DADVOCATE 02 11 2025 Senator Ready.pdf
Uploaded by: Eric Smith
Position: FAV

The Real Dadvocate

Winning Strategies: Fatherhood, The Courts & Custody, Incorporated
Contact Number – 443- 768-8158
Post Office Box 23062
Baltimore, Maryland 21203
Email: winningstrategies.fcc@gmail.com
Http://www.winningstrategiesfcc.org
Therealdadvocate.com

February 11, 2025

Senator Ready
Maryland State Senators & Delegates
Annapolis, Maryland 21401

Subject: FAVOURABLE VOTE – SENATE BILL 0660 Family Law - Child Support Guidelines - Agreement Between Parents

Senate Bill 0660 takes the bias out of the Family Court!

SB 0660 allow parents to be parents in deciding how to rear their child(ren). In a recent case in the Baltimore City Family Court Parker v. Macer case number 24-D-23-002856. The Parker v. Macer case, number 24-D-23-002856, illustrates a scenario where the court's involvement appeared unnecessary and even counterproductive, as the mother did not seek child support, yet the court imposed it on the father when he sought access to his child. This raises questions about whether the court's actions truly aligned with the "best interest of the child" standard, which is supposed to guide family court decisions in Maryland.

That actual court case is a reason The Real Dadvocate nonprofit organization supports Maryland Senate Bill 0660. Senate Bill 0660 seems to stem from a broader concern that family courts may overstep their authority by intervening in cases where parents are capable of reaching agreements on their own. This intervention can lead to unnecessary legal battles, financial burdens, and strained relationships between parents, which may ultimately harm the child's well-being.

In Parker v. Macer, the court refunded the child support payments from Mr. Parker, but that case underscores

the potential for courts to act in ways that contradict the parents' intentions and the child's best interests. It also highlights the need for reforms to ensure that family courts respect the autonomy of parents who are able to cooperate and make decisions in their children's best interests.

If Senate Bill 0660 aims to address these issues by limiting unnecessary court intervention and promoting parental cooperation, it could be a step toward ensuring that family courts in Maryland operate more effectively and in alignment with the best interests of children.

Sincerely,
eric d. smith
Executive Director,
The Real Dadvocate
443-768-8158

Cc: File

SB 660 - Child Support Agreements - 2025-MLA-FWA.p
Uploaded by: Amee Vora
Position: FWA

Senate Bill 660
Family Law – Child Support Guidelines – Agreement Between Parents
In the Senate Judicial Proceedings Committee
Hearing on February 13, 2025
Position: FAVORABLE WITH AMENDMENTS

Maryland Legal Aid submits its written and oral testimony on SB 660 at the request of Senator Ready.

Maryland Legal Aid (MLA) urges a favorable report on SB 660, a bill that empowers parents to determine, by mutual consent, the level of formal child support that is most appropriate for their children, based on the individual circumstances of their family and best interests of their children. MLA is a private, nonprofit law firm providing free civil legal services to low-income individuals and families in every county of Maryland. MLA handles a variety of civil legal issues, including family law cases such as divorce, custody, child support, and domestic violence matters. MLA represents mothers as well as fathers, and custodial as well as non-custodial parents.

While many of our cases are contentious, we have seen plenty of parents come together to reach co-parenting agreements based on a common understanding of how to best meet their children's needs. By giving parents the freedom and flexibility to jointly decide their family's financial arrangements (informed by and in furtherance of the best interests their children), SB 660 will likely result in less litigation, less hostility between co-parents, and more consistent financial support for children. Though MLA supports SB 660's goal of enabling families to resolve matters collaboratively, we suggest amendments to ensure that any child support agreements reached by parents are based on informed consent rather than haste or coercion.

A. By allowing parents to negotiate and agree upon a child support amount that works best for their specific circumstances, SB 660 may result in less adversarial co-parenting relations and less unnecessary litigation.

Family courts – like the rest of our legal system – were designed to be adversarial, pitting one parent against another and, thus, perpetuating conflict and animosity. However, "child support and other family law cases may not be best served by adversarial procedures because of the intimate, emotional, and often culturally sensitive issues involved."[1] In fact, research has found that "the adversarial nature of child support processes can create or exacerbate conflict between parents."[2]

Rather than forcing parents to participate in lengthy court proceedings wherein judges or magistrates decide the issue of child support based on the factors permitted by the Maryland Child Support Guidelines, SB 660 empowers families to independently work out a financial support arrangement that serves their specific needs. "When parents settle their conflicts in less adversarial ways, they have better feelings toward each other, toward the courts, and toward the law."[3] It is in the best interests of neither children nor co-parents when the legal system creates familial conflict where none exists. Furthermore,

---

1 Ascend at the Aspen Institute & Good+Foundation, "Providing Equal Access to Justice: Child Support Policy Fact Sheet," *Centering Child Well-Being in Child Support Policy*, 2023, available at https://ascend.aspeninstitute.org/wp-content/uploads/2023/11/6_ChildSupport_Justice_final-1.pdf.

2 L.K. Vogel et al. "'Let's Bring It Into the 21st Century': Perceptions of fairness in child support," *Children and Youth Services Review*, 163, (2024), available at https://www.sciencedirect.com/science/article/pii/S0190740924003396

3 *Supra* note 1.

because parents usually have the most intimate understanding of their children's best interests and needs, they are often best suited to figure out the exact level of financial support that is required. By allowing courts to honor child support agreements reached by fit parents, SB 660 will likely lead to less litigation and fewer hours in court.

