

MEMORANDUM

TO: House Judicial Proceedings Committee

FROM: Lawrence Heller, Ph.D. Chief Medical Officer, Baltimore City Circuit Court, 111 N. Calvert Street, Baltimore MD 21202

RE: House Bill 405

Family Law – Custody Evaluators – Qualifications and Training

DATE:

POSITION: Oppose

My name is Larry Heller, and I am a licensed psychologist and the Chief Medical Officer of the Circuit Court Medical Division in Baltimore City. The Medical Division conducts the custody evaluations for the Circuit Court in Baltimore City, among many other types of evaluations. On average, we evaluate about 350 individuals each year who are involved in custody cases. I have worked as a psychologist in the Circuit Court for 27 years and have conducted hundreds of custody evaluations. Thank you for allowing me to speak to you today in opposition of House Bill 405.

The goal of every clinician involved in custody evaluations in Maryland is to provide recommendations that are in the best interests of the children involved and, foremost, to ensure their safety. This bill as it is currently written will increase the risk of harm to children, especially to low-income families. Here is why:

DISQUALIFY THE MAJORITY OF EXPERIENCED CUSTODY EVALUATORS

First, in its current form the bill will disqualify the majority of custody evaluators in my office and throughout the State, most of whom have years of experience conducting custody evaluations, from performing their vital work.

(a) the bill states that the court appointed custody evaluators must possess demonstrated expertise and clinical experience in working with victims of abuse that is not “solely forensic in nature.” As an example, this vague language would disqualify seasoned clinicians whose primary experience has been working for the Public Defender’s Office, State’s Attorney’s office, or DSS assisting in cases of domestic violence and child abuse because their work has been “solely forensic in nature.” Also, the language “demonstrated expertise” and “working with victims” is vague and could lead to litigants arguing over who qualifies as an expert and thereby prolong proceedings.

(b) the bill states that the custody evaluator must have training in “psychological testing.” Many of the custody evaluators are social workers and psychiatrists who have little to no training in psychological testing. When cases require psychological testing, which is not often, social workers and psychiatrists request a consultation with a psychologist, like me. We perform the testing, and work with the social workers and psychiatrists. There is no reason a custody evaluator should be mandated to have training in psychological testing. This clause would disqualify 90% of the custody evaluators in Baltimore City and Baltimore County, and in many other counties as well.

ENORMOUS INCREASE IN REFERRALS

Second, in its current form the bill will result in an enormous increase in referrals for custody or mental health evaluations which would overwhelm my office, and offices like mine, to the point where it will shut down our ability to perform the range of forensic services we provide to the courts .

The bill states that when the Court identifies one or more of a set of issues, such as substance abuse or child neglect, then the Court must appoint a custody evaluator or licensed health care provider. Most of the cases heard in the Family Division Courts would involve at least one of these issues. This clause would therefore result in a massive percentage of family division cases being referred for evaluations. In 2023, our office was referred about 3% of the total custody cases before the Court, and even this resulted in us evaluating about 350 individuals, and we are already scheduled out weeks to months.

The proposal that every case involving allegations of substance abuse or neglect be referred for evaluations is, frankly, absurd and unworkable. A mental health professional does not need to be involved in every case where alcohol abuse is alleged. Some reasonable amount of discretion must be left to the presiding judges or magistrates.

REDUNDANT TRAINING REQUIREMENTS

Third, the training requirements in the bill are redundant to the training that we are required to undertake as mental health professionals. The training required in the bill will have the unintended consequence of making it much more difficult to retain the evaluators we have, and to hire new evaluators. There is a chronic shortage of custody evaluators. My office has had an open position for a custody evaluator for nearly a year. The standards to hire someone who is qualified to do custody evaluations is high, and there are not enough mental health professionals

who want to step into this complex, difficult, and challenging work. Currently , custody evaluators must: (1) meet the competence requirements to conduct custody evaluations according to our professional ethical guidelines which include staying up to date with current practice and research on child and family psychopathology, impact of abuse and relationship conflict, and other areas.(2) We are required to have a minimum of 40 hours of continuing education training every two years , such as workshops and training in custody evaluation-related topics. (3) Moreover, Maryland Rule 9-205.3 requires evaluators to have current knowledge and training in domestic violence and child abuse, along with other areas.(4) And the newest requirement is that we complete an additional training program which conforms to guidelines established by the Administrative Office of the Courts. I completed this excellent three day training last May, where we had specific training in Domestic Violence and Children, Assessing for Intimate Partner violence, and Child abuse/Neglect. It is therefore an unnecessarily onerous and redundant burden to require mental health professionals to gain another 20 hours of training, and then 15 hours every three years in areas in which we already have plenty of training and are required to stay trained and up to date. This mandate would give us less time to do the clinical work we are trained to do and force us to obtain unnecessary training at the expense of other important areas of expertise that we also need training in to conduct high quality evaluations.

BILL WOULD HARM LOW INCOME FAMILIES THE MOST

I estimate that about 85% of the hundreds of individuals my office sees for custody cases are low income and not represented by attorneys. They are dealing incredible stresses in their lives, including whatever brought them to the point where a judge has ordered a custody evaluation. Our main goal is educating the Court through a thorough examination of the child's environment including examining school/medical records, conducting home inspections, mental health evaluations of the caregivers, and reviewing CPS records. If we are concerned about abuse, violence, or neglect, we immediately contact Child Protective Services. Custody evaluations are one of the most useful evaluations we do for the Courts because we are assisting in placing children in the most stable and safe environment possible. We provide the judges with information they otherwise would not have.

The unintended consequence of this bill will be to disqualify the majority of evaluators, and make it much more difficult to hire evaluators, when it is already very difficult to find qualified people. The result will be a huge backlog of cases

with families, who cannot afford a private evaluation, waiting many months for an evaluation. This will cause the families who are in the most need for evaluations to wait even longer, and thereby increase the risk of danger and violence to the children involved. This bill is harmful to the children that need the most protection from the court system of Maryland.