
To: Members of the House Judiciary Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: March 24, 2023

Subject: Senate Bill 383:
Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act)

Position: FAVORABLE AS AMENDED

The Maryland State Bar Association (MHBA) FJLSC **supports Senate Bill 383 as Amended:** Family Law - Custody and Visitation - Notice of Intent to Travel (Maryland Child Abduction Prevention Act).

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 strongly supports SB 383 as amended. This Bill adopts the Uniform Child Abduction Prevention Act which is a thorough piece of legislation that will allow Maryland to join numerous jurisdictions to address the issue of parental child abduction with this comprehensive and uniform Act. SB 383, as amended, provides Maryland Judges with the framework to require protections against credible risks of parental child abduction and Maryland parents with the entitlement to petition the court for orders with such prevention measures.

The FJLSC is aware that the Maryland Judicial Council Domestic Law Committee has expressed some concern over the differences in the definition of abduction in this Bill as compared to Family Law Article §§9-301-9-307; however, we do not believe the suggested amendment is necessary. SB 383 provides the legal measures to **prevent** parental child abductions, not to **punish** any behavior.

It is actually the other, pre-existing, Maryland statutes (Family Law Article §§9-301-9-307) which address the crime of parental child abduction after it has already taken place for the purpose of **returning** the child to the lawful custodian and **punishing** the abductor. SB 383 and the sections 9-301-9-307 have different purposes which render the differences in the definitions of abduction to be without significant legal affect. In addition, SB 383 includes clear language in §9.7-109 (H) that both provisions of the law can co-exist without conflict as it states: “This title does not affect the availability of relief in other provisions of state law.”

For example, SB 383 will be extremely helpful to a Petitioner who suspects that the other parent of his/her child is preparing to remove and retain his/her child from Maryland and/or the United States without the Petitioner’s consent, causing a breach of the Petitioner’s custody rights. That Petitioner can file a Petition under SB 383 requesting the court to consider the statutory factors and the facts of his/her case to determine that there is a credible risk of abduction and to sign an Abduction Prevention Order with various prevention measures as listed in the statute. Once armed with that Abduction Prevention Order, that Petitioner is in a much stronger position to **prevent** the other parent from abducting the child. If the Respondent is still able to abduct the child, Family Law Article §§9-301-9-307 are triggered such that the criminal authorities become involved in an attempt to return the child to the Petitioner and **punish** the other parent for his/her criminal conduct. So, SB 383 and Family Law Article §§9-301-9-307 have different purposes.

Although SB 383 is primarily a prevention tool, it does have the ancillary benefit of providing a Judicial recipe card to produce very clear and detailed orders which will be easier to enforce in the event a child must be returned to Maryland expeditiously. Furthermore, SB 383 does require the court to analyze risk factors for abduction to determine whether there is a credible risk that a party will wrongfully abduct a child in the future. The risk factors in SB 383 are narrowly tailored to address **intentional** behavior, not accidental behavior, when guiding the Judge to a decision on what prevention measures are necessary in a particular case.

For the above stated reasons, the FJLSC urges a favorable committee report for SB 383 as amended.

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