

JUDICIAL PROCEEDINGS COMMITTEE

SENATE BILL 25: FAMILY LAW—CHILD CUSTODY EVALUATORS—QUALIFICATIONS

DATE: JANUARY 28, 2025

POSITION: SUPPORT WITH AMENDMENT

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. DRM supports Senate Bill 25, which would impose a set of qualifications on child custody evaluators. However, given the long history of discrimination against parents with disabilities, DRM requests an amendment specifying that child custody evaluators must receive training about disability and about how to make recommendations based on evidence, not assumptions about disability.

At the time of passage of the Americans with Disabilities Act, 20 U.S.C. §12101 *et.seq.* in 1990, Congress found that people with disabilities have encountered “the discriminatory effects of...exclusionary qualification standards and criteria” and that they have faced discrimination “resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals.”¹ Congress also found that “discriminatory policies and practices affect people with disabilities in every aspect of their lives...[including] securing custody of their children.”²

In 2014, the Maryland Commission on Child Custody Decisionmaking issued a report that included the Report of the Disability Bias and Neutral-Language Subcommittee. The Subcommittee found that there was a history of bias against parents with disabilities and that child custody decisions were made on the basis of assumptions, e.g., that a parent with a particular type of disability is not capable of parenting. The Subcommittee recommended training for all family court professionals on a regular basis about parents with disabilities and their children. Additionally, the Subcommittee recommended that custody evaluations include supporting evidence regarding use of best practices to assess any disability-related issue and training to ensure that custody determinations are based on evidence, not assumptions. The Commission’s report has not been fully adopted.

¹ 20 U.S.C. §§12101(a)(5) and 12101(a)(7).

² H.R. Rep. No. 485, Pt. 3 at 25.

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Because parents with disabilities still face discrimination in the child custody process, DRM proposes the following amendment:

(G) ALL CHILD CUSTODY EVALUATORS SHALL RECEIVE TRAINING IN:

(1) MAINTAINING NEUTRALITY BY RECOGNIZING AND ADDRESSING PERSONAL ATTITUDES, VALUES, IMPLICIT BIAS, AND ASSUMPTIONS THAT MAY COMPROMISE NEUTRALITY AND IMPACT THE EVALUATOR'S DETERMINATION;

(2) SUPPORTS AND SERVICES AVAILABLE TO CHILDREN AND ADULTS WITH DISABILITIES, INCLUDING ACCOMMODATIONS FOR PARENTING;

(3) THE USE OF OBJECTIVE CRITERIA WHEN MAKING A CUSTODY DETERMINATION INVOLVING A PARENT WITH A DISABILITY.

Please contact Leslie Seid Margolis at lesliem@disabilityrightsmd.org or 443-692-2505 with questions.

Respectfully submitted,

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