

SB 0028 - Legal Decision Making and Parenting Time

Uploaded by: Brett Smoot

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

January 30, 2023

Senator William C. Smith Jr.
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: Maryland Legal Aid's Written Testimony in Support of SB 28 – Legal Decision Making and Parenting Time

Dear Chairperson Smith and Committee Members:

Thank you for the opportunity to present testimony in support of SB28, a bill that seeks to codify what factors courts consider when determining “legal decision making” and “parenting time” in calculating the best interests of children in family law matters. Maryland Legal Aid (MLA) is Maryland’s largest non-profit law firm, with 12 offices serving each of Maryland’s 24 jurisdictions, providing free civil legal services to the state’s low-income and vulnerable residents. Our advocates represent individuals and families who are fighting each day to make ends meet, yet struggle with basic needs, consumer debts, and housing stability. MLA submits this written testimony at the request of Senator West. We ask this committee to grant SB 28 a favorable report and urge its ultimate passage.

MLA is involved in family law cases that are high conflict, contested matters where there is an imbalance of power. Even where MLA is unable to provide full representation, our organization provides legal advice for parties who intend to proceed without an attorney. This letter serves as notice that Brett Smoot, Esq., will testify on behalf of Maryland Legal Aid at the request of Senator West.

SB 28 will clarify the best interest standard for litigants, attorneys, and the court. This codification of existing case law makes the law more accessible for MLA’s clients. For low-income litigants who cannot afford an attorney, case law on custody is inaccessible and difficult to understand. Codifying the factors which have already been established by the current case law will empower low-income Marylanders to have the same access to these factors, better enabling both represented and unrepresented litigants to navigate the legal process.

Further, codifying the factors will provide uniformity in how custody decisions are made. Currently, the best-interest factors are established across several court cases. Judges across the state do not refer to the exact same set of factors or cite the same cases when making best interest determinations. Thus, SB 28 will provide consistency and clarity for the court in custody decisions.

SB 28 also utilizes updated terminology that further clarifies the law: “legal decision making” instead of legal custody, and “parenting time” instead of physical custody, access, or visitation. This terminology has already been adopted in the court’s implementation of parenting plans. SB 28 will standardize this language in terms that lawyers and non-lawyers alike can more easily understand.

This bill is a welcome development that will further ensure the public’s access to justice by codifying child custody factors and standardizing legal language. Thank you for considering this written testimony. **For the reasons stated above, MLA urges a favorable report on SB 28.**

Sincerely

Alice V. Mutter, Esq.
Senior Attorney for Family Law
Maryland Legal Aid
amutter@mdlaborg
301-637-1062

SB28 West FAV.pdf

Uploaded by: Christopher West

Position: FAV

CHRIS WEST
Legislative District 42
Baltimore and Carroll Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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January 31st, 2022
Senate Judicial Proceedings Committee
The Honorable William C. Smith Jr.
2 East Miller Senate Building
Annapolis, MD, 21401

Re: Senate Bill 28 - Child Custody – Legal Decision–Making and Parenting Time

Dear Chairman Smith and members of the Committee,

Under Maryland law, the courts resolve child custody disputes based on a determination of what is in the child’s best interests. The courts determine the best interest by a series of factors from parent fitness and reputation, child preference and health, as well as separation length and opportunity of visitation.

Traditionally, when one parent was granted custody of a minor child, the other parent would generally be awarded visitation rights. In 1984, the Court of Appeals first recognized and applied the concept of “joint custody” in *Taylor v. Taylor*. The ruling explained that, within the meaning of “custody” are the concepts of “legal” and “physical” custody. “Legal custody” is defined as the right and obligation to make long-range decisions involving the education, religious training, discipline, medical care, and other matters of major significance concerning the child’s life and welfare. “Physical custody” means the right and obligation to provide a home for the child and to make the day-to-day decisions required during the time the child is with the parent having such custody.

Senate Bill 28 alters provisions of law relating to child custody and visitation proceedings and establishes numerous factors for courts to consider in cases involving legal decision making and parenting time. “Legal decision making” and “parenting time” are analogous of “legal custody” and “physical custody” respectively. The Bill also establishes that a court may award legal decision making or parenting time to one parent or jointly to the parents. No parent is presumed to have any right to legal decision making or parenting time that is superior to the right of another parent. The bill also specifies that a parent is a biological parent, an adoptive parent, or an individual a court has deemed to be a *de facto* parent.

Furthermore, Senate Bill 28 establishes a new subtitle specifying numerous factors for judicial consideration in cases involving legal decision making and parental responsibility. The purpose of the provisions includes (1) promoting stability and long-term health and welfare for children by specified methods; (2) providing children with physical and emotional security and protection from exposure to conflict and violence; and (3) providing for an expeditious, thoughtful, and consistent process for decision making by courts to protect the best interests of children.

This Bill is a comprehensive addition to child custody decisions which will further ensure the safety and prosperity of young Marylanders with separated parents.

I appreciate the Committee's consideration of Senate Bill 28 and will be happy to answer any follow-up questions the Committee may have.

Senator West Amendment

Uploaded by: Christopher West

Position: FAV



SB0028/123221/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

30 JAN 23
15:28:52

BY: Senator West
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 28
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 15, strike “and 9–107”.

