

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 440
Child Custody – Relocation of Child – Expedited Hearing
DATE: January 18, 2023
(2/16)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 440 in its current form. This bill requires a court to schedule a hearing on a certain petition regarding the proposed relocation of a child who is the subject of a custody or visitation order on an expedited basis under certain circumstances.

This bill would require the court to set a hearing on a petition regarding certain proposed relocations on an expedited basis. Each circuit court has a differentiated case management plan that includes procedures for emergency relief and expedited case processing in family law actions where there is a credible prospect of imminent and substantial physical or emotional harm to a child. Md. Rule 16-302. Whether expedited processing is warranted depends upon the facts alleged.

The bill also specifies factors a court “shall” or “may not” consider. In custody and visitation cases, the court’s paramount concern is the best interest of a child. These types of mandates limit judicial discretion and the court’s ability to consider each child’s unique facts and circumstances.

The Judiciary is in receipt, however, of amendments (attached), that would address the above concerns. It is the Judiciary’s understanding that the attached language would replace current section 9-106(a)(4)(ii) in the bill and also strike completely section 9-106(d)(2) in the bill. If these amendments are adopted, the Judiciary would withdraw its opposition to the bill and have no position.

cc. Hon. Nick Charles
Judicial Council
Legislative Committee
Kelley O’Connor

4.

I. The court shall consider a proposed relocation from a minor child's primary residence that would significantly interfere with the other parent's ability to maintain the predetermined parenting time schedule when deciding whether to grant an expedited hearing on a Motion for Modification of Custody.

Strike subsection D, part 2