

Date: January 31, 2023

Bill number: SB0028

Committee: Senate Judicial Proceedings Committee

Bill title: **Child Custody – Legal Decision Making and Parenting Time**

DHS Position: **LETTER OF INFORMATION**

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide a letter of information for Senate Bill 28 (SB 28).

Senate Bill 28 would alter numerous references to the terms “child custody” and “visitation” to “legal decision making” and “parenting time.” Senate Bill 28 would establish 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.

The Social Security Administration (SSA) within DHS is concerned that, as drafted, Senate Bill 28 is detrimental to adoptive, disabled, and same-sex parents and populations. Additionally, the legislation affects legal parents that are not biological or adoptive parents. The legislation would diminish protections for Maryland’s most vulnerable citizens, including abused and neglected children. The bill eliminates §9–107 which addresses the parental rights of disabled parental individuals. Senate Bill 28 allows biological parents whose rights have been terminated the authority to access a child’s medical, dental, and mental records.

The Department recommends §9–104 is assessed for legal sufficiency. DHS does not believe a legal custodian or guardian could have custody or visitation when an individual has been substantiated for abuse or neglect of a child. The provisions in SB 28 impact how a local department of social services (LDSS) within SSA could advocate on the behalf of or against a child having visits with or being placed in the custody of a legal custodian or guardian

The Department suggests that certain factors in the legislation be examined more closely:

- Parental rights of same-sex and disabled parents;
- The assurance of protections for legal parents;
- Eliminating the right of the “de facto” parents whose rights have been terminated;
- Eliminating rights of those that have previously been terminated; and
- Statutory protection of children from individuals who have abused or neglected children, including custodians or guardians – not just “parents.”

The Department appreciates the opportunity to provide the aforementioned information to the Committee for consideration during your deliberations.