On page 2, in line 2, strike “9–103, 9–104, 9–105, 9–106, and” and substitute “and 9–103 through”.

AMENDMENT NO. 2

On page 6, in line 15, after “9–107.” insert “1 9–111.”; and in line 31, strike “custody or visitation” and substitute “LEGAL–DECISION–MAKING OR PARENTING–TIME”.

On page 7, in line 8, strike “custody or visitation” and substitute “LEGAL DECISION MAKING OR PARENTING TIME”; in line 12, strike the closing bracket; and in line 13, strike “9–111.” and substitute “9–112.”.

SB 28 FAV House of Ruth.pdf

Uploaded by: Dorothy Lennig

Position: FAV



Marjorie Cook Foundation
Domestic Violence Legal Clinic

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

TESTIMONY IN SUPPORT OF SENATE BILL 28

January 31, 2023

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. The House of Ruth Domestic Violence Legal Clinic has offices in Baltimore City, Baltimore County, Prince George's County, and Montgomery County. Senate Bill 28 requires the court, in determining the appropriate allocation of legal decision making or parenting time between the parties, to consider certain factors. **We urge the Senate Judicial Proceedings Committee to favorably report on Senate Bill 28.**

SB 28 codifies the factors that courts must consider when making decisions about how to allocate "parenting time" and "legal decision making" authority. These terms would replace "custody" and "visitation" in an effort to better describe the rights and responsibilities of parents vis-à-vis their children. Currently, determinations regarding children are made based on factors set forth in several Maryland appellate cases. While attorneys are able to read these appellate decisions and determine how the factors apply to the facts of a particular case, most unrepresented litigants would have difficulty finding the right cases and analyzing them appropriately. Thus, unrepresented litigants are disadvantaged in their ability to present the testimony and evidence a court needs to render a decision. Codifying the factors in a single statute makes this information accessible to everyone. With passage of this bill, Maryland would join the majority of states that statutorily clarify how courts are to make determinations regarding children.

SB 28 rests on the premise that neither parent is presumed to have any right to legal decision making or parenting time that is superior to the right of the other parent, and emphasizes that judges are to focus on the needs of an individual child and the parents' respective abilities to meet those needs. SB 28 ensures that child access cases are not determined in cookie-cutter fashion, but rather that each child and family's situation is judged on its own merits based on the needs of the children and the resources of the family.

The House of Ruth urges the Senate Judicial Proceedings Committee to report favorably on Senate Bill 28.

SB 28 - FAV - Women's Law Center of MD.pdf

Uploaded by: Laure Ruth

Position: FAV

BILL NO.: Senate Bill 28
TITLE: Family Law – Legal Decision Making and Parenting Time
COMMITTEE: Judicial Proceedings
DATE: January 31, 2023
POSITION: **SUPPORT**

Senate Bill 28 would provide a much-needed overhaul and update to our custody laws in Maryland. The Women’s Law Center supports Senate Bill 28 because it codifies existing Maryland case law regarding custody determinations using the best interests of the child standard. It would also make language changes to better identify and support the relationships between parents and children. SB 28 is the revised product of a more than one year Child Custody Decision-Making Commission almost 10 years ago that by a majority agreed the “best interests of the child” standard remains the best way for courts to make custody decisions. The language of this bill is modified from prior years’ efforts, to reflect language used in the now mandatory parenting plans.

Currently, there is no statute that sets out the factors a court must consider in making a custody determination. Codifying case law, especially for self-represented litigants, would be of great benefit to our litigants and courts. No current statute clearly articulates all factors to be considered. Judges, lawyers, and litigants must interpret case law and do not have the benefit of a legislative description of the factors to be considered. This is particularly problematic for self-represented litigants who are hampered in their ability to appropriately present their case for custody and/or visitation without clear and accessible law. In some jurisdictions, as many as 80% of custody cases have one or both parties unrepresented by an attorney. Senate Bill 28 incorporates standards developed by Maryland courts in case law into statutory provisions and carefully outlines the mandatory and non-mandatory factors that a court considers, as well as factors a court may not consider. It also updates our laws to reflect society today. *At the very least*, changing the language of child access determinations would benefit families in Maryland and perhaps change dialogue and attitudes. On our statewide Family Law Hotline we so often hear people describing being engaged in a “custody battle.” Terms such as “visitation” support outdated thoughts about parenting, and do not help parents to move forward in a healthy manner.

Senate Bill 28 would not preclude a court from ordering joint legal and/or shared physical “custody.” Instead, by focusing always on the impact of child access arrangements on the children involved in a case, SB 28 recognizes, as does current case law, that custody decisions should be child focused, and that each case is unique and requires an individualized evaluation of what is in the best interests of the child. The Women’s Law Center recognizes and deeply respects the benefits of having both parents actively involved in a child’s life. However, it is appropriate only when the parents are able to work together in the best interests of the child, but can be damaging and dangerous in inappropriate situations, such as where there is domestic violence.

For these reasons, the Women’s Law Center urges a favorable report on Senate Bill 28.

The Women’s Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.

Custody - testimony - senate - 2023 - SB28 FAV.pdf

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
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For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Supporting Senate Bill 28
Lisae C. Jordan, Executive Director & Counsel
January 31, 2023

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 28.

