

**SB 670 - WLCMD -OPP.pdf**

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Position: UNF

BILL NO: Senate Bill 670  
TITLE: Child Custody and Visitation – Best Interest of Child  
COMMITTEE: Judicial Proceedings  
HEARING DATE: February 20, 2024  
POSITION: **OPPOSE**

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Senate Bill 670 would provide a statutory framework of the factors that courts use in deciding custody cases in Maryland. The Women's Law Center of Maryland (WLC) supports SB 327 over this bill, and urges an unfavorable report on SB 670. However, if it is the will of this Committee to pass SB 670 over SB 327, we fervently hope the Committee will work to combine the two bills into the best possible version for the best interests of the child.

Currently, there is no statute that sets out the factors a court must consider in making a custody determination. While cases decided over years in Maryland have established general guidelines for judges, including that the overarching guideline in determining child custody should be *the best interests of the child*, no current statute clearly articulates all factors to be considered.

By focusing always on the impact of custodial arrangements on the children involved in a case, SB 670 recognizes, as does current case law, that custody decisions should be child focused, and that each case is unique and requires an individualized evaluation of what is in the best interests of the child. The Women's Law Center recognizes and deeply respects the benefits of having both parents actively involved in a child's life. However, it is appropriate only when the parents are able to work together in the best interests of the child. It can be damaging and dangerous in inappropriate situations, such as where there is domestic violence or child abuse.

We believe that is what some of the language in SB 670 is seeking to address (see e.g. page 2, lines 24-25, page 3, lines 12-14, 18-19), however we have grave concerns that these factors could be used against parents who have a good faith belief that their child is being abused or who are themselves victims of abuse. We prefer the framework and language of SB 327.

The advantage of SB 327 is that the drafters have updated language from decades of family law cases decided by appellate court in Maryland so that they reflect today's societal standards and parenting. In addition, it provides that the Court "may" not "shall" consider the factors, and the Judiciary opposes the "shall" nature in SB 670.

For these reasons, the Women's Law Center urges an unfavorable report on SB 670.

*The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.*

**sb670.pdf**

Uploaded by: Linda Miller

Position: UNF

**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

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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

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Position: INFO

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**To:** Members of the Senate Judicial Proceedings Committee

**From:** Family Law Section Council (FLSC)

**Date:** February 19, 2024

**Subject:** **Senate Bill 670:**  
Child Custody and Visitation – Best Interest of the Child

**Position:** **Letter of Information**

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The Maryland State Bar Association (MSBA) FJLSC provides this letter of information on **Senate Bill 670 – Child Custody and Visitation – Best Interest of the Child**

This letter of information is submitted on behalf of the Family Law Section Council (“FLSC”) of the Maryland State Bar Association (“MSBA”). The FLSC is the formal representative of the Family Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family law and, at the same time, tries to bring together the members of the MSBA who are concerned with family laws and in reforms and improvements in such laws through legislation or otherwise. The FLSC 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.

In 2013 the General Assembly convened the Commission on Child Custody Decision Making. The Commission was charged with studying child custody decision-making and offering recommendations to improve and bring statewide uniformity to the process of custody determinations by courts. Dozens of experts met over 90 occasions to examine current procedures, psychological research, process in other jurisdictions and best practices. SB 670 is an outcome of the efforts of the Commission and reflects the same list of the factors recommended in that thorough study on Child Custody Decision Making.

In the Final Report issued December 1, 2014, the Commission set forth ten “guiding principles” that were approved by the Commission. The first of these principals was:

The need for a Maryland Custody Decision-Making Statute providing a clear, consistent, predictable, gender-neutral process guiding custody determinations for litigants, lawyers, and judges, focusing on factors that affect a child’s long-term adjustment, including significant regular contact with each parent, parenting quality, a child’s developmental

needs, the quality (conflict or not) of the relationship between the parents or parent figures, the parents' psychological adjustment, and a child's need to maintain significant relationships. (Commission on Child Custody Decision Making, Final Report, p.8)

Currently, judicial determinations regarding child custody are made based on factors set forth in several Maryland appellate cases. In order to know what testimony and evidence to present to a court in support of a claim for custody, a litigant has to identify the correct appellate decisions and be able to distill the legal holdings of each case and correctly apply those holdings to the facts of their own case. While this may be fairly straightforward for experienced family law attorneys, most unrepresented non-lawyer parents would find this to be a herculean task. Further, the seminal appellate decisions are decades old and not necessarily reflective of today's families and the modern demands of parenting. SB 670, which would codify the factors that a court should consider when deciding parenting time and legal decision-making issues, would finally make the factors recommended by the Commission available and accessible to all litigants and would encourage the consistent use of the best practices regarding such custody decisions.

In addition, SB 670 provides appropriate guardrails to the Judge in such custody determinations in setting out the comprehensive list of factors the court may consider, including any other appropriate factor, while also mandating that the Judge shall articulate his/her findings of fact on the record or in a written opinion, specifying each of the factors that were considered. Thus, the passage of SB 670 would lead to more uniformity, clarity and transparency in the legal process and understanding of the outcomes and possible appellate issues for both litigants and counsel involved in these highly emotionally charged and significant family law cases.

For the reason(s) stated above, the MSBA FLSC approves of the language in SB 670; however, we have provided our official support to the very similar, but improved bills: Senate Bill 327 and the cross-filed House Bill 848. SB 327 and HB 848 contain a more comprehensive, blended list of the same factors from the Commission, while also taking the important step of codifying the proper legal standard for cases in which a modification of legal and/or physical custody is sought.

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