

SENATE BILL 365

D4
SB 13/23 – JPR

4r1171
CF 4r1547

By: **Senators Carozza, Waldstreicher, and West**
Introduced and read first time: January 17, 2024
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Custody Evaluators – Qualifications and Training**

3 FOR the purpose of specifying certain qualifications and training necessary for an
4 individual to be appointed or approved by a court as a custody evaluator; specifying
5 that certain expert evidence is admissible in certain child custody and visitation
6 proceedings under certain circumstances; and generally relating to child custody and
7 visitation.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 9–101.1
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2023 Supplement)

13 BY adding to
14 Article – Family Law
15 Section 9–109
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

Article – Family Law

20 9–101.1.

22 (a) In this section, “abuse” has the meaning stated in § 4–501 of this article.

23 (b) In a custody or visitation proceeding, the court shall consider, when deciding
24 custody or visitation issues, evidence of abuse by a party against:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



- 1 (1) the other parent of the party's child;
- 2 (2) the party's spouse; or
- 3 (3) any child residing within the party's household, including a child other
4 than the child who is the subject of the custody or visitation proceeding.

5 (c) If the court finds that a party has committed abuse against the other parent
6 of the party's child, the party's spouse, or any child residing within the party's household,
7 the court shall make arrangements for custody or visitation that best protect:

- 8 (1) the child who is the subject of the proceeding; and
- 9 (2) the victim of the abuse.

10 **(D) IN A CHILD CUSTODY OR VISITATION PROCEEDING IN WHICH A PARENT**
11 **IS ALLEGED TO HAVE COMMITTED ABUSE UNDER THIS SECTION, EXPERT EVIDENCE**
12 **FROM A COURT-APPOINTED OR PARTY-RETAINED PROFESSIONAL RELATING TO**
13 **THE ALLEGED ABUSE MAY BE ADMITTED ONLY IF THE ~~PROFESSIONAL POSSESSES~~**
14 **~~DEMONSTRATED EXPERTISE AND CLINICAL EXPERIENCE IN WORKING WITH VICTIMS~~**
15 **~~OF ABUSE THAT IS NOT SOLELY FORENSIC IN NATURE.~~ IS FOUND TO SATISFY THE DAUBERT**
STANDARD.

16 **9-109.**

17 **(A) IN THIS SECTION, "CUSTODY EVALUATOR" MEANS AN INDIVIDUAL**
18 **APPOINTED OR APPROVED BY A COURT TO PERFORM A CUSTODY EVALUATION.**

19 **(B) A COURT MAY NOT APPOINT OR APPROVE AN INDIVIDUAL AS A CUSTODY**
20 **EVALUATOR UNLESS THE INDIVIDUAL:**

21 **(1) IS:**

22 **(I) A PHYSICIAN LICENSED IN ANY STATE WHO IS**
23 **BOARD-CERTIFIED IN PSYCHIATRY OR HAS COMPLETED A PSYCHIATRY RESIDENCY**
24 **ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL**
25 **EDUCATION OR A SUCCESSOR TO THAT COUNCIL;**

26 **(II) A MARYLAND LICENSED PSYCHOLOGIST OR A**
27 **PSYCHOLOGIST WITH AN EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;**

28 **(III) A MARYLAND LICENSED CLINICAL MARRIAGE AND FAMILY**
29 **THERAPIST OR A CLINICAL MARRIAGE AND FAMILY THERAPIST WITH AN**
30 **EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;**

1 (IV) A MARYLAND LICENSED CERTIFIED SOCIAL
2 WORKER—CLINICAL OR A CLINICAL SOCIAL WORKER WITH AN EQUIVALENT LEVEL
3 OF LICENSURE IN ANY OTHER STATE;

4 (V) 1. A MARYLAND LICENSED GRADUATE OR MASTER
5 SOCIAL WORKER WITH AT LEAST 2 YEARS OF EXPERIENCE IN ONE OR MORE OF THE
6 AREAS LISTED IN SUBSECTION (D)(1) OF THIS SECTION; OR

7 2. A GRADUATE OR MASTER SOCIAL WORKER WITH AN
8 EQUIVALENT LEVEL OF LICENSURE AND EXPERIENCE IN ANY OTHER STATE; OR

9 (VI) A MARYLAND LICENSED CLINICAL PROFESSIONAL
10 COUNSELOR OR A CLINICAL PROFESSIONAL COUNSELOR WITH AN EQUIVALENT
11 LEVEL OF LICENSURE IN ANY OTHER STATE; AND