SB 660 does not eliminate a parent's right to establish child support through a contested, adversarial court process, if that is what they want. MLA knows that not every child support case can be resolved through consent agreements, and that parents may have valid reasons for seeking differing levels of child support; those cases are well-suited for court adjudication. However, the law should not get in the way of parents who *are* able to resolve matters on their own, if that is their choice. SB 660 would be a welcome addition to Maryland's child support laws because it codifies the ability of co-parents to amicably resolve child support matters, and because non-adversarial conflict resolution promotes healthy co-parenting and may lead parents to spend less time in court.

B. SB 660 allows parents to agree to realistic child support awards that are more likely to be paid.

Maryland law presumes that the amount of child support calculated by the Child Support Guidelines is correct amount to be awarded but allows for deviations from that amount if application of the Guidelines would be unjust of inappropriate.[4] Some Maryland courts already recognize the agreement of parties as a basis for deviation from the Guidelines.[5] In Maryland, research has shown that deviations – particularly those based on the agreement of both parties – are linked with greater compliance with child support orders, and this is especially true for low-income obligors such as the non-custodial parents MLA represents.[6]

In MLA's experience, parents often agree to downward deviations to accommodate the non-custodial parent's ability to pay; in one case, for example, a custodial parent agreed to an amount of child support below what the Guidelines prescribed because the non-custodial parent reported having difficulty finding full-time employment due to his criminal history. Rather than set child support at an amount she knew the non-custodial parent could not pay, the custodial parent preferred a lower child support order with which her non-custodial parent was more likely to comply. As SB 660 may lead to the establishment of child support orders with higher rates of compliance, we urge its passage.

C. To ensure that parents enter child support agreements knowingly and voluntarily, SB 660 should be amended to include procedural safeguards to protect parents from coercion.

While MLA supports the ability of parents to mutually decide upon the financial support arrangement that best serves their children, we recognize that in some co-parenting relationships, parents may have unequal bargaining power due to domestic violence, wealth, immigration status, or community reputation, for example. For those reasons, it is imperative of the court to ensure that child support agreements are reached through informed consent of parents, as opposed to intimidation.

---

[4] Md. Family Law Code § 12-202.

[5] Demyan, N. & Passarella, L.L. (2022). *Maryland Child Support Guidelines: 2015-2018 Case-Level Review*, available at https://archive.hshsl.umaryland.edu/handle/10713/22422.

[6] Demyan, N., & Passarella, L.L. (2018). *Do deviations from child support guidelines improve payment compliance?* University of Maryland School of Social Work, available at https://www.ssw.umaryland.edu/media/ssw/fwrtg/child-support-research/cs-guidelines/guidelines_deviations.pdf

Maryland should look to how California has dealt with this issue. Although California has codified the ability of parents to establish child support orders deviating from the child support guidelines by mutual consent, the state has also instituted various procedural safeguards to ensure that parents do not feel coerced into agreeing to child support arrangements that do not serve their children's best interests.[7] Namely, under Cal. Fam. Code § 4065(a),

> [T]he court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:
> (1) They are fully informed of their rights concerning child support.
> (2) The order is being agreed to without coercion or duress.
> (3) The agreement is in the best interests of the children involved.
> (4) The needs of the children will be adequately met by the stipulated amount.
> (5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

By requiring the court to inquire into whether that child support agreements are entered into intelligently and voluntarily, California law both supports parents who are able to resolve the issue of child support on their own, while ensuring that the agreement adequately meets the needs of the children and is not the product of coercion. Moreover, Cal. Fam. Code § 4065(d) provides that

> If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

Thus, California further protects parents who agree to child support orders deviating from the guidelines by easing their ability to obtain child support modifications back up to the amount prescribed by the guidelines. If, for example, a custodial parent later regrets their decision to agree to a lower amount of child support, or if they were deceived into accepting a lesser amount of formal support in exchange for the other parent promising to provide additional informal support that never materializes, California law allows the custodial parent to change their mind and obtain a new child support order based on the calculation of the guidelines.

MLA encourages the Committee to consider adding similar protections to SB 660, so as to strike a balance between protecting the ability of parents to jointly resolve their own family matters, while simultaneously protecting parents who may be vulnerable to coercion. For the reasons stated above, MLA urges a favorable report on SB 660 with the amendments we suggested. If you have any questions, please contact me at: avora@mdlab.org.

[7] *See* Cal. Fam. Code § 4065.

SB660ChildSupport.pdf
Uploaded by: Justin Ready
Position: FWA

JUSTIN READY
Legislative District 5
Carroll County

Finance Committee

James Senate Office Building
11 Bladen Street, Room 315
Annapolis, Maryland 21401
410-841-3683 · 301-858-3683
800-492-7122 *Ext.* 3683
Justin.Ready@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 12, 2025

SB 660 – Family Law – Child Support Guidelines – Agreement Between Parents

Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

SB 660 establishes that the application of the child support guidelines would be unjust or inappropriate if the parents mutually assert that the separation or property settlement agreement is in the best interest of the child.

This issue was brought to my attention by an attorney who cited a 2022 case[1] where the parents wanted no payment of child support. Support under the guideline should have been $2000 a month, however the mother kept some house equity which the parents claimed should have justified no child support payments.

Under current law, the Circuit Court for Anne Arundel County ruled against the parents, as they did not have authority to deviate from the child support guidelines.

