

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1298
Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act)
DATE: February 21, 2024
(2/29)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1298. This bill adds the Maryland Paternal Naming Rights Act as § 5-1049 to the Family Law Article. The bill allows an individual who is confirmed as the father of a child by court order to petition a court to add the father's surname to their child's name. The bill creates a rebuttable presumption that adding the father's surname to the child's name is in the best interests of the child. The bill specifies the factors the court must consider in determining whether changing a child's name is in the child's best interests. The bill also requires the Maryland Judiciary to develop a training for judges on the best interest standard and rebuttable presumption discussed in the bill.

This bill is unnecessary. Maryland Rule 15-901 establishes a process by which a parent, guardian, or custodian can petition the court for an order changing a child's name. The process set forth in that rule ensures all other parents, guardians, and custodians are properly notified and have an opportunity to object to a petition. The process also provides for consideration of whether the child consents to the requested change, to the extent the child can and regardless of his, her, or their age. The court applies the best interest of the child standard when determining whether to grant a petition. This allows the court to consider each child's unique facts and circumstances, including what the requested name would mean for the child's welfare, social and familial relationships, and the child's established identity. This bill would create a conflicting and unnecessary process and establish a rebuttable presumption that would be more difficult for unrepresented parents, guardians, and custodians to meet. There is also already a process under the Health – General Article to update a child's birth certificate after a court has issued a name change order.

The bill's training requirement is also unnecessary and inappropriate. Judges and magistrates handling name change and other domestic matters receive significant training

on and have access to resources regarding best interest of the child determinations and other topics. In addition, this provision runs afoul of duties constitutionally assigned to the Judicial Branch. Courts and Judicial Proceedings Article § 1-201 empowers the Supreme Court of Maryland to make rules and regulations for courts of the state. By Administrative Order issued by the Chief Justice of the Supreme Court of Maryland, the Judicial College of Maryland is responsible for the continuing professional education of judges and magistrates and provides “oversight of [educational programs] to avoid duplication, unnecessary expenses, and undue burdens on judges and magistrates and to assure the quality and consistency of such programs.”¹ The Administrative Order also outlines education requirements and available programs. The training provision in this bill intrudes on this authority.

cc. Hon. Caylin Young
Judicial Council
Legislative Committee
Kelley O’Connor

¹ Amended Administrative Order on Continuing Education and Outreach and Leadership of Judges and Magistrates filed January 23, 2023, available at <https://www.mdcourts.gov/sites/default/files/admin-orders/20230130amendedcontinuingeducationandoutreachandleadershipofjudgesandmagistrates.pdf> (rescinding (updating) Administrative Order on Continuing Education of Judges, Magistrates, and Commissioners filed on August 24, 2022).