

# Vote FAVORABLE for HB0564 (2022)

vince mcavoy

I thank Delegate Dan Cox and you, Committee, for hearing my testimony today in favor of **HB564, Family Law – Child Custody and Visitation – Disease or Illness.**

## Separation of Powers

Committee, the primary reason you should vote for this bill – from a technical stance - concerns **separation of powers.** The Maryland Judiciary has taken upon itself to adopt a policy which is an unsolicited extension of annotated code. It makes assumptions you haven't instructed the Courts to abide by. Your insights on individual family cases haven't been folded into the *sua sponte* actions by the local Circuit Courts and the appellate court of Maryland. The case Shelton vs. Shelton ( No. 1320, Sept. 2020) is apparently being used as precedent by the Judiciary as a means to whitewash instances where child custody has wrongfully been denied. Cases like it have run through court systems across the nation since 2020, including a case where a mother was the offended parent in Illinois.

Though the Maryland General Assembly was shut down early in 2020, the Judiciary could have easily brought this issue to Session in 2021 or 2022 and they did not.

Today you may also hear direct testimony whereby this appellate case was used by a Baltimore region en banc panel of judges as a rationalization to refuse to make-up any of the 9 months of court-ordered child visitation the father was deprived of. The Maryland Judiciary should be “checked” by your branch of government.

## Bill reduces stress in family

Children thrive on healthy routine.

What is more important to the children and families of Maryland than governmental oversight is that Delegate Cox's bill will reduce stress in family. His bill can alleviate arguments over detailed medical issues yielding no clear resolutions. Whether the concern is a COVID issue or a persistent cough or diabetes, the manner to handle medical exceptions and questions is through motions with the appropriate court and sound medical assistance. Unilateral gate-keeping, parental alienation and incorrect diagnoses harm children's routines. When parents in Maryland are (once again, through HB564) directed to seek lawful, professional guidance prior to denying child visitation for non-emergent issues, the children of Maryland can look forward to steady, child visitation routines. Children need routine.

## Make-up Parenting Time is NEVER Made Whole

As I've explained in Annapolis for years, divorced/separated parents – chiefly mothers – alienate children from a parent by refusing to honor court-ordered child visitation specifically and child access in general. It is rare that a father who has been through contested family law court proceedings will be offered additional time with their child. The opposite is often the case – fathers tend to be unlawfully deprived of child custody, further stealing from what little time fathers are provided in Maryland. So put yourselves in the shoes of fathers who go through the effort to fight for resuming court-ordered child visitation....fathers who've been missing the love and society of their children for weeks, more likely months and sometimes over a year. Fathers who have had to demand the court use legal authority to reinstate the court-ordered child visitation they were relegated through a previous court process or prior litigation. Can you imagine filing paperwork, paying to have it properly served, show up on your court date, hear a judge agree with you that the actions of your child's mother are contemptuous and yet & still NOT be given make-up time? Make-up time is written in annotated code; yet in 10 years I don't know of anyone who's received more than a day of make-up time. That's **wrongful**. Judges are not observing the intent of F.L. §9-105.

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We should find it reprehensible that court-ordered, child visitation is being denied under false pretense for months or even a year at a time. This bill will snap the judges to attention regarding parental alienation exhibiting itself through wrong-acting parents who would use COVID as a cover to whitewash actions they know to be lies and fraud. This is how we exercise a path to equity, fairness and justice. And your colleagues – current and former - agree with you.

## Your Colleagues have acknowledged this bias & HB564 helps to heal

### **Maryland's History of 'Maternal Preference'**

“ ..Moreover, elevation of women's legal status during the nineteenth and twentieth centuries also contributed to the movement from 'paternal' to 'maternal' preference. Maryland adopted the maternal preference presumption, considering mothers to be the natural custodians of young children, and courts generally granted custody to mothers unless they were found to be unfit. ”

<http://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=1798&context=lf>

### **Senator A. Muse, Senate Judiciary on SB1004**

"...equal value to each parent in his or her role in rearing a child...

for decades a *de facto* presumption in FAVOR of the mother has existed in Maryland courts... "

<https://mgahouse.maryland.gov/mga/play/a99d59956c754404a29ac652173973af/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=1432964>

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb1004/?ys=2014rs>

## Our policies, systems and family law attack Maryland's fit, rightful fathers

### **Delegate (now Senator) Jill P. Carter, House Judiciary to Domestic Violence crew**

"...It affects the entire rearing of that child...generations and generations of children that we often struggle to keep parents in the lives of children because we have so many, so many bad consequences resultant from fatherless children...children that are not having enough involvement, attention from fathers.”

<http://mgahouse.maryland.gov/mga/play/88e6074a4f7b464f9c195bf77007f739/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=5220000>

### **Delegate Darren Swain, House Judiciary on Delegate Carter's HB1440**

"...my concern as a single-dad, I totally DIS-agree that there isn't a bias...

because I experienced that... and when I hear people come in and make these assumptions that that shouldn't be the case, it really disturbs me...the assumption should be that to the extent possible we should have both parents fully engaged and involved in a child's life...."

<http://mgahouse.maryland.gov/mga/play/88e6074a4f7b464f9c195bf77007f739/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=4175000>