
To: Members of The House Judiciary Committee

From: Family Law Section Council (FLSC)

Date: January 28, 2025

Subject: House Bill 120:
Family Law - Child Support – Capacity of Minors to File Action

Position: FAVORABLE

The Maryland State Bar Association (MSBA) FLSC **supports House Bill 120.**

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 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 1,100 attorney members.

In Maryland, minors do not have the capacity to file legal claims unless permitted to do so in specific areas of the law by statutes or case law. Under Maryland Rule 2-202, minors may file suit by a guardian, fiduciary or, by next friend. Further, when the minor parent is in the sole custody of one of the minor’s parents, that parent has the exclusive right to sue on behalf of the minor. Minors are defined in the General Provisions Title of our Annotated Code at §1-103 to be an individual under the age of 18 years. Family Law Article § 5-203 (b) (1) states that the parents of a minor child are responsible for their child’s support. The same Article at §5-203 (c)(1) states that if one or both of the parents of a minor child is an unemancipated minor, the grandparents of the minor child are jointly and severally responsible for any child support in certain circumstances.¹

¹ **§ 5-203. Natural guardianship; powers and duties of parents; support obligations of grandparents; award of custody to parent.**

(a)

(1) The parents are the joint natural guardians of their minor child.

(2) A parent is the sole natural guardian of the minor child if the other parent:

In light of the critical public policy need for child support to be paid for Maryland's children, the Family Law Section supports the concept that the minor parents of a child should be permitted to initiate and defend actions for child support for his/her/their child or children. HB 120 would make it clear that minors are capable of filing petitions for child support and participating in such actions, without the need for a guardian, fiduciary, next friend or parent to act on his/her/their behalf. HB 120 would also create an important right to file their own actions for minor parents who have a conflict of interest with their own parent in regard to the responsibility to pay child support for the child under the section (c) of §5-203.

In order to make the language of HB 120 more clear, the Family Law Section has suggested to the sponsor that the bill language would be improved as follows, with the bold language being suggested amendments in addition to striking out the words "**legal and custodial**" on lines 14 and 15 of the bill which modify "parent." We believe requiring that the minor parent be the legal and custodial parent of the child implies that he/she/they already have a court order or some other designation beyond being the parent, which is unnecessarily restrictive:

§12-106

Notwithstanding Maryland Rule 2-202, a minor who is the parent of a child has the capacity and right to **initiate or defend** an action for child support **for that child**, whether pendente lite or permanently.

For the reason(s) stated above, the MSBA FLSC **supports House Bill 120 and urges a favorable committee report.**

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

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- (i) dies;
 - (ii) abandons the **family**; or
 - (iii) is incapable of acting as a parent.
 - (b) The parents of a minor child, as defined in § 1-103 of the General Provisions Article:
 - (1) are jointly and severally responsible for the child's support, care, nurture, welfare, and education; and
 - (2) have the same powers and duties in relation to the child.
 - (c) If one or both parents of a minor child is an unemancipated minor, the parents of that minor parent are jointly and severally responsible for any child support for a grandchild that is a recipient of temporary cash assistance to the extent that the minor parent has insufficient financial resources to fulfill the child support responsibility of the minor parent.
 - (d)
 - (1) If the parents live apart, a court may award custody of a minor child to either parent or joint custody to both parents.
 - (2) Neither parent is presumed to have any right to custody that is superior to the right of the other parent.