A separate advocate reached out to our office over concerns raised by some domestic violence advocates who worry that, in certain cases, one parent may feel pressured into accepting a support order that does not truly reflect their child's best interest. I considered these amendment proposals reasonable and ordered the following amendments:

1. **Affirmation Requirement:** Any agreed-upon child support order below the Guideline amount must be accompanied by an affirmation that both parents:
    - Understand their rights under the Child Support Guidelines,
    - Do not feel coerced, and
    - Believe the order adequately meets their child's needs.

2. **Modification Option:** Either parent would retain the right to modify the order back up to the Guideline amount at any time, without needing to meet a burden of proof or provide justification.

I respectfully request a favorable report on Senate Bill 604.

[1] https://law.justia.com/cases/maryland/court-of-special-appeals/2024/2220-22.html#:~:text=In%20this%20case%2C%20both%20parents,a%20deviation%20from%20the%20guidelines

SB 660 - UNF - House of Ruth.pdf
Uploaded by: Deena Hausner
Position: UNF

House of Ruth Maryland

Domestic Violence Legal Clinic
2201 Argonne Drive, Baltimore, Maryland 21218
(410) 554-8463 · Fax: (410) 243-3014 · www.hruth.org · legal@hruthmd.org
Toll Free: 1-888-880-7884 · Maryland Relay: 711

Bill No.:	Senate Bill 660
Bill Title:	Family Law – Child Support Guidelines – Agreement Between Parents
Committee:	Judicial Proceedings
Hearing Date:	February 13, 2025
Position:	**UNF**

House of Ruth is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George's County, and Montgomery County. Senate Bill 660 would create a presumption that application of the child support guidelines would be unjust or inappropriate if there is an agreement between the parents to waive child support. **We urge the Senate Judicial Proceedings Committee to report unfavorably on Senate Bill 660.**

Under current law, application of the child support guidelines is presumptively correct. The court may only deviate from application of the guidelines in certain circumstances related to one or both parent's financial circumstances. SB 660 would introduce a new, presumptive basis for deviating from the child support guidelines when the parents agree that deviating is in the child's best interest. In essence, this would enable parents to agree to waive child support altogether.

This bill overlooks the very dangerous reality that perpetrators of domestic violence regularly intimidate, coerce, and threaten victims into bargaining away their rights. Even after the parties have separated, abusers routinely use the legal process as a means to control and dominate their victims. House of Ruth has talked to many victims over the years who have agreed to forego important legal remedies, such as primary physical custody, alimony, and division of marital property, because their abusers had threatened them, because they believed that giving up these rights would decrease the risk of future violence, or because they wanted to put an end to a protracted and traumatizing litigation process. SB 660 would work to the detriment of victims of intimate partner violence and their children, to whom the benefits of child support rightfully belong.

The House of Ruth urges the Senate Judicial Proceedings Committee to issue an unfavorable report on Senate Bill 660.

SB 660 - MNADV - UNF.pdf
Uploaded by: Laure Ruth
Position: UNF

BILL NO: Senate Bill 660
TITLE: Family Law - Child Support Guidelines - Agreement Between Parents
COMMITTEE: Judicial Proceedings
HEARING DATE: February 13, 2025
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 Senate Judiciary Committee to issue an unfavorable report on SB 660.**

Although the language of the bill is terribly convoluted, Senate Bill 660 would create a presumption that if two parents or parties agreed to deviate from the child support guidelines, it would be *presumed* to be in the best interests of the child or children. This is a dangerous proposition and could be very damaging for custodial parents and children. The bill arises from a case that is currently in Maryland's Supreme Court, Houser v. Houser, where the parties agreed that mother, primary custodian, would waive virtually everything financially. The trial court refused the parents' agreement and ordered father, who earned more than mother, to pay child support according to the guidelines. The court found that the parties did not articulate a reason it was in the best interests of the child to deviate to no child support being paid at all. In August, 2024, the Appellate Court of Maryland upheld the trial court's decision.[1]

We have several concerns:

Coercion and Unequal Bargaining Power: In situations involving domestic violence, one parent may exert undue influence or pressure on the other to agree to a child support arrangement that is not fair or adequate. The bill's presumption in favor of mutual agreements could inadvertently legitimize agreements reached through coercion, leaving the victimized parent with insufficient support.

Inability to Rebut the Presumption: Although typically presumptions can be rebutted if a court determines that the agreement is not in the child's best interest, under SB 660 *there would not be a party to present evidence to rebut the presumption*. This would create a de facto exception in these cases to judicial review of the child support agreed upon. The Court itself cannot present

[1] See Houser v. Houser, www.mdcourts.gov/data/opinions/cosa/2024/2220s22.pdf

For further information contact Laure Ruth • Public Policy Director • 301-852-3930 • lruth@mnadv.org

1997 Annapolis Exchange Parkway, Suite 300 • Annapolis, MD 567401
Tel: 301-429-3601 • E-mail: info@mnadv.org • Website: www.mnadv.org

evidence. Therefore, this bill would give this type of agreement (mutual consent to deviate from the Guidelines) more power than any other type of arrangement.

Overlooking the Dynamics of Abuse: The bill does not account for the complexities of domestic violence situations, where the abusive partner may manipulate or control the victim's decisions. Without safeguards to protect victims, the legislation could perpetuate financial abuse and instability. Most often the victim is the economically inferior parent. She may be coerced into agreeing to terms that are not favorable to her or the child or children.