Senate Bill 28 – Child Custody – Legal Decision Making and Parenting Time

This bill codifies and updates Maryland's law regarding custody. It continues to include important protections for survivors of child sexual and physical abuse, child neglect, and domestic violence.

SB28 maintains and recodifies the current §9-101 and §9-101.1 which require that judges consider prior abuse against a child or parent of a child, respectively. Under the new §9-104 (formerly §9-101), if a court has reasonable grounds to believe that a child has been abused or neglected, the court must determine whether the abuse or neglect is likely to occur again. Unless the court specifically finds that there is no likelihood of further abuse or neglect, then the court is required to deny legal decision making or parenting time except for a supervised parenting time arrangement that assures the safety and physiological, psychological, and emotional well-being of the child.

The new §9-105 (formerly §9-101.1) imposes similar requirements when one party has abused the other parent of the party's child, the party's spouse, or a child residing within the household. Under this provision, courts are also required to make legal decision making or parenting time arrangements that best protect the child who is the subject of the proceeding and the victim of abuse.

Importantly, SB28 does not create a presumption for sole or joint custody, but maintains a best interests of the child standard as the touchstone for decision-making. Judges should have the discretion – and the duty – to consider all factors related to the best interests of a child. This child-centered focus should not be changed with a presumption.

We also note that SB41 would enact additional clarification to 9-101 and provide clear focus on the needs of survivors of child sexual abuse, intimate partner rape, and other family violence. MCASA appreciates and supports these policy goals and views the bills as complimentary.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report favorably on Senate Bill 28**

sb28.pdf

Uploaded by: Matthew Pipkin

Position: FAV

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

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 28
Child Custody – Legal Decision Making and Parenting Time
DATE: January 18, 2023
(1/31)
POSITION: Support

The Maryland Judiciary supports Senate Bill 28. This legislation would amend Title 9 of the Family Law Article (Child Custody and Visitation).

The Judiciary supports the codification of the factors set forth in § 9-202(a) of the bill. These factors are consistent with those adopted by the Court of Appeals in Maryland 9-204.1 (Parenting plans). Their codification would increase transparency of custody determinations while maintaining the court's ability to consider a family's unique facts and circumstances.

cc. Hon. Chris West
Judicial Council
Legislative Committee
Kelley O'Connor

SB 28_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 28
TITLE: Child Custody - Legal Decision Making and Parenting Time
COMMITTEE: Judicial Proceedings
HEARING DATE: January 31, 2023
POSITION: **SUPPORT**

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 a favorable report on SB 28.**

Senate Bill 28 codifies existing Maryland case law regarding custody determinations using the best interests of the child standard. There is no current statute that encompasses or delineates the factors a court must consider for custody determinations. Codifying factors will be especially beneficial to pro se litigants who would have the benefit of clear statutory language outlining the factors a court will and will not consider since they may not have access to or understanding of appellate case law.

Senate Bill 28 recognizes, as does current case law, that custody decisions should be child focused. There is no custody presumption in SB 28. Neither parent is presumed to have any right to legal decision making or parenting time that is superior to the right of the other parent. MNADV supports the premise that the court should be focused on each family and child's unique circumstances and needs when making custody determinations. Custody decisions should be made absent any presumptions and by carefully weighing all the factors. In families where there is domestic violence it may or may not be in a child's best interest to have both parents actively involved in a child's life, a court can only reach that decision after careful evaluation of the factors in SB 28.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 28.**

SB 28_FJLSC_fav.pdf

Uploaded by: Michelle Smith

Position: FAV

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: January 31, 2023

Subject: **Senate Bill 28:**
Child Custody – Legal Decision-Making and Parenting Time

Position: **FAVORABLE**

The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 28 – Child Custody – Legal Decision-Making and Parenting Time**

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.

In 2013 the General Assembly convened the Commission on Child Custody Decision Making. The Commission was charged with studying child custody decision-making and offering recommendations to improve and bring statewide uniformity to the process of custody determinations by courts. Dozens of experts met over 90 occasions to examine current procedures, psychological research, process in other jurisdictions and best practices. SB 28 is an outcome of the efforts of the Commission.

In the Final Report issued December 1, 2014, the Commission set forth ten “guiding principles” that were approved by the Commission. The first of these principals was:

The need for a Maryland Custody Decision-Making Statute providing a clear, consistent, predictable, gender-neutral process guiding custody determinations for litigants, lawyers, and judges, focusing on factors that affect a child’s long-term adjustment, including significant regular contact with each parent, parenting quality, a child’s developmental

needs, the quality (conflict or not) of the relationship between the parents or parent figures, the parents' psychological adjustment, and a child's need to maintain significant relationships. (Commission on Child Custody Decision Making, Final Report, p.8)

Currently, determinations regarding child custody are made based on factors set forth in several Maryland appellate cases. In order to know what testimony and evidence to present to a court in support one's claim for custody, a litigant has to identify the correct appellate decisions and be able to distill the legal holding of the case and correctly apply it to the facts of their own case. While this may be fairly straightforward for experienced family law attorneys, most unrepresented non-lawyer parents would find this to be a herculean task. Further, the appellate decisions at issues are decades old and not necessarily reflective of today's families and the modern demands of parenting. SB 28 which seeks to codify the factors that a court must consider when deciding custody and parenting time issues, makes this information available and accessible to all litigants and reflects the best practices regarding such decisions.

