



State Council on Child Abuse and Neglect (SCCAN)

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TESTIMONY IN SUPPORT OF HB 561

Child Custody - Cases Involving Child Abuse or Domestic Violence - Training for Judges

****SUPPORT****

TO: Hon. Luke Clippinger Chair, and members of the Senate Judicial Proceedings Committee

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

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The Maryland State Council on Child Abuse and Neglect (SCCAN) is a multidisciplinary advisory body – including, pediatricians, law enforcement, child welfare and social services professionals, educators, mental health professionals, public health professionals, and individuals with lived experience – with expertise in child abuse and neglect 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.”

SCCAN strongly supports HB 561 which requires the Maryland Judiciary to 1) develop, in consultation with domestic violence and child abuse organizations, a training program for judges presiding over child custody cases involving child abuse or domestic violence 2) review and update the training at least every two years 3) ensure that an organization providing the training has at least three years’ experience in training professionals on child abuse or domestic violence or personnel or planning committee members who have at least five years’ experience in working directly in the field of child abuse prevention and treatment or domestic violence prevention and treatment 4) adopt procedures to identify child custody cases involving child abuse and domestic violence 5) ensure that judges receive at least 20 hours of training within the first year of presiding over custody cases involving child abuse or domestic violence: and, an additional two hours of training every 2 years thereafter, and 6) report the name of judges who do not comply with these training requirements to the Commission on Judicial Disabilities.

The Council supports the findings and recommendations of the Final Report of the *Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations*. As the report notes, in 2018, the U.S. House of Representatives adopted a resolution “declaring that allegations of domestic violence and child abuse are often discounted in child custody litigation, thereby placing children at ongoing risk when abusive parents are granted custody or unprotected parenting time by courts.” Presentations and research articles submitted to the Workgroup estimated that up to 58,000 children each year in this country are ordered by a court into some form of unsupervised contact with a physically or sexually abusive parent. Some of the children end up abused again; others are subsequently killed by

the abusive parent.

Determining the “best interest of the child” in custody cases involving child abuse and domestic violence allegations can quite literally be a matter of life and death for a child; and, at the very least be the difference between putting the children involved on a path of healing or a path of ongoing exposure to trauma and its detrimental consequences.ⁱ Core to application of the “best interest of the child” standard is an understanding of the healthy social, emotional, mental, and physical development of a child, including a primary need for a sense of safety. Decisions made in “the best interest of the child” must be informed by current research of social, emotional, physical development of children as well as the impact of adversity (like child abuse and domestic violence) on that development, rather than ill-informed understandings of child safety, healthy development, and well-being.

The subject matter list of training content in HB561 was developed by multi-disciplinary Workgroup members with expertise in child abuse and domestic violence after considering months of testimony by multiple experts in child custody proceedings involving child abuse and domestic violence, including those with lived experience. Some have suggested that the “list of topics” is too specific and would require regular modification of those training topics as theories or vocabulary change, without suggesting which topics are of concern for this fate. The terms used (e.g., adverse childhood experiencesⁱⁱ, trauma, complex trauma, toxic stressⁱⁱⁱ, grooming^{iv}, delayed disclosure, coercive control, lethality assessments^v, explicit and implicit bias, and expressive arts therapy) are *all terms that have been used and accepted in child abuse and domestic violence research for decades*. The subject matters were drafted by the Workgroup and legislative staff to allow the training in each subject matter to develop as the science develops. Indeed, HB 561 requires that the training be reviewed and updated at least every two years. If another critical subject matter develops, it hardly seems onerous to amend the statute to include it; and, the judiciary is not prohibited by HB 561 from adding it voluntarily.

It has also been suggested that the training issues raised in HB 561 would be better addressed by providing domestic violence and protective parents with attorneys and ensuring that attorneys have the resources to present expert testimony. The Workgroup heard testimony on the prohibitive costs of custody proceedings (including for expert witnesses) and the increasing number of *pro se* litigants in child custody proceedings involving child abuse and domestic violence. While funding to provide *pro se* litigants and children with counsel and expert testimony is an admirable policy goal, it is not likely to happen soon and if it were to happen would be significantly more costly and administratively burdensome to the Judiciary than the proposed training in HB 561. Most importantly, children whose healthy development is being impacted today cannot wait. Additionally, the training outlined in HB 561 would eliminate the need for each parent that comes before the court in these cases to provide expert witnesses on the core scientific concepts that impact each of these cases—a savings in both time and money for parents and the courts.

Child safety, healthy development, and well-being should be paramount in child custody cases involving allegations of child abuse or domestic violence. Child custody and visitation determinations in these cases determine the trajectory of a child’s life, and, in some cases whether or not a child lives or dies.

For these reasons, we urge a favorable committee report and passage of House Bill 561.

ⁱ <https://www.cdc.gov/vitalsigns/aces/index.html>

ⁱⁱ Felitti, V. J., et al. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults. The Adverse Childhood Experiences (ACE) Study. *American Journal of Preventative Medicine*, 14, 245-258.

ⁱⁱⁱ Center on the Developing Child at Harvard University (2014). *A Decade of Science Informing Policy: The Story of the National Scientific Council on the Developing Child*. Retrieved from www.developingchild.harvard.edu.

^{iv} A. Burgess, C, Hartman (2018). The Origin of Grooming. *Journal of Interpersonal Violence*, 2018, Vol. 30(1), 17-23.

^v D. Kelly Weisberg, Lethality Assessment: An Impressive Development in Domestic Violence Law in the Past 30 Years, 30 *Hastings Women's L.J.* 211 (2019).

Available at: <https://repository.uchastings.edu/hwlj/vol30/iss2/5>