implicit bias and beliefs about false allegations. As I summarized in my testimony before the Workgroup, our research found that gender bias is related to accepting myths about custody and a tendency to grant abusers joint or sole custody.

Last year, opponents of similar legislation argued that topics proposed for training were too specific and subject to change when scientific and practice knowledge change. Based on my research reviews, experience as an expert witness, and familiarity with the field over many years, I do not think this will be the case. New information will logically be added at biennial, ongoing training sessions. However, the initial training has basic topics unlikely to change.

I recommend one amendment. In section C) 3.XI., I recommend changing one training topic from:

“BACKGROUND AND CURRENT RESEARCH-INFORMED LITERATURE REGARDING PARENTAL ALIENATION, ITS INVALIDITY AS A SYNDROME, AND THE INAPPROPRIATENESS OF ITS USE IN CHILD CUSTODY CASES”

to

“CURRENT RESEARCH-INFORMED LITERATURE REGARDING CHILDREN’S RELUCTANCE TO HAVE CONTACT WITH A PARENT. “

Research and court rulings find “parental alienation syndrome” to lack validity. Thus, the proposed language is correct. However, various definitions of “parental alienation” might be confused with “parental alienation syndrome.” Sometimes, they are equivalent. A growing body of research shows that one definition of “parental alienation” validly corresponds with the behavior of many domestic abusers. The term “children’s reluctance” is more inclusive and neutral than “parental alienation.” Children have many reasons for being reluctant to have contact with a parent. “Parental alienation behavior,” defined as a parent turning a child away from the other parent, is one possible reason. Custody evaluators must be trained on these important distinctions and the methods needed to assess them. Furthermore, they need to know that domestic violence and child abuse are more common reasons for a child to be reluctant to have contact with a parent than “parental alienation” ([Saunders, D. G., & Faller, K. C. \(2016\). The need to carefully screen for family violence when parental alienation is claimed. Michigan Family Law Journal, 46, 7-11\).](#)

Because there are very strong proponents and very strong opponents to the concept of “parental alienation” and because it has no single definition, the use of the term leads to misunderstandings and unnecessary arguments. For example, proposed legislation last year to train judges on parental alienation was opposed by the Family

and Juvenile Law Section Council (FJLSC) of the Maryland State Bar Association. Their statement said:

The FJLSC has grave concerns that the provisions proposed to be included in the training are either not in accord with current social science or are a misuse of existing concepts, terms, tools and information. By way of example, proposed Section 9-101.3 (B) (11) regarding parent alienation references only a very small portion of the existing data and research, puts forth on only one side of the debate on this issue and is unclear and misleading. While Parent Alienation Syndrome is not a syndrome recognized by the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5) or other health organizations, there is research to demonstrate that a child will suffer significant damage when one parent engages in a campaign to denigrate the other (For example see Eddy B 2020, Don't Alienate the Kids). Sometimes the behavior results in the child resisting or even refusing contact with the other parent. Regardless of whether it reaches this level, the child at issue suffers harm. This type of behavior is causing significant harm to an untold number of children. Consideration of this circumstance is not inappropriate and, in fact, the opposite is true, consideration of this behavior is critical to the well-being of the child. Section 9-101.3 (B) (11) implies that it is not.

With my proposed amendment, the concept “parental alienation” is subsumed under the concept “child reluctance to parent contact” without using the ill-defined term “parental alienation.”

Thank you for the opportunity to provide comments on this very important legislation aimed at enhancing the safety of Maryland’s families.

Maryland Law.Regs re Custody Evals.2011.pdf

Uploaded by: Katherine Killeen, Ph.D.

Position: FWA

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 36 BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 09 Child Custody Evaluations in Family Law Proceedings

Authority: Health Occupations Article, §18-206, Annotated Code of Maryland

.01 Scope.

- A. This chapter governs the professional conduct of licensed psychologists who are performing child custody evaluations or who otherwise render an opinion on legal or physical custody.
- B. This chapter is not intended to negate the psychologist's obligations to comply with other provisions of this subtitle.
- C. This chapter does not apply to the following types of proceedings:
- (1) Child in need of assistance (CINA) proceedings in accordance with Courts and Judicial Proceedings Article, Title 3, Subtitle 8, Annotated Code of Maryland;
 - (2) Department of Juvenile Services proceedings in accordance with Courts and Judicial Proceedings Article, Title 3, Subtitle 8A, Annotated Code of Maryland; or
 - (3) Termination of parental rights (TPR) proceedings in accordance with Family Law Article, Title 5, Subtitle 3, Annotated Code of Maryland.

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
- (1) "Child" means an individual younger than 18 years old.
 - (2) "Child custody evaluation" means an assessment performed by a psychologist in order to render findings and recommendations regarding custody or visitation that are in the best interest of a child.
 - (3) "Child Custody Proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue.

.03 Preparing for a Child Custody Evaluation.

Before performing a child custody evaluation, a psychologist shall:

A. Obtain a copy of:

- (1) The court order; or
- (2) An agreement signed by the parties;

B. Review the scope of the evaluation as defined by the court's order or the signed agreement and insure that the order or agreement is consistent with the provisions of this chapter; and

C. Obtain the necessary signed informed consent from the parties, which shall include:

- (1) The scope of the custody evaluation;
- (2) The process for conducting the child custody evaluation;
- (3) Limits to confidentiality;
- (4) The basis and rate of fees and expenses for which the client will be responsible; and
- (5) The timeline on which payments are due to the psychologist.