SB 28 rests on the premise that neither parent is presumed to have any right to custody or parenting time that is superior to the right of the other parent. SB 28 sets forth a uniform method for courts to analyze the circumstances of each individual child and family and make decisions that are in the best interest of those individual children. This is the approach that will best protect the health, safety and welfare of Maryland children.

SB 28 also codifies the use of the term "parenting time" instead of physical custody, access or visitation with one's own child as well as "legal decision-making" instead of legal custody. These terms are already widely in use as the laws have already been changed over the past several years to require submissions to the court of proposed parenting plans using this terminology by litigants throughout Maryland. Thus, SB 28 also serves the important function of codifying those terms so our family law code will be consistent and less confusing.

SB 28 represents thousands of hours of analysis by leading experts in a variety of disciplines related to children and the legal processes used to determine custody issues. SB 28 is an important evolution in the way Maryland courts make decisions regarding children.

For the reason(s) stated above, the MSBA FJLSC **supports Senate Bill 28 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith at 410-280-1700 or msmith@lawannaplois.com or Lindsay Parvis at 240-399-7900 or lparvis@jgllaw.com.

MACA 28 concerns.pdf

Uploaded by: Rael LaPenta

Position: FWA

My name is Rael LaPenta. I represent an organization of mothers, who believe in protecting the rights and well-being of children, MACA- Mothers Against Child Abuse. We stand up against child abuse across our nation.

I need to share our concerns regarding SB28, Child Custody – Legal Decision Making and Parenting Time. On behalf of MACA, we can support this bill if a few critical changes are made to the current language. We believe the intent of this legislation is wonderful, but practically there are many concerns:

(2) TO PROVIDE CHILDREN WITH PHYSICAL AND EMOTIONAL SECURITY AND PROTECTION FROM EXPOSURE TO CONFLICT AND VIOLENCE; AND

3) TO PROVIDE FOR AN EXPEDITIOUS, THOUGHTFUL, AND CONSISTENT PROCESS FOR DECISION MAKING BY COURTS TO PROTECT THE BEST INTEREST OF CHILDREN.

-What is the intent of this itek? How will this be measured or decided? When the law is unclear, it leaves it up to interpretation which is obviously problematic.

(I) PLACE THE CHILD'S NEEDS ABOVE THE PARENTS' NEEDS;

-again how can this possibly be objectively and uniformly enforced?

(II) PROTECT THE CHILD FROM THE NEGATIVE EFFECTS OF ANY CONFLICT BETWEEN THE PARENTS; AND

-as this should be every parents intent, there are many uncontrollable situations depending on the environment or a situation like domestic violence

(III) MAINTAIN THE CHILD'S RELATIONSHIP WITH THE PARENTS, SIBLINGS, OTHER RELATIVES, OR OTHER INDIVIDUALS WHO HAVE OR LIKELY MAY

HAVE A SIGNIFICANT RELATIONSHIP WITH THE CHILD;

-this again leaves much room for interpretation and forseeing the future

(14) THE PARENTS' RELATIONSHIP WITH EACH OTHER, INCLUDING: (I) HOW THEY COMMUNICATE WITH EACH OTHER;

-this is a significant problem, in the very real situation of domestic violence

(15) THE CHILD'S PREFERENCE, IF AGE-APPROPRIATE; AND

-this factor can not have a positive outcome for a child. Children may choose the more wealthy or lenient parent. They may choose a similar personality or be influenced to make a choice. Children's brains are not developed enough and their emotions are not capable of handling this type of decision.

(10) ANY MILITARY DEPLOYMENT OF A PARENT AND ITS EFFECT, IF ANY, ON THE PARENT-CHILD RELATIONSHIP;

-what could be the effect??? If someone is sending our county, they could be negatively viewed and judged in custody??

(II) WHETHER THEY CAN CO-PARENT WITHOUT DISRUPTING THE CHILD'S SOCIAL AND SCHOOL LIFE; AND

-this can be 1 sided and VERY hard to decipher and monitor

(III) HOW THE PARENTS WILL RESOLVE ANY DISPUTES IN THE
FUTURE WITHOUT THE NEED FOR COURT INTERVENTION

-This seems to be an impossible factor to measure as we can not predict the future

This Legislation seems to have a great intent. But in actual life, it seems very difficult to interpret as well as enforce.

PAS-Intervention statement on SB28 FWA.pdf

Uploaded by: Yaakov aichenbaum

Position: FWA



Yaakov Aichenbaum, PAS-Intervention MD Chapter
6211 Park Heights Avenue, Baltimore MD 21215
info@parentalalienationisreal.com

To: Members of the Senate Judicial Proceedings Committee
1/26/2023

SB28 promotes that custody decisions should support the best interest and safety of children. It also encourages that children should enjoy the maximum benefit of both parents in their lives (barring any safety concerns). These are appropriate goals and many of the factors that are delineated in the bill are welcome. There are a few items, however, that need clarification or present potential problems.

