
To: Members of The Senate Judicial Proceedings Committee

From: Family Law Section Council (FLSC)

Date: February 27, 2026

Subject: Senate Bill 744:
Criminal Law- Interference of Custody Orders

Position: **UNFAVORABLE**

The Maryland State Bar Association (MSBA) FLSC **opposes Senate Bill 744.**

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 and Juvenile 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.

The FLSC acknowledges and appreciates the extent to which this body is seeking to ensure that Court Orders concerning custody and visitation are followed, however, SB 744 runs afoul of various existing guardrails for the enforcement of Court Orders, and the legal standards regarding custody determinations. The existing law under Family Law §9-105 already provides for Judicial remedies for matters in which the Judge has found that one party has unjustifiably denied or interfered with visitation granted by a custody order. The current statute references the applicable standard “in a manner consistent with the best interest of the child.” The statute permits a court to take certain actions against the offending party including (1) rescheduling the visitation; (2) modifying the order “to ensure future compliance with the order”; or (3) award fees and costs against the offending party. Under Maryland Rule §15-206, which governs civil constructive contempt, a litigant may request jail time for the other parent who is found in contempt for violating a custody order. Litigation under FL §9-105 and Rule §15-206 occurs in the Circuit Court of Maryland and often in conjunction with Motions for Modification of Custody or Motions to Enforce the Court Order. The existing statute and rule leaves appropriate discretion in the hands of the judiciary to craft appropriate sanctions and remedies for violations of a custody schedule. Child custody is not an area of the law that lends itself to simple, one-size-fits-all solutions that SB 744 would impose on Maryland courts.

Custody matters are highly fact specific and involve peculiarities of different family schedules and dynamics affecting young children which require that the Court carefully weigh the evidence presented, apply the applicable standards to determine the remedy that is in the best interests of the child or children in that family. In the cases litigated under §9-105 or Rule §15-206, it is not a foregone conclusion that the harm of missing parenting time can or will be erased or remedied by incarcerating the parent who interfered with the ordered parenting time.

What is clear; however, is that the Judges in the Circuit Courts of Maryland are the best trained and best suited to make the determinations regarding the outcomes that are in the best interests of the minor children in these cases. It appears that under the statutory scheme of SB 744, criminal charges for interfering with the ordered parenting time would be initially adjudicated by the policing authorities, second by the Judges of the District Court, and finally by the Judges of the Circuit Court or by a Jury. However, it would also seem that the charges could be placed against a parent by the other parent at the commissioner's office on a civilian complaint. This provides the opportunity for false allegations, harassing and intimidating behavior to be more rampant and wide-spread among custody litigants, which is not in the best interest of Maryland families or children.

In light of the current responsibilities of police authorities, it is inconceivable that they would have the training, education, experience or time to make considered and appropriate determinations as to whether there is probable cause to issue a written warning, a civil fine, or to issue a statement of charges for a person who violates the provisions of SB 744. These cases are complex and involve multiple factors, often requiring interpretation of legal language and hours of testimony in court. How will a road officer or Sheriff, called to the scene of a home at 1:00 am by a parent alleging that the other parent has "knowingly and willfully interfered with a custody order, by enticing or persuading a minor away or withholding a minor from" the other parent, make an accurate determination that the standard has been met? Furthermore, how will the officer or a Judge determine if the person charged has committed that crime by withholding the child from "a person lawfully standing in loco parentis?" That term is a concept which is reflected in case law regarding third party custody rights; however, it is not a codified or defined term in the statutes related to family law custody matters. Even if the officers are able to make the right decisions when handing out warnings and civil fines for these alleged acts, the ensuing criminal cases will, undoubtably, cause a serious drain on the time and resources of the District Court. The Judges will have to be trained in the law of custody and they will have to schedule hearings for such cases that often last for multiple hours and may overlap with a Divorce, Custody, Child Support, Modification of Custody, Motion for Enforcement, or Contempt case that is already proceeding in the Circuit Court, leading to protracted litigation and possible inconsistent results.

There are already sufficient remedies for family law litigants who allege interference with Custody Orders. SB 744 is not going to solve a problem existing in Maryland; however, it certainly will create further problems for Maryland families and children.



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For the reasons stated above, the FLSC respectfully urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 744.

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

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