

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 314
Juvenile Law – Willful Misconduct of a Minor – Civil Liability of
a Parent, Legal Guardian, or Custodian (Parental Accountability
Act)
DATE: January 17, 2024
(2/13)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 314. This bill would amend juvenile justice law, Courts and Judicial Proceedings Article (CJP), Title 3, Subtitle 8B, by adding a new § 3-8A-36 addressing parent, guardian/legal guardian, or custodian liability for certain actions by a minor.

The Judiciary notes several issues raised by this bill:

First, juvenile law has a process for restitution. See CJP § 3-8A-28 and Criminal Procedure Article (CP), Title 11, Subtitle 6. The process set out in those provisions provides a detailed method of determining restitution against the child and/or the child's parent, procedures that are not duplicated by this bill.

Further, restitution law permits the court to consider the ability of the child and the child's parent to pay restitution and the existence of extenuating circumstances that make a judgment of restitution inappropriate. CP § 11-605. This bill does not include such language, removing the ability of the juvenile court to determine the appropriateness of civil damages based on the facts of the particular case.

In addition, this bill would permit assessment of liability against the child's "custodian", a term the bill does not define. The term could be read to, as it often is in juvenile law, to apply to the Department of Juvenile Services, if the child is in detention or community detention or is committed to the agency, or to a local department of social services, if the child is in that agency's shelter or foster care. As a result, the bill could be read as making the public agency liable.

Of more concern, the term “custodian” also could be read to apply to the foster parent for a child in foster care and, for a child in kinship care or another informal care arrangement, the term could be read to apply to the kinship caregiver or other caregiver. If the bill is read to apply to those individuals that result may well be that people will decline to be foster parents, kinship caregiver, or other caregivers, and that resulting lack of caregivers for children in need would diminish the ability to provide care to children who need to be placed away from their parents.

cc. Hon. Joanne Benson
Judicial Council
Legislative Committee
Kelley O’Connor