- Section 9-202 makes two references (page 9 lines 17-18 & 27-28) to protecting children from exposure to conflict and violence. The definition of *conflict* and *violence* is vague. Anything from snide remarks to flying pots and pans could be included in this. Likewise, a parent could intentionally promote conflict in order to accomplish the purpose of denying the child access to the other parent. This is particularly a concern when there is parental alienation (PA) which is a form of custody interference and psychological abuse that can be as emotionally damaging as physical and sexual abuse¹.
- On page 10 (lines 10, 13-14), the ability of the parents to resolve disputes is discussed. This is also vague. In a situation where one parent is not cooperative, will the other parent be denied any custody or decision making power in order to placate the contentious parent? This section could be misapplied and situations could arise where a child will lose a relationship with a more cooperative and healthy parent.
- Section 9-203 details the court's options when parents are able to communicate and make joint decisions. The options are not detailed for when the parents are not able to communicate and reach decisions. This needs to be clarified. A child's relationship with a cooperative parent should not be sacrificed on the mere grounds that the parents cannot

¹ A study entitled *The Impact of Parental Alienating Behaviours on the Mental Health of Adults Alienated in Childhood* suggests that exposure to parental alienating behaviors in childhood can have a profound impact on the mental health of those children later in life, including experiencing anxiety disorders, trauma reactions, addiction and substance use, and coping and resilience. This study demonstrated the insidious nature of PA and parental alienating behaviors and provided further evidence of **these behaviors as a form of emotional abuse**. (<https://doi.org/10.3390/children9040475>. (See conclusion on page 14)

communicate and especially when it is indeed only a one way communication issue.

- On page 10 line 15, it states that a child's preference, if age-appropriate should be taken into consideration. While this can certainly be a factor, it should not be the predominant factor in making custody decisions. Despite their more mature cognitive capacities compared with younger children, even adolescents are suggestible, highly vulnerable to external influence, and highly susceptible to immature judgments and behavior².

AMENDMENTS NEEDED

My organization (PAS-Intervention MD Chapter) along with MACA- Mothers Against Child Abuse and Servicemembers & Veterans for Children's Rights would support the bill if the following amendments occur:

- Page 9 (lines 17-18 & 27-28) and page 10 (lines 10, 13-14) are too vague to prevent children from being denied the love of safe and capable parents due to exposure to relatively minor conflicts/violence, parental alienating behaviors and high conflict personalities. Safeguards need to be included to prevent these possibilities.
- Section 9-203 should include viable options for when there are communication and cooperation issues. Denying parenting time and legal decision making in order to avoid conflict is not in the child's interest if it causes children to lose the benefits of having that parent in their life.
- Child preference should only be a decisive factor if the judge determines that the child's preference is indeed in the child's best interest, it is not contraindicated by other factors and that the child is not being manipulated by an alienating parent.
- Section 9-107 permits a 16 year old to petition for a change in custody and visitation orders. This should be amended to exclude cases where the order was based on a finding of parental alienation.

For these reasons, we urge the committee to give a favorable with amendments report on SB28. Please contact me with any questions that you may have.

Respectfully,

Yaakov Aichenbaum

Baltimore, MD

info@parentalalienationisreal.com

² *Ten Parental Alienation Fallacies That Compromise Decisions in Court and in Therapy* page 241:
<http://www.alienazione.genitoriale.com/wp-content/uploads/2015/07/Warshak-2015x.pdf>

SB 68 - Nay.pdf

Uploaded by: Eric Smith

Position: UNF



Winning Strategies: Fatherhood, The Courts & Custody, Incorporated
Baltimore, Maryland 21203
Telephone Number 443 – 768-8158
501 C 3 Agency advocating, educating & empowering fathers for custody

January 29, 2023

Testimony on behalf of Winning Strategies: Fatherhood, The Courts & Custody
Unfavorable Vote of Senate Bill 68– Child Custody – Legal Decision Making and
Parenting Time
Before the Judicial Proceedings Committee
On January 31, 2023

Mr. Chairman, Vice Chair and Members of the Committee:

Senate Bill 68 is a bill that tries to introduce other statutes to strengthen its effects. The other statutes are discussed in their personal subsection and has no use in this “word salad” of a bill.

This bill does not create Legal Decision Making and Parenting Time it hinders that process. When it was introduced by then Delegate Dumais in 2018 the wording was similar and still confusing.

This bill needs work with other, damaging statutes removed, if we are going to improve parent to parent relationships for the Best Interest of the Child and try not to disguise it, Coercive Control Bill did that already. Stop mistreating fathers!

As such, we urge the committee to kill SB Bill 68.

Respectfully,

Eric D. Smith

SB 28.pdf

Uploaded by: Hindley Williams

Position: UNF



SB 28 Child Custody – Legal Decision–Making and Parenting Time

oppose

Testimony of Maryland Centers for Independent Living

Senate Judicial Proceedings, January 31, 2023

The seven Centers for Independent Living (CIL) were established by federal law and work to ensure the civil rights and quality services of people with disabilities in Maryland. Centers for Independent Living are nonprofit disability resource and advocacy organizations located throughout Maryland operated by and for people with disabilities. CIL staff and Boards are at least 51% people with disabilities. We are part of a nationwide network which provides Information and Referral, Advocacy, Peer Support, Independent Living Skills training, and Transition Services.

We write in strong opposition to SB 28, to the extent that it repeals due process and protections for persons with disabilities and rejects findings and recommendations of the Commission on Child custody Decision Making. In 2013, the Maryland General Assembly created a Commission on Child Custody Decision Making to study of several issues including, “how to ensure that child custody determinations involving parents with mental health, sensory or physical disabilities are handled in a fair and even manner based on actual evidence and not presumed limitations.” Members of the Commission were appointed by the General Assembly, the Judiciary and the Governor. Public hearings were held statewide and research, meetings and discussions were conducted by the Commission in accord with its mission.