It will Increase Instances of Power and Control: Most importantly, the Network believes in and supports victim autonomy. However, our very strong fear is that if SB 660 passes, it will increase instances of power and control, threats, or other behaviors engaged in by abusers, or the economically superior parent even if there is no domestic violence, to force the other parent to give up what they are entitled to under our child support laws. In turn, this will harm the children.

SB 660 puts the wishes of the parent, or one parent, over the well-being of the child, and we suspect this may be part of a larger effort geared towards parents' rights. Maryland law should protect citizens from laws such as SB 660 and should make sure parents support their children economically when they are able.

For the above stated reasons, the **Maryland Network Against Domestic Violence strongly urges an unfavorable report on SB 660.**

For further information contact Laure Ruth • Public Policy Director • 301-852-3930 • lruth@mnadv.org

1997 Annapolis Exchange Parkway, Suite 300 • Annapolis, MD 567401
Tel: 301-429-3601 • E-mail: info@mnadv.org • Website: www.mnadv.org

Child Support - agreement by parents - senate - te

Uploaded by: Lisae C Jordan

Position: UNF

MCASA
Maryland Coalition Against Sexual Assault

Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Opposing Senate Bill 660
Lisae C. Jordan, Executive Director & Counsel
February 13, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes a statewide direct legal services program for survivors of sexual assault: the Sexual Assault Legal Institute (SALI). MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Judicial Proceedings Committee to report unfavorably on Senate Bill 660.

Child Support – Agreement by Parents – Unintended Consequences and Harm to Children
This bill would permit parents to waive child support. It will have the unintended consequence of harming children, including those who have been abused.

Child support is mandated by law to provide children with financial stability and ensure that parents are sharing in financial responsibilities. Under current law, application of child support guidelines is presumptively correct. These guidelines are similar to tax tables and take into account income and certain expenses. The court may only deviate from application of the guidelines in certain circumstances related to one or both parent's financial circumstances. SB 660 would introduce a new, presumptive basis for deviating from the child support guidelines when the parents agree that deviating is in the child's best interest. In essence, this would enable parents to agree to waive child support altogether.

MCASA's colleagues have submitted testimony addressing the very real threat this poses in intimate partner violence cases. These include, of course, intimate partner violence involving sexual assault and MCASA concurs with the testimony of the Network Against Domestic Violence and the House of Ruth. We also draw the Committee's attention to the danger this bill poses in child sexual abuse cases. The reality is that there are a significant number of cases where one parent has abused a child and there simply is not enough proof to establish the abuse in court. Protective parents in these cases often feel desperate and willing to do almost anything to protect the child from further risk. Even in cases where there is proof of abuse or boundary violations that cause concern, courts often entertain requests for visitation between the abuser

and child. It is difficult to overstate the concern and fear this causes. Even under current law, protective parents in this situation often give up legal rights in return for agreements to limit contact between a child and abuser. MCASA's member agencies and its Sexual Assault Legal Institute have encountered agreements to give up rights to spousal support/alimony, use & possession of a home, personal property, pension rights, and more – all to protect children. Adding child support to the list of things that can be bargained away will not help families. It will simply put children at higher risk of poverty and financial instability. The policy reasons for mandating child support are strong and child-centered. SB660 would erode the protections for children and should be firmly rejected.

The Maryland Coalition Against Sexual Assault
urges the Judicial Proceedings Committee to
report unfavorably on Senate Bill 660

2025 02 11, SB 660_FLSC_UNFAV.pdf
Uploaded by: Michelle Smith
Position: UNF

MSBA
MARYLAND STATE
BAR ASSOCIATION

520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

To: Members of The Senate Judicial Proceedings Committee

From: Family Law Section Council (FLSC)

Date: February 11, 2025

Subject: Senate Bill 660:
Family Law- Child Support Guidelines – Agreement Between Parents

Position: OPPOSED

The Maryland State Bar Association (MSBA) FLSC **opposes Senate Bill 660.**

This testimony is submitted on behalf of the Family Law Section Council ("FLSC") of the Maryland State Bar Association ("MSBA"). 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 and law and, at the same time, tries to bring together the members of the MSBA who are concerned with family related 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 1,100 attorney members.

SB 660 attempts to address the outcome of a family law case, *Houser v. Houser*, that is currently on appeal to the Supreme Court of Maryland. The FLSC does not support the proposed legislation which attempts to empower parents to agree to "depart" from the Maryland Child Support Guidelines. Instead, the FLSC endorses the opinion of the Appellate Court of Maryland, which sets forth a thorough review of established Maryland law that is consistent with the understanding and experiences of family law practioners throughout the State. In fact, the MSBA authorized the FLSC to file a Brief of Amicus Curiae to the Supreme Court of Maryland in the *Houser* appeal which urges an affirmation of the opinion of the Appellate Court of Maryland and the decision of the Circuit Court of Anne Arundel County. (See attached Brief)

SB 660 would lead to an evisceration of the entire child support statute and decades of Maryland Law as it would permit parents to agree to waive child support and ignore the statutory scheme and Maryland Child Support Guidelines. The underpinning of the entire

MSBA
MARYLAND STATE
BAR ASSOCIATION

520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

child support statute is the accepted premise that Maryland Judges must utilize the Guidelines in an objective manner in order to protect the financial needs of the children in the child support and custody matters which come before them on a daily basis. SB 660 would throw the baby out with the bath water of that accepted premise.

For the reason(s) stated above, the MSBA FLSC **opposes Senate Bill 660 and urges a unfavorable committee report**.

