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**To:** Members of The House Judiciary Committee

**From:** Family & Juvenile Law Section Council (FJLSC)

**Date:** February 16, 2023

**Subject:** **House Bill 440:**  
Child Custody – Relocation of Child – Expedited Hearing

**Position:** **FAVORABLE WITH AMENDMENTS**

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**The Maryland State Bar Association (MHBA) FJLSC urges a favorable with amendments committee report on House Bill 440 Child Custody – Relocation of Child – Expedited Hearing**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MHBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MHBA, which promotes the objectives of the MHBA 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 MHBA 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.

The FJLSC understands from the Sponsor that she intends to submit amendments to HB 440 to delete the proposed subsection (d) (2) in its entirety and to revise proposed section 4 (II) to read:

(4)

II. 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.

The FJLSC believes the amended HB 440 will provide an avenue to parents who have not received the required notice from the other parent that he/she intends to relocate the minor child or children and that relocation would significantly interfere with the other parent’s custody schedule. We appreciate the urgency underlying many requests for expedited hearings in such cases. Such situations often require quick court intervention to prevent the relocating parent from establishing residency for the child in a different state and triggering a complicated analysis of the case under the Maryland Uniform

Child Custody Jurisdiction and Enforcement Act. In addition, the relocating parent is often also making unilateral decisions about the minor child or children's education and medical care. In the most extreme situations, the minor child or children's lives are radically upended and the other parent is without any decision making power or recourse until he or she can file a Motion for Modification, accomplish service on the relocating parent in a far-away state, wait the 60 days that parent has to answer the summons and often several more months before the first court hearing.

HB 440 attempts to amend Family Law Article section 9-106 which grants the court the power to include a provision in a custody order issued by that court requiring either party provided advance written notice of a at least 90 days before relocating the permanent residence of the party or the child either within or outside the state. Thus, the expedited hearings the Court shall consider based on this change would only be triggered in those cases and would not overburden the Court system.

HB 440 will add an additional chance for an Expedited hearing in these child relocation cases. There is already a statute in the Family Law Article at 9-105 which informs the court of options for the unjustifiable denial or interference with "visitation" granted by a court that is often used to address some of the issues in relocation cases. If the child is in actual danger or risk of harm, the best path into family law court is to request an emergency custody hearing in conjunction with the filing of a Petition to modify custody and/or a Petition for Contempt. In cases where imminent harm to the child cannot be proven, often, the best path into court to address the urgency created by some drastic relocation cases is through a request for an expedited *Pendente Lite* custody hearing on custody. Each Circuit Court of the 24 counties in Maryland has different standards and requirements for the granting of such emergency custody and/or expedited *Pendente Lite* custody hearings. HB 440 requires the Courts to consider granting Expedited Hearings on Motions for Modification of Custody wherein a relocation has significantly interfered with the other parent's parenting time which would be a positive change for Maryland families.

For the reason(s) stated above, the FJLSC **urges a favorable committee report for HB 440 if the proposed Amendments are made.**

Should you have any questions, please contact Michelle Smith by telephone at 410-280-1700 or by e-mail at [msmith@lawannapolis.com](mailto:msmith@lawannapolis.com).