The findings and recommendations of the Commission resulted in passage of the law that SB 28 attempts to amend. Critically, the proposed legislation repeals language that counters discrimination of parents with disabilities, which the Commission found to exist based on history, studies and Maryland law.

The Commission’s report found that the failure of custody determinations to identify a nexus between a parent’s disability and adverse consequences to a child contributes to disparate treatment of parents with disabilities. The Commission’s Report recommended that written findings be required to support a court’s determination that a parental disability adversely affects the child; that such determinations be based upon the preponderance of evidence, and that the burden of proof be established. These commonsense procedures help to clarify decision making processes when considering a parent’s disability in child custody and related proceedings. These recommendations are currently in statute, but are those which SB 28 would repeal.

As stated by the Supreme Court of Maryland, “When courts allow presumptions of inadequacy to replace individual inquiry, they erect insurmountable hurdles for parents labeled . . . disabled”

The Court's finding has support from a seminal report by the National Council on Disabilities , which determined, based on cited research and studies, that parents with disabilities are likely to encounter disparate treatment in the family law system on the basis of other people's perception of their disability and its impact on parenting. The existence of implicit bias is a direct result of our history.

This history was recognized by Congress when passing the Americans with Disabilities Act in 1990. The Act 's findings states that "discriminatory policies and practices affect people with disabilities in every aspect of their lives . . . [including] securing custody of their children." Examples of our discriminatory practices include allowing mass involuntary sterilization of people with disabilities. By the early 1930s, more than thirty (30) states had laws permitting the involuntary sterilization of people with disabilities. By the 1960s, such laws were used to sterilize at least 60,000 people. This sterilization of people with disabilities against their will occurred with the approval of the federal courts. In *Buck v. Bell*, the U.S. Supreme Court upheld a Virginia law that authorized forced sterilization of a fifteen-year-old young woman with disabilities. The Court's reasoning reflects a classic eugenic viewpoint that people with disabilities were "imbeciles" who needed to be stopped from reproducing "degenerates". As recently as 1983, fifteen (15) states continued to have compulsory sterilization laws. In 1914, thirty-seven (37) states and the District of Columbia had laws restricting marriage for people with disabilities including those who were "epileptic," or "diseased," among others. Although society and the law have progressed since the days of mass institutionalization and forced sterilization, subtler disability misconceptions persist. This is especially true of the fundamental constitutional right to raise children, according to numerous studies and reports. Several Maryland child custody cases examined by the Commission were later overturned by a higher court for lack of findings or evidence that a parent's disability had any adverse impact on their child.

In sum, the Commission found that bias exists in custody determinations involving parents with disabilities based on Maryland law, court decisions, research and studies; and that Maryland can better ensure that such determinations are made in a fairer manner based on actual evidence. The existing law is a result of recommendations endorsed by the Commission, which legislation had the support of multiple other groups.

Finally, current law allowing parents to demonstrate how they can address any identified parenting deficiency by use of support services, which simply codifies the rights of persons with disabilities to reasonable accommodations. There are a range of technologies and supports that can assist parents with disabilities to remove barriers to healthy parenting. To the extent deficiencies are identified that adversely affect a child, a parent has the ability to counter such deficiency by demonstrating how they can neutralize any such concerns.

For the above reasons, we vigorously oppose SB 28 to the extent it totally repeals the judicial protections against implicit bias and discrimination of parents with disabilities and the processes currently in place to ensure equal justice.

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OPD Testimony on SB 28 Child Custody - Legal Decis

Uploaded by: Maria Nenuzka Villamar

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 28 Child Custody – Legal Decision Making and Parenting Time

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 1/30/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 28. While at first glance it appears that the main purpose of the bill is to change the terms “custody” and “visitation,” the bill will significantly impact the rights of natural parents. Senate Bill 28 deletes a procedural protection for disabled parents and a provision that allows for grandparents to seek custody or visitation with their grandchildren under certain circumstances.

The definition of “parent” fails to account for same-sex partners, one or both of whom may not be the biological parents of a child conceived with a donor or surrogate. They may not be “biological,” “adoptive,” or “de facto,” but are in fact the parents. The definition of parent also puts de facto parents on equal footing as natural parents. This is problematic because natural parents have Constitutional protections that de facto parents do not. For example, in order to obtain custody or visitation, a de facto parent must make an initial showing that the objecting natural parent is unfit or that there are exceptional circumstances that would make it in the child’s best interest for custody or visits to be granted to the de facto parent. However, SB 28 treats de facto parents as having equal rights as natural and adoptive parents.

Under Senate Bill 28, the statutory provision allowing grandparents, under certain circumstances, to seek custody or visitation will be deleted, giving grandparents no avenue to continue their relationship with their grandchildren. This is not consistent with Maryland caselaw, which authorizes a court to grant custody or visitation with grandparents over the parents’ objection if the grandparents are able to show unfitness of the parents or exceptional circumstances and the court finds it would be in the child’s best interests for the grandparents to have custody or visitation.