Should you have any questions, please contact Michelle Smith, Esquire at 410-280-1700 or msmith@lawannapolis.com.

Enclosure:
Brief of Amicus Curiae Maryland State Bar Association

IN THE SUPREME COURT OF MARYLAND

September Term, 2024

Case No. SCM-REG-0034-2024

IN THE MATTER OF THE MARRIAGE OF HOUSER

Petition from the Appellate Court of Maryland,
Case No. ACM-REG-2220-2022

Appeal from the Circuit Court for Anne Arundel County
(Honorable Michael J. Wachs)

BRIEF OF AMICUS CURIAE MARYLAND STATE BAR ASSOCIATION

DANIEL V. RENART, ESQUIRE
AIS No. 0712120185
drenart@rghlawyers.com
BRENDAN E. MADDEN, ESQUIRE
AIS No. 1812110230
bmadden@rghlawyers.com
Reinstein, Glackin & Herriott, LLC
185 Admiral Cochrane Drive, Suite 115
Annapolis, Maryland 21401
(301) 383-1525

Counsel for Amicus Curiae
Maryland State Bar Association

TABLE OF CONTENTS

TABLE OF CITATIONS

CASES

INTERESTS OF AMICUS CURIAE AND STATEMENT OF THE CASE

Amicus curiae Maryland State Bar Association ("MSBA") files this Brief in support of the reported opinion issued by the Appellate Court of Maryland in *Houser v. Houser*, ACM-REG-2220-2022, as well as the positions of fellow Amicus Curiae Attorney General of the State of Maryland. While their arguments differ to some extent, the Cross-Petitioners in this case, Erica Hall Houser ("Mother") and Nicholas Houser ("Father"), both seek reversal of the decision of the Circuit Court for Anne Arundel County rejecting a child support agreement entered into as part of a global settlement agreement arising out of their divorce. This Brief represents the positions of the MSBA, the Family Law Section Council of the MSBA, the members of the Family Law Section of the MSBA, and other members of the MSBA that practice family law.[1]

The MSBA (and specifically, its Family Law Section) represents the interests of over 1000 licensed family law attorneys practicing in the State of Maryland and routinely advocates in support of or against proposed legislation and rules that affect the practice of family law in this State. The arguments presented by the Cross-Petitioners are not only a foundational challenge to this State's laws on child support,

[1] Undersigned counsel, Daniel V. Renart, Esquire, is the current chair of the Family Law Section Council of the MSBA, a former president of the Maryland Hispanic Bar Association, and a fellow in the American Academy of Matrimonial Lawyers. He and his law firm, Reinstein, Glackin, & Herriott, LLC, practice regularly in courts throughout Southern and Central Maryland, including in Anne Arundel County.

but the Cross-Petitioners purport to speak for the interests and experience of other practitioners in this State. It is of fundamental importance that the Court receive the input of family law practitioners of this State, so that it can appropriately weigh the impact of the decision now pending before it. The MSBA endorses the opinion of the Appellate Court of Maryland, which sets forth a thorough review of established Maryland law that is consistent with the understanding and experiences of family law practitioners throughout the State.

QUESTIONS PRESENTED

1) Did the trial court err when it issued a child support order after the parties had voluntarily withdrawn child support as a justiciable issue, and the court did so over the objections of the parents who the court found to be fit and proper?

2) Did the trial court mis-apply the statute, or abuse its discretion, when the court ordered child support and arrears over the express objection of the parents who the court found to be fit and proper?

3) Did the trial court violate the parents' constitutional rights when the court *sua sponte,* and without evidence, rejected their agreement regarding the financial support of their child when the parents were found to be fit and proper?

4) Does the Maryland child support statute permit parents to waive a party's child support obligation, as part of a global settlement agreement, where the parties have shared physical custody, and their combined adjusted gross income exceeds the highest level of income set forth in the Maryland Child Support Guidelines?

5) Does the ACM's decision have a chilling effect on parents' rights to enter into agreements that they believe to be in their children's best interest?

ARGUMENT

I. THE OPINION OF THE APPELLATE COURT SETS FORTH A RECITAL OF ESTABLISHED AND UNCONTROVERSIAL MARYLAND LAW, NOT AN UNWRITTEN "LOCAL RULE"

The Cross-Petitioners argue that the decision of the trial court in this matter is the result of an isolated and improper "local rule" followed by the Circuit Court for Anne Arundel County, and that—by adopting that supposed "rule"—the Appellate Court's opinion will have a "chilling effect" on the rights of parents seeking to enter agreements they believe to be in their children's best interests.

This opinion is not shared by the MSBA, whose members practice throughout the courts of this State (including in the Circuit Court for Anne Arundel County). Far from an endorsement of a "local rule," the Appellate Court's ruling is understood by the MSBA as little more than a quotidian restatement of firmly established Maryland law. It is well known to the members of the MSBA that trial courts possess the authority to override agreements that pertain the interests of parties' minor children.

Furthermore, while courts may have the authority to override these agreements, they do so only sparingly. To the contrary, courts are often very willing to accept agreements that deviate from a strict application of the child support guidelines, so long as the parties present sufficient reasons justifying that deviation in accordance with Maryland statutory and case law. Ultimately, it is a relatively

simple task to establish meaningful deviations from a recommended child support guideline.