12 (2) HAS TRAINING IN:

13 (I) CHILD GROWTH AND DEVELOPMENT;

14 (II) PSYCHOLOGICAL TESTING;

15 (III) PARENT—CHILD BONDING; INCLUDING UNHEALTHY ATTACHMENTS

16 (IV) SCOPE OF PARENTING;

17 (V) ADULT DEVELOPMENT AND PSYCHOPATHOLOGY;

18 (VI) FAMILY FUNCTIONING; AND

19 (VII) CHILD AND FAMILY DEVELOPMENT.

20 (C) IF A COURT IDENTIFIES ONE OR MORE OF THE FOLLOWING ISSUES IN A
21 CUSTODY OR VISITATION PROCEEDING, THE COURT SHALL APPOINT A CUSTODY
22 EVALUATOR OR LICENSED HEALTH CARE PROVIDER WHO HAS EXPERIENCE,
23 EDUCATION, TRAINING, OR SUPERVISION IN THE SPECIFIC ISSUE IDENTIFIED:

24 (1) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF AN INTIMATE
25 PARTNER OR FORMER INTIMATE PARTNER;

26 (2) PHYSICAL, SEXUAL, OR PSYCHOLOGICAL ABUSE OF A CHILD;
INCLUDING PARENT CHILD CONTACT ISSUES

27 (3) COERCIVE CONTROL; INCLUDING PARENT CHILD CONTACT ISSUES

(I) BE PROVIDED BY:

BE PROVIDED BY A PROFESSIONAL WITH CLINICAL, FORENSIC, OR RESEARCH EXPERIENCE IN DOMESTIC VIOLENCE, PSYCHOLOGICAL ABUSE INCLUDING PARENT CHILD CONTACT ISSUES, AND SEXUAL ABUSE; ~~A PROFESSIONAL WITH SUBSTANTIAL EXPERIENCE IN~~

~~ASSISTING SURVIVORS OF DOMESTIC VIOLENCE OR CHILD ABUSE, INCLUDING A VICTIM SERVICE PROVIDER; AND~~

2. IF POSSIBLE, A SURVIVOR OF DOMESTIC VIOLENCE OR CHILD PHYSICAL OR SEXUAL ABUSE; EVIDENCE-BASED, PEER REVIEWED RESEARCH;

(II) RELY ON EVIDENCE-BASED RESEARCH BY RECOGNIZED EXPERTS IN THE TYPES OF ABUSE DESCRIBED IN ITEM (I) OF THIS PARAGRAPH;

(III) NOT INCLUDE THEORIES, CONCEPTS, OR BELIEF SYSTEMS UNSUPPORTED BY THE RESEARCH DESCRIBED IN ITEM (II) OF THIS PARAGRAPH; AND

(IV) BE DESIGNED TO IMPROVE THE ABILITY OF COURTS TO:

PHYSICAL AND PSYCHOLOGICAL

1. RECOGNIZE AND RESPOND TO CHILD ~~PHYSICAL~~ ABUSE, CHILD SEXUAL ABUSE, DOMESTIC VIOLENCE, AND TRAUMA IN VICTIMS, PARTICULARLY CHILDREN; AND

PHYSICAL AND

PSYCHOLOGICAL SAFETY

2. MAKE APPROPRIATE CUSTODY DECISIONS THAT PRIORITIZE SAFETY AND WELL-BEING AND ARE CULTURALLY SENSITIVE AND APPROPRIATE FOR DIVERSE COMMUNITIES.

(E) IN ANY ACTION IN WHICH CHILD SUPPORT, CUSTODY, OR VISITATION IS AT ISSUE, A COURT SHALL PROVIDE INFORMATION TO THE PARTIES REGARDING THE ROLE, AVAILABILITY, AND COST OF A CUSTODY EVALUATOR IN THE JURISDICTION.

(F) BEFORE ENGAGING IN THE CUSTODY EVALUATION PROCESS, A CUSTODY EVALUATOR SHALL PROVIDE, IN WRITING, INFORMATION REGARDING THE POLICIES, PROCEDURES, AND FEES AND COSTS FOR THE EVALUATION.

(G) THE ADMINISTRATIVE OFFICE OF THE COURTS MAY ADOPT PROCEDURES TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.