.04 Competence Necessary to Conduct Child Custody Evaluations.

A. To be considered competent to conduct child custody evaluations, a psychologist shall have education, training, experience, or supervision in the following areas:

- (1) Child and adult development and psychopathology;
- (2) Family dynamics and psychopathology, including the impact of divorce;
- (3) Maryland law governing:
 - (a) Divorce;
 - (b) Child custody proceedings;
 - (c) Child abuse and neglect; and
 - (d) Family violence; and
- (4) Performing psychological assessments of:
 - (a) Children;
 - (b) Adults; and
 - (c) Families.

B. A psychologist conducting a child custody evaluation shall have competence to effectively address common issues that may arise in conducting child custody evaluations such as:

- (1) Age;
- (2) Disability;
- (3) Ethnicity;
- (4) Gender;
- (5) Gender identity;
- (6) Language;
- (7) National origin;
- (8) Race;
- (9) Religion;
- (10) Culture;
- (11) Sexual orientation; and
- (12) Socioeconomic status.

C. A psychologist shall have an awareness of the literature relevant to conducting child custody evaluations.

.05 Standards of Practice in Conducting a Child Custody Evaluation.

A. In order to determine legal and physical custody arrangements that serve the child's best interests, a psychologist conducting a child custody evaluation shall:

(1) Assess the following:

(a) Parenting skills and capacities of the adults; and

(b) The child's psychological functioning and developmental needs;

(2) Use multiple methods of data gathering, including, but not limited to:

(a) Individually interviewing and assessing each party and each child, if age appropriate;

(b) Observing the interactions of the child with each parental figure, in the respective households, whenever possible; and

(c) Requesting and assessing additional relevant information whenever possible, such as:

(i) Third-party interviews;

(ii) Medical records;

(iii) School records; and

(iv) Legal documents;

(3) Remain impartial and objective;

(4) Interpret assessment data and clinical information in a manner consistent with current standards of practice;

(5) Base recommendations on the needs and best interests of the child, as supported by the:

(a) Evaluation data; and

(b) Applicable law;

(6) Create and maintain professional records in accordance with COMAR 10.36.05;

(7) Include appropriate disclaimers regarding the limitations of the recommendations, such as:

(a) Unavailability of information;

(b) Lack of cooperation of the parties;

(c) Lack of compliance with court orders; or

(d) Inconclusive assessment data; and

(8) Decline to conduct the evaluation as set forth in COMAR 10.36.05 if the psychologist feels that the psychologist's objectivity would be impaired.

B. In the event a psychologist determines sufficient information is not available, the psychologist may decline to make recommendations.

C. A psychologist performing a child custody evaluation may not:

(1) Engage in multiple relationships with any of the parties to the pending child custody proceeding, including serving as a:

- (a) Mediator;
- (b) Therapist;
- (c) Life coach;
- (d) Parenting coordinator; or
- (e) Litigation consultant; or

(2) Render an opinion concerning the psychological functioning or custodial fitness of a individual involved in the custody proceeding who has not been personally evaluated by the psychologist during the current child custody evaluation.

Administrative History

Effective date: August 22, 2011 (38:17 Md. R. 1013)

MD.Rule.2016.Custody.Visitation.Assessments..pdf

Uploaded by: Katherine Killeen, Ph.D.

Position: FWA

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT
AND CHILD CUSTODY

ADD new Rule 9-205.3, as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

(a) Applicability

This Rule applies to the appointment or approval by a court of a person to perform an assessment in an action under this Chapter in which child custody or visitation is at issue.

Committee note: In this Rule, when an assessor is selected by the court, the term "appointment" is used. When the assessor is selected by the parties and the selection is incorporated into a court order, the term "approval" is used.

(b) Definitions

In this Rule, the following definitions apply:

(1) Assessment

"Assessment" includes a custody evaluation, a home study, a mental health evaluation, and a specific issue evaluation.

(2) Assessor

"Assessor" means an individual who performs an assessment.

(3) Custody Evaluation

"Custody evaluation" means a study and analysis of the needs and development of a child who is the subject of an action or proceeding under this Chapter and of the abilities of the

parties to care for the child and meet the child's needs.

(4) Custody Evaluator

"Custody evaluator" means an individual appointed or approved by the court to perform a custody evaluation.

(5) Home Study

"Home study" means an inspection of a party's home that focuses upon the safety and suitability of the physical surroundings and living environment for the child.

(6) Mental Health Evaluation

"Mental health evaluation" means an evaluation of an individual's mental health performed by a psychiatrist or psychologist who has the qualifications set forth in subsection (d) (1) (A) or (B) of this Rule. A mental health evaluation may include psychological testing.

(7) Specific Issue Evaluation

"Specific issue evaluation" means a targeted investigation into a specific issue raised by a party, the child's attorney, or the court affecting the safety, health, or welfare of the child.

Committee note: An example of a specific issue evaluation is an evaluation of a party as to whom the issue of a problem with alcohol consumption has been raised, performed by an individual with expertise in alcoholism.

(8) State

"State" includes the District of Columbia.

