

BILL NO: House Bill 1298
TITLE: Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act)
COMMITTEE: Judiciary
HEARING DATE: February 29, 2024
POSITION: **OPPOSE**

House Bill 1298 creates a rebuttable presumption that a child be named with the father's surname if the father has been determined by court order to be the father. The Women's Law Center strongly opposes this bill for several reasons, not the least of which is its clear gender prejudice, which likely runs afoul of the 14th Amendment Equal Protection Clause of the United States Constitution, as well as Article 24 of the Maryland Constitution.

There are several reasons this bill is inappropriate. While it purports to assess what is in the best interests of the child, the rebuttable presumption turns that on its head. If the father petitions to have his name added, the other parent (in this bill it can only be the mother) would have to prove that it was not in the best interests of the child to require the child to carry father's surname. There is no social science research or anything else that supports the presumption in this bill. Also, there is no consideration for same sex couples or any of the other myriad ways people have children today.

Setting aside the contrary provisions for making a determination using best interest of the child while also including a presumption, the factors listed in the statute that the bill requires a court to use seem to be based on nothing. There is no indication they are derived from any social science research or any other reputable source. The age of 12 to consider a child's preference is arbitrary. Children mature at different rates, so not all 12-year-olds have the same ability to reason. Furthermore, there is existing case law in Maryland that Courts are to use the best interests of the child standard in child naming cases and this is what courts do.

We are aware that the District of Columbia has a law that names of children are determined in the best interests of the child, but it is very clear that there is no gender preference in that law, unlike in HB 1298. It appears the only reason for this heteronormative bill is to make the father's name superior in some way to the mother's name. There is an inference in HB 1298 that a child has less value or perhaps will have lower self-esteem if the child carries the mother's surname rather than the father's surname. This is insulting.

We also find the training required by the bill to be unnecessary. Should the law be changed, the judiciary will know what to do, and indeed already make these determinations in the best interests of the child.

For the above reasons, the WLC strongly urges an unfavorable report on HB 1298.

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.