

HB1298 Testimony 2024.pdf

Uploaded by: Debi Jasen

Position: UNF

House Bill 1298 - UNFAVORABLE
Judiciary Committee

Honorable Chair, Vice Chair, and Members of the Judiciary Committee;

Please give House Bill 1298, regarding the "Maryland Paternal Naming Rights Act," an Unfavorable report.

This bill is blatantly misogynistic. There should be no assumption whatsoever that a child having the father's surname is in the best interest of the child. If a father wanted his name on the birth certificate, the time to discuss such was with the mother before the baby was born. A child's biological mother is a known factor, and so the mother's surname should obviously be the one that takes precedence. With the agreement of the mother, the child's name can already be changed, including on the birth certificate.

The only positive thing that I can say about this bill is that there seems to be no requirement for the father's surname to be at the end of a child's name. To be clear, however, if the committee is determined to pass this bill, I ask that there be an amendment to state that the father's surname only become a middle name if the mother is opposed to the father's surname being added at all. There should be no complaints about that from the sponsor of this bill since it has been considered good enough for the mother's surname to be there.

Again, I urge an unfavorable report for House Bill 1298. Thank you for your consideration.

Sincerely,
Debi Jasen
Pasadena, MD

HB 1298 - WLCMD - UNF.pdf

Uploaded by: Laure Ruth

Position: UNF

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.

hb1298.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: 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).

HB 1298_MNADV_UNF.pdf

Uploaded by: Melanie Shapiro

Position: UNF



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

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the House Judiciary Committee to issue an unfavorable report on HB 1298.**

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 and petitions for the name to be added. While the bill purports to assess what is in the best interests of the child, the rebuttable presumption undermines the best interest of the child assessment. If the father petitions to have his name added, the other parent, who in this bill can only be the mother, would have to prove that it is not in the best interests of the child to require the child to carry father's surname.

The factors listed in the bill that the Court would be required to consider do not appear to be based on any social science research or any other reputable source. The age of 12 to consider a child's preference is arbitrary. Furthermore, there is existing case law in Maryland that Courts are to use the best interests of the child standard in child naming cases.

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.

We also find the training required by the bill to be unnecessary. The Courts already make determinations in the best interests of the child and have trainings on a variety of subjects that impact families and children.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on HB 1298.**

2024 02 27, HB 1298_FLSC_UNF.pdf

Uploaded by: Michelle Smith

Position: UNF

To: Members of House Judiciary Committee

From: Family Law Section Council

Date: February 28, 2024

Subject: **House Bill 1298:** Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act)

Position: **UNFAVORABLE**

The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **urges an unfavorable committee report on House Bill 1298 Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act).**

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.

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. HB 1298 ignores same sex couples, surrogacy, and assisted reproductive technology. The gendering in HS 1298 is prejudicial.

HB 1298 references the best interests of the child, but requires consideration of certain factors (p. 2, lines 10-17) that deviate from the best interests standard established in *Montgomery County v. Sanders* and *Taylor v. Taylor*. This creates legal confusion, especially when the General Assembly has yet to pass into law best interest factors.

Also troubling is the curtailment of Judges to deny a petition (p. 2, lines 18-20) when in the best interests of children. Is it best practice for Judges to state their reasons? Yes. Should a Judge be prohibited from denying a petition for not? No. Likewise, further efforts of the General Assembly to direct the training of Maryland’s Judiciary is concerning, especially when the required training in HB 1298 is on “the best interest standard” yet this body has yet to pass into law the best interest standard. This portion of HB 1298 puts the cart before the horse.



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For the above stated reasons, the FLSC **urges an unfavorable committee report for HB 1298.**

Should you have any questions, please contact:

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