(c) Authority

(1) On motion of a party or child's counsel, or on its own

initiative, the court may order an assessment to aid the court in evaluating the health, safety, welfare, or best interests of a child in a contested custody or visitation case.

(2) The court may appoint or approve any person deemed competent by the court to perform a home study or a specific issue evaluation. The court may not appoint or approve a person to perform a custody evaluation unless (A) the assessor has the qualifications set forth in subsections (d) (1) and (d) (2) of this Rule, or (B) the qualifications have been waived for the assessor pursuant to subsection (d) (3) of this Rule.

(3) The court may not order the cost of an assessment to be paid, in whole or in part, by a party without giving the parties notice and an opportunity to object.

(d) Qualifications of Custody Evaluator

(1) Education and Licensing

A custody evaluator shall be:

(A) a physician licensed in any State who is board-certified in psychiatry or has completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council;

(B) a Maryland licensed psychologist or a psychologist with an equivalent level of licensure in any other state;

(C) a Maryland licensed clinical marriage and family therapist or a clinical marriage and family therapist with an equivalent level of licensure in any other state; or

(D) a Maryland licensed certified social worker-clinical or

a clinical social worker with an equivalent level of licensure in any other state.

(2) Training and Experience

In addition to complying with the continuing requirements of his or her field, a custody evaluator shall have training or experience in observing or performing custody evaluations and shall have current knowledge in the following areas:

- (A) domestic violence;
- (B) child neglect and abuse;
- (C) family conflict and dynamics;
- (D) child and adult development; and
- (E) impact of divorce and separation on children and adults.

(3) Waiver of Requirements

If a court employee has been performing custody evaluations on a regular basis as an employee of, or under contract with, the court for at least five years prior to [effective date of the Rule], the court may waive any of the requirements set forth in subsection (d) (1) of this Rule, provided that the individual participates in at least 20 hours per year of continuing education relevant to the performance of custody evaluations, including course work in one or more of the areas listed in subsection (d) (2) of this Rule.

(e) Custody Evaluator Lists and Selection

(1) Custody Evaluator Lists

If the circuit court for a county appoints custody

evaluators who are not court employees, the family support services coordinator for the court shall maintain a list of qualified custody evaluators. An individual, other than a court employee, who seeks appointment by a circuit court as a custody evaluator shall submit an application to the family support services coordinator for that court. If the applicant has the qualifications set forth in section (d) of this Rule, the applicant's name shall be placed on a list of qualified individuals. The family support services coordinator, upon request, shall make the list and the information submitted by each individual on the list available to the public.

(2) Selection of Custody Evaluator

(A) By the Parties

By agreement, the parties may employ a custody evaluator of their own choosing who may, but need not, be on the court's list. The parties may, but need not, request the court to enter a consent order approving the agreement and selection. The court shall enter the order if one is requested and the court finds that the custody evaluator has the qualifications set forth in section (d) and that the agreement contains the relevant information set forth in section (g) of this Rule.

(B) By the Court

An appointment of an individual, other than a court employee, as a custody evaluator by the court shall be made from the list maintained by the family support services coordinator. In appointing a custody evaluator from a list, the court is not

required to choose at random or in any particular order from among the qualified evaluators on the list. The court should endeavor to use the services of as many qualified individuals as practicable, but the court may consider, in light of the issues and circumstances presented by the action or the parties, any special training, background, experience, expertise, or temperament of the available prospective appointees. An individual appointed by the court to serve as a custody evaluator shall have the qualifications set forth in section (d) of this Rule.

(f) Description of Custody Evaluation

(1) Mandatory Elements

Subject to any protective order of the court, a custody evaluation shall include:

(A) a review of the relevant court records pertaining to the litigation;

(B) an interview of each party;

(C) an interview of the child, unless the custody evaluator determines and explains that by reason of age, disability, or lack of maturity, the child lacks capacity to be interviewed;

(D) a review of any relevant educational, medical, and legal records pertaining to the child;

(E) if feasible, observations of the child with each party, whenever possible in that party's household;

(F) factual findings about the needs of the child and the capacity of each party to meet the child's needs; and

(G) a custody and visitation recommendation based upon an analysis of the facts found or, if such a recommendation cannot be made, an explanation of why.

(2) Optional Elements - Generally

Subject to subsection (f) (3) of this Rule, at the discretion of the custody evaluator, a custody evaluation also may include:

(A) contact with collateral sources of information;

(B) a review of additional records;

(C) employment verification;

(D) an interview of any other individual residing in the household;

(E) a mental health evaluation;

(F) consultation with other experts to develop information that is beyond the scope of the evaluator's practice or area of expertise; and

(G) an investigation into any other relevant information about the child's needs.

(3) Optional Elements Requiring Court Approval

The custody evaluator may not include an optional element listed in subsection (f) (2) (E), (F), or (G) if any additional cost is to be assessed for the element unless, after notice to the parties and an opportunity to object, the court approved inclusion of the element.

