

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 670
Child Custody and Visitation – Best Interest of the Child
DATE: February 7, 2024
(2/20)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 670, as drafted. This bill would add Section 9-109 to the Family Law Article, establishing factors for the court to consider when determining which allocation of custody or visitation would be in the best interest of a child. The Judiciary takes no issue with the enumeration of factors for the Court to consider in reaching such a decision and has supported legislation to do so. The Judiciary also respects the legislature’s authority to make such policy decisions.

We write only to note concerns with § 9-109(c), which would require the court to articulate each factor it considered, and the weight given to each factor on the record. While it is prudent for trial judges to articulate consideration of relevant factors, this mandatory provision gives a basis for appeal on form, as opposed to substance of rulings. This section also requires the court to articulate its findings of fact on the record. In certain cases, it is more suitable for a court to issue a written opinion detailing its findings of fact rather than articulating such facts on the record. Finally, it is hard to articulate a particular “weight” given to any specific factor, particularly given the many and varied factors enumerated. Such decisions do not lend themselves to mathematical weighting and the Judiciary would request that any reference to “weight” be removed in favor of a general best interest standard.

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