Senate Bill 28 removes a significant part of the current statute, Family Law Article § 9-107, which defines disability and prohibits the court from considering a parent's disability except to the extent that it affects the best interest of the child. This protection for disabled parents would be removed by the passage of SB 28. This subjects the statute to a Constitutional challenge and, moreover, is not a desirable public policy.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on SB 28.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Nena C. Villamar (410) 458-8857

SB 28 DRM Testimony.pdf

Uploaded by: Robin Murphy

Position: UNF



Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211

www.DisabilityRightsMD.org

Phone: 410.727.6352

Senate Judicial Proceedings Committee

Senate Bill 28 Child Custody – Legal Decision Making and Parenting Time

Date: January 31, 2023

Position: OPPOSE

Dear Chairman Smith and Members of the Committee:

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to protect and advocate for the legal rights of people with disabilities throughout the state. We write in strong opposition to Senate Bill 28 to the extent that it repeals due process and other protections for persons with disabilities and rejects findings and recommendations of the Commission on Child Custody Decision Making. In 2013, the Maryland General Assembly created a Commission on Child Custody Decision Making to study of several issues including, “how to ensure that child custody determinations involving parents with mental health, sensory or physical disabilities are handled in a fair and even manner based on actual evidence and not presumed limitations.”¹ Members of the Commission were appointed by the General Assembly, the Judiciary and the Governor. The Commission held public hearings statewide and conducted research, meetings and discussions in accord with its mission.

The Commission’s findings and recommendations resulted in passage of the law that Senate Bill 28 attempts to amend. Critically, the proposed legislation repeals language specifically enacted to address discrimination against parents with disabilities. Notably, the Commission found such discrimination to exist based on history, studies and Maryland law itself.

The Commission’s report found that the failure of custody determinations to identify a nexus between a parent’s disability and adverse consequences to a child contributes to disparate treatment of parents with disabilities. The Commission’s Report recommended that written findings be required to support a court’s determination that a parental disability adversely affects the child; that such determinations be based upon the preponderance of evidence, and that the burden of proof be established. These commonsense procedures help to clarify decision making processes when considering a parent’s disability in child custody and related proceedings. These recommendations are currently in statute but would be repealed by Senate Bill 28.

As stated by the Supreme Court of Maryland, “When courts allow presumptions of inadequacy to replace individual inquiry, they erect insurmountable hurdles for parents labeled . . . disabled”²

¹ HB 687/Ch.633 of 2013

² *In re Adoption/Guardianship Nos. J9610436 and J9711031*, 368 Md.666 at 674-675 (2002).

The Court's finding has support from a seminal report by the National Council on Disabilities³, which determined, based on cited research and studies, that parents with disabilities are likely to encounter disparate treatment in the family law system on the basis of other people's perception of their disability and its impact on parenting. The existence of implicit bias is a direct result of our history.

This history was recognized by Congress when passing the Americans with Disabilities Act in 1990. The Act's findings states that "discriminatory policies and practices affect people with disabilities in every aspect of their lives . . . [including] securing custody of their children."⁴ Examples of our discriminatory practices include allowing mass involuntary sterilization of people with disabilities. By the early 1930s, more than thirty (30) states had laws permitting the involuntary sterilization of people with disabilities.⁵ By the 1960s, such laws were used to sterilize at least 60,000 people.⁶ This sterilization of people with disabilities against their will occurred with the approval of the federal courts. In *Buck v. Bell*, the U.S. Supreme Court upheld a Virginia law that authorized forced sterilization of a fifteen-year-old young woman with disabilities.⁷ The Court's reasoning reflects a classic eugenic viewpoint that people with disabilities were "imbeciles" who needed to be stopped from reproducing "degenerates".⁸ As recently as 1983, fifteen (15) states continued to have compulsory sterilization laws.⁹

In 1914, thirty-seven (37) states and the District of Columbia had laws restricting marriage for people with disabilities including those who were "epileptic," or "diseased," among others.¹⁰ Although society and the law have progressed since the days of mass institutionalization and forced sterilization, subtler disability misconceptions persist. This is especially true of the fundamental constitutional right to raise children, according to numerous studies and reports.¹¹ Several Maryland child custody cases examined by the Commission were later overturned by a

³ "Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and their Children", National Council on Disability September 27, 2012; [Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children \(ncd.gov\)](http://www.ncd.gov/publications/2012/Sep272012/) (last visited 1/26/23). NCD is an independent federal agency tasked with making recommendations to the President and Congress.

⁴ H.R. Rep. No. 485, Pt. 3, at 25.

⁵ Phillip R. Reilly, *The Surgical Solution: A History of Involuntary Sterilization in the United States* 45-55 (1991).

⁶ *Id.* at 94.

⁷ 274 U.S. 200 (1927).

⁸ *Id.* at 207.

⁹ *Accommodating the Spectrum*. United States Commission on Civil Rights, Clearinghouse Publication, 81 September 1983 at 37; see also P. Reilly, *The Surgical Solution* 2 & 148 (1991).

¹⁰ Stevenson Smith *et al.*, *A Summary of the Laws of the Several States Governing (I) Marriage and Divorce of the Feeble-minded, the Epileptic and the Insane, (II) Asexualization, (III) Institutional Commitment and Discharge of the Feeble-minded and the Epileptic*, 82 Bull. U. Wash. 5-15 (May 1914).