In fact, far from creating a "chilling effect" on the ability of parties to enter into negotiated agreements, as Cross-Petitioners claim, the knowledge that a trial court maintains an independent obligation to assess and set child support is a powerful tool in the daily practice of family law that assists in shaping expectations and brokering agreements both inside and outside of the courtroom. It forces parties to moderate their sometimes-extreme positions regarding child support, providing a springboard for negotiations and ensuring some degree of concessions from even the most recalcitrant parent (or, as may be the case, that parent's recalcitrant attorney). Litigants are restricted from taking a hard-line approach on child support because of the knowledge that the trial court has an independent obligation to assess support regardless of what the parties say to the contrary.

Indeed, beyond a mere willingness to accept agreements, judges will often work with the parties and their counsel in order to facilitate those very same agreements. The trial judge in this case did exactly that—the record indicates that he initially tried to identify a factual basis that might help justify the significant deviation downward from a recommended child support guideline. That he was ultimately unable to do so speaks more to the extraordinary terms of the agreement

in this case, and is hardly proof of the existence of the sort of overreaching policy spoken of by the Cross-Petitioners.

II. THE CHILD SUPPORT AGREEMENT IN THIS CASE IS A MAJOR OUTLIER AND SHOULD NOT SERVE AS THE BASIS FOR THE TYPE OF MAJOR POLICY CHANGE REQUESTED BY THE CROSS-PETITIONERS

The MSBA also wishes to confirm what the Court has likely assumed: that the child support agreement in this case is a major outlier and is hardly representative of the types of negotiated child support agreements that litigants typically present for approval by the courts. As such, whatever weight this Court may give to the Cross-Petitioners' legal arguments, the actual facts of this case provide a questionable platform for the type of major policy shift that would result from a ruling in the Cross-Petitioners' favor.

Despite earning just 30% of the parties' combined monthly income, Mother not only waived her right to support (and support arrears of roughly $41,000) but also assumed the costs for nearly every significant itemized expense for the child moving forward (daycare, extracurriculars, and extraordinary medical expenses up to $6,000 per year). *See Houser,* 262 Md. App. at 483-84.[2] In addition to those day-

[2] Father, meanwhile, would only be obligated to maintain existing health insurance for the child ($150 per month), in addition to incidental expenses while the child is in his care. *Id.* at 484. The MSBA will also note that while Father may technically have the child roughly 40% of the time, that does not equate to 40% of the overall childcare expenses. *See, e.g., Payne v. Payne*, 132 Md. App. 432, 444-45 (2000) ("Clearly, some periods of time in the life of a child are more costly for a parent than others. The reality is that all of a child's

to-day terms of the child support agreement, Mother also agreed to restrict her ability to modify the support agreement for "at least a period of twenty-four months," and that attempting to do so would "immediately constitute a material change in circumstances" entitling either parent to seek a modification of their separate custody agreement. *Id.* at 483, 485.

The agreement itself suggests that there is additional consideration for this apparently one-sided deal beyond the terms set forth within the document itself, without actually disclosing what those terms were:

> [The parties] recited that they had "reached this agreement in consideration for many factors and considerations, some of which would not be considered by a court of competent jurisdiction if this matter were to be decided by that Court."

Id. at 486.[3] When pressed by the trial judge, the parties declined to provide any meaningful basis for these significant deviations, which eventually led to the following exchange:

> The court responded [to Mother's counsel] that it had heard no reason "other than...this is what the parents would like to do." Counsel for Mother replied, "That is exactly the argument."

---

financial needs and expenses are not incurred in precise weekly increments, even though child support may be paid on that basis.").

[3] The Appellate Court noted that the support agreement "did not identify the 'factors and considerations' that a court would not consider or why a court would not consider them." *Id.*

Id. at 487.

As mentioned, despite such unbalanced terms, the trial judge did not dismiss the proposed agreement out of hand, but instead undertook his own fact-finding to try and justify those terms consistent with the requirements of Maryland law. It was only after it became clear that no real justification existed that the trial judge exercised his independent authority to reject the agreement and establish a separate child support order determined to be in the best interest of the child.

The MSBA does not believe that such an extraordinary and unusual agreement warrants the sweeping shift in Maryland law that would occur in the event of a ruling for the Cross-Petitioners, whatever legal arguments they may offer in support. To the extent that Maryland wishes to adopt a policy that empowers parties to waive child support freely and without the intervention of the courts, it should be a decision made by the legislature after considering the full breadth of the alleged issue, not by this Court relying on the narrative presented in a single, isolated case.

III. THE FINDING OF "PARENTAL FITNESS" IS NOT SUFFICIENTLY SCRUTINIZED AT THE TRIAL LEVEL TO WARRANT THE IMPORTANCE BEING PLACED ON IT BY THE CROSS-PETITIONERS

The Cross-Petitioners' constitutional arguments rest largely on the finding that both parties were "fit and proper" parents. While the MSBA recognizes that such a finding may hold significant import from a constitutional standpoint, at the trial level, it is a largely meaningless, *pro forma* determination made in nearly every

private custody case. Part of that is likely due to the serious ramifications that may result from a finding of unfitness—e.g., third-party visitation, removal proceedings under CINA, etc. In private custody and support disputes, however, it is common that a court will open its best interest analysis with a general finding of parental fitness, only to pillory and harangue one or sometimes even both parents on its way to a final custody determination. Anecdotally, members of the MSBA can recall cases where a finding of "fitness" is accompanied by findings of physical and emotional abuse for the same parent. While this is not to say that a finding of "fitness" has *no* value at the trial-level, the significant import that has been placed on this term in the context of high-level constitutional analysis does not carry over to its day-to-day application by courts of general jurisdiction.