(g) Order of Appointment

An order appointing or approving a person to perform an

assessment shall include:

(1) the name, business address, and telephone number of the person being appointed or approved;

(2) if there are allegations of domestic violence committed by or against a party or child, any provisions the court deems necessary to address the safety and protection of the parties, all children of the parties, any other children residing in the home of a party, and the person being appointed or approved;

(3) a description of the task or tasks the person being appointed or approved is to undertake;

(4) a provision concerning payment of any fee, expense, or charge, including a statement of any hourly rate that will be charged which, as to a court appointment, may not exceed the maximum rate established under section (n) of this Rule and, if applicable, a time estimate for the assessment;

(5) the term of the appointment or approval and any deadlines pertaining to the submission of reports to the parties and the court, including the dates of any pretrial or settlement conferences associated with the furnishing of reports;

(6) any restrictions upon the copying and distribution of reports, whether pursuant to this Rule, agreement of the parties, or entry of a separate protective order;

(7) whether a written report or an oral report on the record is required; and

(8) any other provisions the court deems necessary.

(h) Removal or Resignation of Person Appointed or Approved to

Perform an Assessment

(1) Removal

The court may remove a person appointed or approved to perform an assessment upon a showing of good cause.

(2) Resignation

A person appointed or approved to perform an assessment may resign prior to completing the assessment and preparing a report pursuant to section (i) of this Rule only upon a showing of good cause, notice to the parties, an opportunity to be heard, and approval of the court.

(i) Report of Assessor

(1) Custody Evaluation Report

A custody evaluator shall prepare a report and provide the parties access to the report in accordance with subsection (i) (1) (A) or (i) (1) (B) of this Rule.

(A) Oral Report on the Record

If the court orders a pretrial or settlement conference to be held at least 45 days before the scheduled trial date or hearing at which the evaluation may be offered or considered, and the order appointing or approving the custody evaluator does not require a written report, the custody evaluator may present the custody evaluation report orally to the parties on the record at the conference. The custody evaluator shall produce and provide to the court and parties at the conference a written list containing an adequate description of all documents reviewed in connection with the custody evaluation. If custody and access

are not resolved at the conference, and no written report has been provided, the court shall (i) provide a transcript of the oral report to the parties free of charge, or (ii) direct the custody evaluator to prepare a written report and furnish it to the parties in accordance with subsection (i)(1)(B) of this Rule. Absent the consent of the parties, the judge or magistrate who presides over a settlement conference at which an oral report is presented shall not preside over a hearing or trial on the merits of the custody dispute.

(B) Written Report Prepared by the Custody Evaluator

If an oral report is not prepared and presented pursuant to subsection (i)(1)(A) of this Rule, the custody evaluator shall prepare a written report of the custody evaluation and shall include in the report a list containing an adequate description of all documents reviewed in connection with the custody evaluation. The report shall be furnished to the parties at least 30 days before the scheduled trial date or hearing at which the evaluation may be offered or considered. The court may shorten or extend the time for good cause shown but the report shall be furnished to the parties no later than 15 days before the scheduled trial or hearing.

(2) Report of Home Study or Specific Issue Evaluation

Unless preparation of a written report is waived by the parties, an assessor who performed a home study or a specific issue evaluation shall prepare a written report of the assessment and furnish it to the parties. The report shall be furnished as

soon as practicable after completion of the assessment and, if a date is specified in the order of appointment or approval, by that date.

(3) Report of Mental Health Evaluation

An assessor who performed a mental health evaluation shall prepare a written report and make it available to the parties solely for use in the case. The report shall be made available as soon as practicable after completion of the evaluation and, if a date is specified in the order of appointment or approval, by that date.

(j) Copying and Dissemination of Report

A party may copy a written report of an assessment or the transcript of an oral report prepared pursuant to subsection (i)(1)(A) of this Rule but, except as permitted by the court, shall not disseminate the report or transcript other than to individuals intended to be called as experts by the party.

Cross reference: See subsection (g)(6) of this Rule concerning the inclusion of restrictions on copying and distribution of reports in an order of appointment or approval of an assessor. See the Rules in Title 15, Chapter 200, concerning proceedings for contempt of court for violation of a court order.

(k) Court Access to Written Report

(1) Generally

Except as otherwise provided by this Rule, the court may receive access to a report by an individual appointed or approved by the court to perform an assessment only if the report has been admitted into evidence at a hearing or trial in the case.

(2) Advance Access to Report by Stipulation of the Parties

Upon consent of the parties, the court may receive and read the assessor's report in advance of the hearing or trial.

(3) Access to Report by Settlement Judge or Magistrate

A judge or magistrate conducting a settlement conference shall have access to the assessor's report.

(1) Discovery

(1) Generally

Except as provided in this section, an individual who performs an assessment under this Rule is subject to the Maryland Rules applicable to discovery in civil actions.

(2) Deposition of Court-paid Assessor

Unless leave of court is obtained, any deposition of an assessor who is a court employee or is working under contract for the court and paid by the court shall: (A) be held at the courthouse where the action is pending or other court-approved location; (B) take place after the date on which an oral or written report is presented to the parties; and (C) not exceed two hours, with the time to be divided equally between the parties.

(m) Testimony and Report of Assessor at Hearing or Trial

(1) Subpoena for Assessor

A party requesting the presence of the assessor at a hearing or trial shall subpoena the assessor no less than ten days before the hearing or trial.

(2) Admission of Report into Evidence Without Presence of Assessor

The court may admit an assessor's report into evidence without the presence of the assessor, subject to objections based other than on the presence or absence of the assessor. If the assessor is present, a party may call the assessor for cross-examination.