¹¹ "Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and their Children", National Council on Disability September 27, 2012; [Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children \(ncd.gov\)](http://www.ncd.gov/publications/2012/Sep272012/); <http://www.ncd.gov/publications/2012/Sep272012/>. (last visited 1/26/23).

higher court for lack of findings or evidence that a parent's disability had any adverse impact on their child.¹²

In sum, the Commission found that bias exists in custody determinations involving parents with disabilities based on Maryland law, court decisions, research and studies; and that Maryland can better ensure that such determinations are made in a fairer manner based on actual evidence. The existing law is a result of recommendations endorsed by the Commission, which legislation had the support of multiple other groups.

Finally, current law allowing parents to demonstrate how they can address any identified parenting deficiency by use of support services, which simply codifies the rights of persons with disabilities to reasonable accommodations. There are a range of technologies and supports that can assist parents with disabilities to remove barriers to healthy parenting. To the extent deficiencies are identified that adversely affect a child, parents have the ability to counter such deficiency by demonstrating how they can neutralize any such concerns.

For the above reasons, DRM strongly opposes Senate Bill 28 to the extent it completely repeals the judicial protections against implicit bias and discrimination of parents with disabilities and the processes currently in place to ensure equal justice.

Please contact Robin Murphy, Executive Director, robinm@disabilityrightsmd.org or Leslie Seid Margolis, Managing Attorney, lesliem@disabilityrightsmd.org with any questions.

¹² *“Commission on Child Custody Decision-Making, Final Report”*, Appendix G, Dec. 1, 2014, HB 687/CH 633, 2013 (MSAR #9554) [20150076e.pdf \(maryland.gov\)](https://www.maryland.gov/20150076e.pdf) (last visited 1/26/2003)

UNF SB0028 - mcavoy.pdf

Uploaded by: vince mcavoy

Position: UNF

JPR Hearing - SB0028
2023 Session

Dear Senators,

Please vote done Chris West's SB0028 (Child Custody - Legal Decision Making and Parenting Time).

I've been giving testimony on this same, hollow, useless bill for a full decade now.

The bill offers nothing to help child outcomes, family cohesion nor equity in child custody determinations.

That this bill is even trounced in front of you during a busy Session shows a certain disrespect for your time (as well as an underlying collusion between the sponsor and the latest "judge" in Montgomery County).

Once again, for the tenth or so year, I'm urging an **UN**Favorable for this bill.

For additional details, I've pasted my testimony from 2017 on the same bill.

My... time does fly.

humbly

~vince

From: Vince McAvoy <vince.mcavoy@yahoo.com>

To: "Vanessa.Atterbeary@house.state.md.us" <Vanessa.Atterbeary@house.state.md.us>;
"susan.mccomas@house.state.md.us" <susan.mccomas@house.state.md.us>;
"Michael.Malone@house.state.md.us" <Michael.Malone@house.state.md.us>;
"David.Moon@house.state.md.us" <David.Moon@house.state.md.us>

Cc: "joseph.vallario@house.state.md.us" <joseph.vallario@house.state.md.us>; David Djajaputra
<djajaputra@gmail.com>

Sent: Tuesday, February 14, 2017 11:23 AM

Subject: Family Law Sub-Committee / Term 2017 / HouseBill 508

Dear Delegates

Please view my testimony from last Thursday regarding a request for an UNfavorable on Del. Dumais HB508.

<http://mgahouse.maryland.gov/mga/play/babfe5c1-a7f1-4e6b-a0f6-b3a74c225c0a?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=13789000>

Also, she is requesting that additional testimony be submitted by Cynthia Callahan & a former head of the Family Law Section (i.e. - those divorce lawyers who profit from Family Law legislation) for her unfavorable bill HB508 after the time for submitting testimony. Her premise is that they will support her flawed bill and that being out of the country somehow precluded them from submitting written testimony. I ask you to rebuke that as unethical, preferential treatment to a legislator who is an attorney creating law that will both help her practice and those law firms of her acquaintance.

I also point out that Judge Callahan was wrongfully included on the HB687 taskforce in the first place. [That board being the facade under which Del. Dumais submits this bill on an annual basis.] While I had discussed the inequity of the appointees to the Commission being financial stakeholders last week, and I had discussed this unfairness in years prior, and discussed this with proponents of EQUALITY in parenting time, I only discovered in recent weeks that Callahan was given special consideration through a court-sanctioned process (though we all thought it odd).

Please see the document which was used to **subvert** typical rules on Annapolis commissions.
<http://www.courts.state.md.us/ethics/pdfs/2013-15.pdf>

Keep in mind that your very Judiciary Committee has heard this judge's testimony in the past & he is fluent on such matters -- Civil Rights legend Judge Arthur Burnett

[Chat With A Lawyer - Judge Arthur Burnett Sr. - Father's Custody Rights/ Shared Parenting](#)

Legal Decision Making and Parenting Time - Shared Parenting Time for Family Equality Act

Senator Muse has submitted a new, improved senate bill SB905 which presents Annapolis - once again - with a way to mandate equality for Dads in corrupt, judicially-biased family law courts in Maryland.

Recall that last year, I presented the House Judiciary with evidence, as detailed by the Board that adjudicates sitting judges.

Happy to provide additional evidence, testimony, clarification as you need.

Sincerely

Vince