In the context of a non-adversarial hearing, as occurred here, the value of a "parental fitness" finding is even lower. When presented with a custody/child support agreement, courts will engage in little more than a *pro forma* voir dire of the parties. The reason that a court is justified in relying on the bare representations of the settling parties is *because of* its independent ability and obligation to consider any agreements regarding custody and child support on behalf of the interests of the child. A court is not required to engage in exhaustive fact finding about the parties because it understands that any agreement regarding their minor children has been made in light of the knowledge that it will be subject to that court's independent

review. Adopting the arguments of the Cross-Petitioners here would basically eliminate that safeguard, as courts would not be permitted to challenge or question the custody and support agreements of parents it has determined to be fit and proper, with the caveat that no evidence will be presented to undermine that determination.

At oral argument, the Appellate Court referred to a "collusive relationship" between the parties in bringing this appeal. Of course, these types of agreements are somewhat "collusive" by their nature, given the highly charged and emotional nature of family law. It should be no shock to this Court that many agreements arising in the realm of divorce, custody, and child support are entered into with significant reservation by one or both of the parties, who may stomach meaningful concerns about the other parent's ability or willingness to adequately care for and/or support the minor child in order to get a deal done. Once an agreement is entered, however, both sides will have a vested interest in pushing it through the courts without issue or delay. While certainly imperfect, the independent authority vested in the Court allows it to exercise its own judgment to set aside an agreement that it determines to be against a child's interest. As discussed above, while this authority is rarely applied, that is in part because the possibility of that outcome has already helped shape the agreements entered into by litigants.

Were this Court to accept the arguments presented by the Cross-Petitioners, it would not relieve the obligation of trial courts to place a critical eye on the

agreements placed before them. Rather, it would simply shift the analysis of the trial court from the propriety of the agreement itself to the character of the parties standing before it—i.e., whether they *are* in fact "fit and proper" to warrant the total deference of a court in regard to decisions about the care and support of a minor child. Courts are not well-equipped to engage in that sort of fact finding, without notice and when both parties have a vested interest in putting their best faces forward.

IV. THE ABOVE-GUIDELINES DISTINCTION RAISED BY FATHER IS IMMATERIAL TO THE PRINCIPLES AT ISSUE IN THIS CASE

Father presents a more limited argument than Mother, asserting that deference should have been given to the parties in this case because they were "above-guidelines," i.e., their combined monthly income of the parents exceeds the statutory maximum for child support guidelines.[4] The Appellate Court, relying on this Court's opinion in *Voishan v. Palma*, 327 Md. 318 (1992), has explained that this is a "numerical" difference, not a "conceptual" one:

> When the statute and the case law speak of the inapplicability of the Guidelines to cases involving monthly parental income of more than $10,000, it is clear that they mean that the numerical component of the Guidelines does not apply. We underscore that, even in an

[4] It should be reemphasized that the parties in this case were "above guidelines" only by a quirk of timing, since their case initiated before the maximum statutory guidelines amount increased from $15,000 per month to $30,000 per month in July 2022. Were the parties to return to court on a modification with the same income levels, they would be subject to a rote application of the Maryland Child Support Guidelines.

> above Guidelines case, "[t]he conceptual underpinning" of the Guidelines applies. *Voishan*, 327 Md. at 322. As we said earlier, the Guidelines are founded on the premise "that a child should receive the same proportion of parental income, and thereby enjoy the standard of living, [that] he or she would have experienced had the child's parents remained together." Id. That rationale is no less applicable here, merely because this is an above Guidelines case.

Smith v. Freeman, 149 Md. App. 1, 19-20 (2002).

Moreover, it is not clear how the distinction sought by Father would square with principles of equal protection, as it would allow parties with greater combined resources to enter agreements that place them outside the scrutiny of the courts, while parents who fall within the statutory guidelines would be entitled to no such privilege.

V. THE COURT SHOULD CLARIFY WHETHER THE ISSUE OF CHILD SUPPORT CAN BE RAISED BY A TRIAL COURT *SUA SPONTE*, WHETHER OR NOT THE ISSUE HAS BEEN RAISED BY THE PARTIES

As a final note, the MSBA addresses its sole concern regarding the opinion of the Appellate Court. In a footnote, the Appellate Court discusses Father's "characteriz[ation] [of] the effort to withdraw the request for child support as an oral amendment of the pleadings" made on the day of trial, based on his argument that "a court has no power to address issues not framed by the pleadings." *See Houser*, *supra*, at 494 n.5. The Appellate Court rejected this argument on the basis that Father had failed to obtain leave of court for the purported amendment under Rule 2-341(b), even though it had occurred within 15 days of trial. *Id.* Further, in its conclusion, the

Appellate Court begins that "[t]he circuit court correctly considered child support in this matter, as the issue was appropriately presented for review to that court." *Id.* at 503-504.

Perhaps unintentionally, this procedural response fails to answer an important question—would the trial court be precluded from addressing the child support issue if the amendment *had* been timely made outside of the 15-day window? In other words, do the courts of this state have the authority to assess child support even if the issue has not been raised by either of the parties? The MSBA has long understood that the answer to that question is "yes," based on the existing case law regarding child support.

Given the uniquely broad framing of the issues in this case, the opinion of this Court—as well as the opinion of the Appellate Court—are likely to become the bellwether cases regarding the authority and obligation of a trial court to order child support. As with any decision, however, clever litigants (and their clever attorneys) will look for any gaps that allow them to evade its stated restrictions.