Committee note: The admissibility of an assessor's report pursuant to subsection (m) (2) of this Rule does not preclude the court or a party from calling the assessor to testify as a witness at a hearing or trial.

(n) Fees

(1) Applicability

Section (n) of this Rule does not apply to a circuit court for a county in which all custody evaluations are performed by court employees, free of charge to the litigants.

(2) Fee Schedules

Subject to the approval of the Chief Judge of the Court of Appeals, the county administrative judge of each circuit court shall develop and adopt maximum fee schedules for custody evaluations. In developing the fee schedules, the county administrative judge shall take into account the availability of qualified individuals willing to provide custody evaluation services and the ability of litigants to pay for those services. A custody evaluator appointed by the court may not charge or accept a fee for custody evaluation services in that action in excess of the fee allowed by the applicable schedule. Violation of this subsection shall be cause for removal of the individual from all lists maintained pursuant to subsection (e) (1) of this

Rule.

(3) Allocation of Fees and Expenses

As permitted by law, the court may order the parties or a party to pay the reasonable and necessary fees and expenses incurred by an individual appointed by the court to perform an assessment in the case. The court may fairly allocate the reasonable and necessary fees of the assessment between or among the parties. In the event of the removal or resignation of an assessor, the court may consider the extent to which any fees already paid to the assessor should be returned.

Source: This Rule is new.

MPA Testimony 2022 - Suport with Amendment - SB336

Uploaded by: Katherine Killeen, Ph.D.

Position: FWA



10480 Little Patuxent Parkway, Ste 910, Columbia, MD 21044. Office 410-992-4258. Fax: 410-992-7732. www.marylandpsychology.org

OFFICERS OF THE BOARD

President

Linda McGhee, PsyD, JD

February 7, 2022

President-elect

Rebecca Resnik, PsyD

Senator William C. Smith, Jr. Chair
Judicial Proceedings Committee

Past President

Esther Finglass, PhD

2 East
Miller Senate Office Building
Annapolis, MD 21401

Secretary

Tanya Morrel, PhD

Treasurer

Brian Corrado, PsyD

RE: SB 366 - SUPPORT WITH AMENDMENTS

Representatives-at-large

Shalena Heard, PhD
Jessica Rothstein, PsyD

Dear Chair, Vice-Chair, and Members of the Committee:

Representative to APA Council

Peter Smith, PsyD

The Maryland Psychological Association, (MPA), which represents over 1,000 doctoral level psychologists throughout the state, asks the **Senate Judicial Proceedings Committee to amend and favorably report on Senate Bill 336.**

COMMITTEE CHAIRS

Communications

Robyn Waxman, PhD

The Maryland Psychological Association supports the intent of intent of SB 336 to require appropriate training before a custody evaluator in Maryland can be appointed by the Courts to perform a custody evaluation. Many of the required training areas specified in SB 336 are already included in **Judicial Rule 9-205.3** (see attached). The Judicial Rule specifies that court-appointed custody evaluators “shall have current knowledge in...domestic violence...child neglect and abuse...family conflict and dynamics...child and adult development; and [the] impact of divorce and separation on children and adults.” In addition, **Maryland Regulation 10.36.09** for psychologists (see attached) requires education, training, experience, or supervision in specific areas to ensure that psychologists are “...competent to conduct child custody evaluations.” Specified topics include, among other areas: child and adult development and psychopathology; family dynamics and psychopathology, including the impact of divorce; and Maryland law governing divorce, child abuse and neglect, and family violence.

Diversity

Whitney Hobson, PsyD

Early Career Psychologist

Meghan Mattos, PsyD

Educational Affairs

Laurie Friedman Donze, PhD

Ethics

Cindy Sandler, PhD

Legislative

Pat Savage, PhD

SB 366, as currently written specifies a training curriculum with identified topics. Since the literature and research in these areas, including trauma, emotional abuse, physical abuse, and child sexual abuse, is continually evolving, we are concerned about the specificity of the requirements beginning on page 3, line 16 through page 5, line 20.

Membership

Linda Herbert, PhD

Professional Practice

Selena Snow, PhD

Therefore, the Maryland Psychological Association urges the committee to **amend SB 17 by striking language beginning on page 3, line 20, through page 5, line 20 and by inserting: “AN INDIVIDUAL MUST COMPLETE THE APPROPRIATE TRAINING DEVELOPED BY THE JUDICIARY IN CONSULTATION WITH DOMESTIC VIOLENCE AND CHILD ABUSE ORGANIZATIONS, THE MARYLAND BAR ASSOCIATION, AND REPRESENTATIVES FROM EACH OF THE LICENSED MENTAL HEALTH PROFESSIONAL ASSOCIATIONS.”**

PROFESSIONAL AFFAIRS

OFFICER

Paul C. Berman, PhD

EXECUTIVE DIRECTOR

Stefanie Reeves, CAE

Please feel free to contact MPA's Executive Director Stefanie Reeves at exec@marylandpsychology.org if we can be of assistance.

Sincerely,

Linda McGhee

Linda McGhee, Psy.D., JD
President

R. Patrick Savage, Jr.

R. Patrick Savage, Jr., Ph.D.
Chair, MPA Legislative Committee

SB 336 UNF House of Ruth.pdf

Uploaded by: Dorothy Lennig

Position: UNF



Marjorie Cook Foundation
Domestic Violence Legal Clinic

2201 Argonne Dr • Baltimore, Maryland 21218 • 410-554-8463 • dlennig@hruthmd.org.

TESTIMONY IN OPPOSITION TO SENATE BILL 336

February 9, 2022

DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

House of Ruth is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George's County, and Montgomery County. Senate Bill 336 sets out the educational and training requirements for court custody evaluators. **We urge the Senate Judicial Proceedings Committee to report unfavorably on Senate Bill 336.**

House of Ruth believes it is important that court custody evaluators are fully trained in the areas outlined in the bill. A child custody evaluation is a process in which a mental health expert, often a psychologist or social worker, evaluates a family and makes a recommendation to the court for a custody/visitation/ or parenting plan that is in the child's best interests. It is extremely important for custody evaluators to be fully trained on the adverse childhood experiences, trauma, domestic violence, child abuse, and emotional abuse.

House of Ruth supports the intent of this bill but is concerned about moving the educational and training requirements for court custody evaluators from the Maryland Rules of Court to statute while leaving the rest of the conditions governing custody evaluators in the Maryland Rules. We believe that the Maryland Rules of Court are the correct place for all of the conditions governing custody evaluators as the Court needs to be able to adjust and amend these conditions as necessary to meet its needs and not wait for the next legislative session.

House of Ruth urges the Senate Judicial Proceedings Committee to report unfavorably on Senate Bill 336.

Testimony - SB 336 - Family Law - Custody Evaluator

Uploaded by: Ilene Glickman

Position: UNF

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: February 9, 2022

Subject: **Senate Bill 336:**
Family Law – Custody Evaluators – Qualifications and Training

Position: **OPPOSE/UNFAVORABLE**

The Maryland State Bar Association (MSBA) FJLSC **opposes Senate Bill 336: Family Law- Custody Evaluators – Qualification and Training.**

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.

Custody evaluations and other assessments in matters before the court in which custody and/or visitation are at issue are critical and useful tools in ensuring that the outcome of a case is in the best interests of the child(ren) at issue. Of course, it is critical that the custody evaluator have proper qualifications and training, which this bill is designed to address. However, the FJLSC opposes this bill for the following reason:

1. Currently Maryland Rule 9-205.3 addresses the qualifications and training/experience of custody evaluators.
2. The Section believes that the issue should remain in the Rules Committee.
3. The training and qualification requirements are too specific and onerous. More flexibility is needed and will need to change from time to time as social science changes. This can be accomplished by keeping the issue in Rules Committee.



520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

4. The Section is concerned that passage of the Rule will result in the loss of talented evaluators.

For the reason(s) stated above, the MSBA FJLSC opposes **Senate Bill 336** and **urges an unfavorable committee report.**

Should you have any questions, please contact Michelle Smith by telephone at 410-280-1700 or by e-mail at msmith@lawannapolis.com.

SB336 UNFAVORABLE.pdf

Uploaded by: jeff aichenbaum

Position: UNF

SB336 UNFAVORABLE
Yaakov Aichenbaum

2/4/2022

To the Honorable Senators of the JPR:

I have already expressed my concern about all of the bills that were generated by the MD Workgroup to Study Child Custody Proceedings. The Workgroup was controlled by individuals who promote a gender biased agenda that it is divorced from factual reality and scientific research. As a result, none of its recommendations can be taken seriously or on face value. This is not a question of a legitimate scientific debate as some might claim; rather, it is a question of a social agenda masquerading as science and using the vast resources of the domestic violence industry to capture media attention and to deceive well intended legislators into formulating legislation that will foster this social agenda.

SB336 has many concerning features. First, it proposes to train custody evaluators that parental alienation is junk science and that it should not be an admissible claim in custody cases. As you are hopefully well aware by now, this is false. This fact alone exposes the agenda of the formulators of this legislation (i.e. they are willing to discredit established science to promote their own cause) and thereby discredits the whole bill.

Second, it lowers the bar for the acceptance of DV allegations to a degree that will indict innocent people and tarnish their reputations for life, cause a proliferation of false abuse claims, and facilitate parental alienation. One example of the lowered standards is the acceptance of "child therapy and expressive arts." These controversial therapies are reminiscent of the "memory wars" of the 1990's as well as the famous McMartin Preschool trial. Another example is the clause on page 4 lines 4-6 "*that the lack of a finding of indicted child abuse or child sexual abuse by law enforcement or a local department does not mean that child abuse or child sexual abuse did not occur.*" This "shoot first ask questions later" approach essentially promotes treating a person as guilty until proven innocent. This is a significant challenge to the legal principle of presumption of innocence.

Finally, it is the very same people who have promoted and designed this bill that will oversee the design and implementation of this pseudoscientific training. It is unacceptable to subject Maryland children and their parents to this self-serving indoctrination scheme of a segment of the DV industry. While changes are needed to insure that custody evaluators are sufficiently trained in DV issues as well as parental alienation matters, SB336 will not accomplish this goal. I therefore request that the JPR find this bill unfavorable in its totality. I once again encourage the JPR to formulate quality legislation to address custody issues by eliciting the input of legitimate domestic violence experts (who don't have a gender bias), parental alienation experts and shared parenting experts. I will be most willing to provide you with the contact information for many of the leaders in this field.