Ironically then, despite its forceful defense of the child support regime, the Appellate Court's response in Footnote 5 of its opinion may be destined to create an exception where one did not previously exist. As written, the opinion appears to suggest that Father's argument failed because of timeliness; the MSBA suggests that this Court may wish to clarify whether the argument would also fail simply because

Maryland courts possess the ability to raise the issue of child support on a *sua sponte* basis when custody is at issue, whether or not it has been raised by the parties.

CONCLUSION

For the reasons stated above, the Court should affirm the opinion of the Appellate Court of Maryland and the decision of the Circuit Court for Anne Arundel County.

Respectfully Submitted,

/s/ Daniel V. Renart

Daniel V. Renart, Esquire
AIS No. 0712120185
Brendan E. Madden, Esquire
AIS No. 1812110230
Reinstein, Glackin & Herriott, LLC
185 Admiral Cochrane Drive, Suite 185
Annapolis, Maryland 21401
(301) 383-1525
drenart@rghlawyers.com
bmadden@rghlawyers.com
Counsel for Amicus Curiae
Maryland State Bar Association

CERTIFICATE OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

This brief contains 3,212 words, excluding the parts of the brief exempted from the word count by Rule 8-503. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ *Daniel V. Renart*

Daniel V. Renart

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February, 2025, this Brief was submitted through MDEC to the following, with paper copies to be delivered to the same on the disposition of the contemporaneously filed Motion for Permission to File Brief of Amicus Curiae Maryland State Bar Association:

Nathan Volke
Law Offices of Stacey B. Rice
79 Franklin Street
Annapolis, Maryland 21401
Counsel for Erica Hall Houser

Charles Muskin
P.O. Box 501
Arnold, Maryland 21012
Counsel for Erica Hall Houser

Mandy Miliman
Joshua P. Tabor
D'Alesandro & Miliman, P.A.
20 Crossroads Drive, Suite 16
Owings Mills, Maryland 21117
Counsel for Nicholas Houser

Joshua Segal
Office of the Attorney General
200 Saint Paul Place
Baltimore, Maryland 21202
Counsel for Amicus Curiae
Attorney General of the State of Maryland

/s/ Daniel V. Renart

Daniel V. Renart

SB660_UNF_DHS.pdf
Uploaded by: Rachel Sledge Government Affairs
Position: UNF

Maryland
DEPARTMENT OF HUMAN SERVICES
Wes Moore, Governor · Aruna Miller, Lt. Governor · Rafael López, Secretary

February 13, 2025

The Hon. Will Smith, Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: TESTIMONY ON SB0660 - FAMILY LAW - CHILD SUPPORT GUIDELINES - AGREEMENT BETWEEN PARENTS - POSITION: UNFAVORABLE

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide unfavorable testimony for Senate Bill 660 (SB 660).

With offices in every one of Maryland's jurisdictions, DHS provides preventative and supportive services, economic assistance, and meaningful connections to employment development and career opportunities to assist Marylanders in reaching their full potential. The Child Support Administration (CSA) within DHS implements the child support program which will be affected by SB 660, if passed.

SB 660 establishes a presumption that the application of the child support guidelines would be unjust or inappropriate if the parents mutually assert that the separation or property settlement agreement is in the best interest of the child. CSA currently serves almost 106,000 children through active child support cases, and our breadth of experience raises concerns about SB 660. Specifically, we doubt that SB 660 appropriately protects the interests of children and foundational principles of fairness. We are concerned about unbalanced bargaining power between parents, and whether domestic violence survivors could be coerced into agreements that are not in the financial best interests of children.

SB 660 prioritizes an agreement between parents over the "best interests of the child" for whom child support is intended. Today, the court uses the income of both parents to set the child support amount by calculating the standard of living a child could expect in an intact household. The current process exists because a parent or guardian does not have the right to waive child support that is not theirs to waive. Child support is not supplemental income for the custodial parent, but rather means to provide for a child's needs and well-being. Even when all of a child's needs are ostensibly addressed by an agreement between the parents, additional support could be directed toward the child's environment, enrichment, or future financial stability; just as extra funds would be used if the household remained intact.

Under current law, the authority to make decisions about child support amounts is vested in a judge - an impartial finder of fact with no interest in the outcome of a settlement agreement between parents. A judge is best suited to ensure the child's interests are protected because parents often don't have equal bargaining power when negotiating with each other. If SB 660 passes, a parent with a stronger negotiating position could use their leverage because the negotiation is shielded in the private sphere. If SB 660 passes, differences in education, economic power, and social capital between parents could be leveraged to unfairly skew negotiations in favor of one parent and to the detriment of the child.

Finally, the Committee should consider how this legislation may affect survivors of domestic violence who enter into settlement agreements. A survivor of domestic violence could be coerced or exhausted into a child support agreement outside the protection of a court's review. Removing current protections would limit a survivor's ability to confirm whether the agreement deviates from the amount to which the child is entitled under current law. An unjust agreement negotiated in private and under pressure, or even duress, could lead to financial strain on the custodial parent or pose short and long term risks to the child.

We appreciate the opportunity to provide unfavorable testimony to the Committee for consideration during your deliberations. We look forward to the decision of the Committee and welcome continued collaboration on SB 660.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at rachel.sledge@maryland.gov.

In service,

Carnitra White
Principal Deputy Secretary