Respectfully yours,

Yaakov Aichenbaum, PAS-Intervention Maryland Chapter

info@parentalalienation.com

www.parentalalienationisreal.com

SB 336 - UNF - Women's Law Center of Maryland.pdf

Uploaded by: Laure Ruth

Position: UNF

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.

SB 336_MNADV_UNF.pdf

Uploaded by: Melanie Shapiro

Position: UNF



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

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 336.**

Senate Bill 336 originates from the recommendations of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, which was statutorily created in 2019. The Workgroup heard from numerous professional experts and met over an eighteen-month period to develop their recommendations. Custody evaluators conduct assessments to assist the court in evaluating the health, safety, welfare, or best interests of a child in a contested custody or visitation case. MNADV believes that custody evaluators, and all others involved in the custody determination process, should be fully trained on current science and research on topics related to adolescent development, Adverse Childhood Experiences, domestic abuse, child abuse, and other traumas.

MNADV supports the intent of this bill that would ensure that custody evaluators are fully informed on current best practices and research. Currently, qualifications for a person to be a custody evaluator are contained in Maryland Rule 9.205.3 CUSTODY AND VISITATION-RELATED ASSESSMENTS. The training needs and requirements for custody evaluators is always evolving as new research is developed. Codifying the specific training requirements in Maryland Code as opposed to defining the requirements in the Maryland Rules would require legislative action any time a change is needed. MNADV believes that the Maryland Rules is the appropriate place for the custody evaluator training as it can be updated and amended as needed without legislative action.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on SB 336.**

sb336.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 336
Family Law – Custody Evaluators – Qualifications and Training
DATE: January 26, 2022
(2/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 336. This bill would require all court-appointed or court-approved custody evaluators to have certain experience obtained through observation under clinical supervision or the performance of custody evaluations. Beginning October 1, 2023, custody evaluators must complete at least 20 hours of training on certain topics before appointed or approved by a court and complete at least 5 hours of continuing education and training every two years. The bill would also require courts to provide information about the role, availability, and cost of a custody evaluator in all contested child support, custody, and visitation cases and required custody evaluators provide parties written information regarding their policies, procedures, fees, and costs for the evaluation.

While the Judiciary supports measures that help ensure courts receive trustworthy and accurate assessment evidence, the Court of Appeals is in the best position to determine training and eligibility requirements for custody evaluators. Additionally, the bill is unnecessary in light of the work of the Custody Evaluator Standards & Training Workgroup of the Judicial Council’s Domestic Law Committee, which has been working to implement rule changes and other best practices that are intended to help increase the evidentiary value of custody evaluations and confidence that evaluations are conducted fairly.

The 209th Report of the Standing Committee on Rules of Practice and Procedure included proposed amendments to Maryland Rule 9-205.3 (governing custody evaluations and other related assessments), based on the workgroup’s recommendations.¹ The Court of Appeals adopted those amendments on January 27, 2022 and the rule will

¹ The 209th report is available at <https://www.mdcourts.gov/sites/default/files/rules/reports/209threport.pdf>. The Court of Appeals held a hearing on the 209th Report on January 27, 2022 (see: <https://www.mdcourts.gov/sites/default/files/rules/notices/rulesnotice01272022.pdf>).

set new training requirements for custody and specific issue evaluators, require screening for intimate partner violence, require data collection from high neutrality/low affiliation collateral sources, and will clarify the purpose and use of specific issue evaluations. The Administrative Office of the Courts is collaborating with workgroup members and consultants to support a training program that will meet the guidelines referenced in the amendments to the rule.

Section 9-109 (b) of the proposed bill sets essentially the same qualifications as Rule 9-205.3(d) with one exception: it does not allow the waiver of the requirements as is permitted under section (d)(3) of the rule. The Court of Appeals adopted the rule's waiver provision for the sole purpose of ensuring that court-employed custody evaluators who did not meet the educational qualifications and were working for the courts prior to the adoption of the Rule in 2016 would not lose their jobs. If this legislation is enacted, it would affect two Anne Arundel Circuit Court employees.

The individuals who are eligible to serve as custody evaluators under the Rule are licensed mental health care providers. The current Rule states that they must comply with the continuing education requirements of their fields. For example, eligible psychologists and social workers must complete 40 hours of continuing education in their fields every two years. Also, to maintain their eligibility under the Rule they must have training or experience observing or performing custody evaluations and must have "current knowledge" about 1) domestic violence, 2) child neglect and abuse; 3) family conflict and dynamics; 4) child and adult development; and 5) the impact of divorce and separation on children and adults. These topics encompass the eleven areas of training set forth in the proposed legislation.

The requirement that custody evaluators have experience in the areas set forth in (b)(2) of the bill will erect roadblocks to courts' use of custody evaluations. Evaluators who do not have such experience would be disqualified and the requirement will make it more difficult for practitioners to become qualified. There is already a limited pool of qualified professionals available to do this work, especially in rural parts of the state. This requirement would further limit that pool, as would the requirement that evaluators complete at least 20 hours of initial training in certain topics before court appointment or approval. The topics that must be covered in initial training are both specific and numerous and there is no single existing training program that satisfies them all. The bill does not specify who will provide the training, how it would be funded, or give an indication of how it will be available before the October 1, 2023 effective date of the training requirement. Furthermore, 20 hours of training is a burdensome length for any training course. The additional training and experience requirements will also increase the costs for private custody evaluations and, since the Judiciary often covers the costs of custody evaluations when parties qualify and are granted a waiver, this will have a financial impact on the Judiciary.

The bill requires the court to provide information to the parties regarding the role, availability, and cost of custody evaluations in the jurisdictions. It is not evident why the court would need to provide this information to parties in child support actions. The

purpose of appointing a custody evaluator is to provide expert professional assistance to courts in making difficult custody decisions. If one is needed in a case, the parties will be directed to each court's Differentiated Case Management plans, which currently incorporate custody and visitation-related assessments. In addition, there are jurisdictions that do not currently have custody evaluators who live or work in the jurisdiction, which complicates the information process. Finally, it is not in the courts' purview to investigate and provide the cost of a custody evaluator.

cc. Hon. Mary Beth Carozza
Judicial Council
Legislative Committee
Kelley O'Connor

SB336 - MSBA Opposition Letter (2022.02.07).pdf

Uploaded by: Shaoli Katana

Position: UNF

MEMORANDUM

To: Members of the Senate Judicial Proceedings Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Director

Subject: Senate Bill 336 – Family Law – Custody Evaluators - Custody and Training

Date: February 7, 2022

Position: Oppose

The Maryland State Bar Association (MSBA), as well as the Family and Juvenile Law Section Council of the MSBA, respectfully opposes **Senate Bill 336 – Family Law – Custody Evaluators - Qualifications and Training**. Senate Bill 336 requires that an individual meet certain educational and experiential requirements in order to be appointed or approved by a court as a custody evaluator; requires that, beginning October 1, 2023, an individual complete 20 hours of initial training in certain areas in order to be appointed or approved by a court as a custody evaluator; requires that an individual receive 5 hours of ongoing education and training every 2 years in order to continue to be appointed or approved by a court as a custody evaluator; etc.

MSBA represents more attorneys than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland's legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession.

Proper qualification and training of custody evaluators is critical, as these evaluators conduct evaluations and assessments in cases before the court. However, the training and qualifications of custody evaluators is already covered by Maryland Rule 9-205.3. The process for any amendment to these qualifications or training in the Maryland Rules should follow the appropriate channel through the Rules Committee, not through legislation. SB 336 would infringe on the authority of the Rules Committee.

For the reasons stated above, MSBA opposes SB 336 and respectfully requests an unfavorable report. For additional information, please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.

SB0336_UNF_MedChi_Family Law - Custody Evaluators

Uploaded by: Steve Wise

Position: UNF

MedChi

The Maryland State Medical Society

1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0872
Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Mary Beth Carozza

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Christine K. Krone

DATE: February 9, 2022

RE: **OPPOSE** – Senate Bill 336 – *Family Law – Custody Evaluators – Qualifications and Training*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** Senate Bill 336.

Senate Bill 336 would set requirements beyond those already provided in current law as to who may serve as a court-appointed custody evaluator. The Maryland Rules provide qualifications for a person to serve as a custody evaluator, including having basic mediation training (Rule 17-205(a)) as well as specific training related to family matters, custody, visitation, child support, and other matters (Rule 9-205). More still, they must be licensed mental health providers and comply with the requirements of their field, including continuing education.

MedChi is concerned that these additional requirements would limit the pool of available candidates to serve as custody evaluators and exclude some professionals unnecessarily. This will work an even greater hardship in those parts of the State where mental health providers are already scarce.

For these reasons, MedChi opposes Senate Bill 336.

For more information call:

J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Christine K. Krone
410-244-7000

SB 336 - Oppose - MPS WPS.pdf

Uploaded by: Thomas Tompsett

Position: UNF



February 6, 2022

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Oppose – SB 336: Family Law - Custody Evaluators - Qualifications and Training

Dear Chairman Smith and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens; and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS and WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPS/WPS oppose Senate Bill 336: Family Law - Custody Evaluators - Qualifications and Training (SB 336). Most judges and attorneys would agree that independent forensic psychiatric evaluations can assist the court in deciding a complicated custody or visitation dispute and what is in the child's best interest.

Maryland Rule 9-205.3(d) establishes the qualifications framework for Maryland custody evaluators. As it relates to physicians, the Rule limits the types of physicians who can participate as custody evaluators to those "who [are] board-certified in psychiatry or ha[ve] completed a psychiatry residency accredited by the Accreditation Council for Graduate Medical Education or a successor to that Council[.]". The Rule also states that a psychiatrist or psychiatric resident must comply with the continuing education requirements of his/her field.

A psychiatrist's and psychiatric resident's medical training, let alone continuing education, is rigorous and time-consuming. The additional educational mandate proposed under SB 336's attempt to codify Rule 9-205 is unnecessary as it pertains to psychiatrists and psychiatric residents. An additional twenty (20) hours of continuing education for custody evaluators will do nothing more than dissuade the already limited number of psychiatrists who act as custody evaluators from participating further.

MPS/WPS, therefore, ask this honorable committee for an unfavorable report. If you have any questions with regard to this testimony, please feel free to contact Thomas Tompsett Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Legislative Action Committee