



SB222 / HB137
Family Law - Child Custody Evaluators –
Qualifications
FAVORABLE WITH AMENDMENTS

To the Honorable Senators of the JPR and House Judiciary Committees:

SB222/HB137 is the fifth attempt to pass a custody evaluator training bill. Many of the pervasive issues of previous versions have been eliminated. The current bill is essentially a streamlined version of MD RULE 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS and does nothing more than add a layer of legislative power to the already existing rule. Unfortunately, this bill also incorporates the internal ambiguities and inconsistencies of RULE 9-205.3 and in the streamlining process omits essential components of RULE 9-205.3.

1. Section (E)(1)(V) page 2 line 26 states that:

A CUSTODY EVALUATOR MUST BE:

(V) 1. A MARYLAND–LICENSED GRADUATE OR MASTER SOCIAL WORKER WITH AT LEAST 2 YEARS OF EXPERIENCE IN:

A. ONE OR MORE OF THE AREAS LISTED IN SUBSECTION (F)(4) OF THIS SECTION;

B. CONDUCTING CUSTODY EVALUATIONS

C. ANY COMBINATION OF THE EXPERIENCE DESCRIBED IN ITEM A OR B OF THIS ITEM

Item C. is ambiguous. Items A and B seem to say that an evaluator must have two complete years' experience in one of the areas in subsection (F)(4) **and** two complete years' experience conducting evaluations. Item C. then says it can be a combination of the experience of items A or B. Does that mean that the evaluator does not need two complete years of experience as an evaluator; rather he can have a week's experience in evaluations and have one year and 51 weeks' experience in disability related issues (one of the subsections in (F)(4)?

Also, item B. lacks an operational definition. For example, if an evaluator conducted two evaluations in 2024 and two in 2025, does that constitute two years' experience conducting evaluations? Likewise, Section (F)(3) & (F)(4) (page 3 lines 17-20) require **EXPERIENCE IN CONDUCTING OR OBSERVING CUSTODY EVALUATIONS**, but *experience* is not defined. The American Academy of Matrimonial Lawyers Child Custody Evaluation Standards suggests that:

Custody evaluators who have fewer than three years' experience in conducting custody evaluations and have conducted fewer than 20 custody evaluations should seek ongoing supervision from an experienced custody evaluator prior to offering to perform or accepting appointments to conduct custody evaluations.

Needed amendment: The intent of item C. needs to be clarified and the definition of experience should be operationalized to be more in line with the American Academy of Matrimonial Lawyers Standards.

2. Item A. requires that a Maryland–licensed graduate or master social worker have experience in **ONE OR MORE OF THE AREAS LISTED IN SUBSECTION (F)(4) OF THIS SECTION**. However, Section (F)(4) (page 3 line 11, 19-27) states that **A CUSTODY EVALUATOR MUST HAVE:**
(4) DEMONSTRATED KNOWLEDGE OF AND EXPERIENCE IN THE FOLLOWING TOPICS:

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- (I) DOMESTIC AND FAMILY VIOLENCE;**
- (II) CHILD NEGLECT AND ABUSE, INCLUDING SEXUAL ABUSE;**
- (III) CHILD AND ADULT DEVELOPMENT;**
- (IV) TRAUMA AND ITS IMPACT ON CHILDREN AND ADULTS;**
- (V) FAMILY DYNAMICS AND CONFLICT RESOLUTION;**
- (VI) DISABILITY-RELATED ISSUES; AND**
- (VII) THE IMPACT OF DIVORCE AND SEPARATION ON CHILDREN AND ADULTS.**

This implies that **all** evaluators must have knowledge and experience in **all** of these areas. It seems that a Maryland-licensed graduate or master social worker requires less knowledge and experience than all other evaluators. Child custody cases can be exceedingly complex. It is reckless to allow an evaluator who lacks knowledge in most of these areas to conduct an evaluation. For example, if the person has no experience except for disability issues, what qualifications do they have to assess family dynamics?

Needed amendment: All evaluators should be required to have knowledge and experience in all of these areas.

3. The above list is also incomplete. A significant percentage of cases where evaluations are ordered concern allegations of abuse, alienation, and contact refusal issues. The American Academy of Matrimonial Lawyers Child Custody Evaluation Standards, the APA Child Custody Evaluator Guidelines and the AFCC and NCJFCJ Joint Statement on Parent-Child Contact Problems all stress the importance of expertise in contact refusal issues including alienation; false allegations; and psychological and emotional abuse. These organizations are referenced and approved of on the Judiciary's website and their training courses are approved.

These issues are so pervasive that all evaluators should be trained in these issues. It is negligent to ignore these issues and thereby compromise child safety. Likewise, the APA and AAML have exhaustive guidelines of the areas of needed evaluator competence that are absent from this bill and the court rules (see https://aaml.org/wp-content/uploads/MAT201_3.pdf and <https://www.apa.org/about/policy/child-custody-evaluations.pdf>).

Likewise, Maryland Custody & Visitation-Related Assessments Training Guidelines specifically mention parent-child contact failure and emotional abuse (<https://bit.ly/461SyMv>) as does its Best Interest Attorney Guidelines (<https://bit.ly/4bMVkj>). Interestingly, even the Maryland Workgroup to Study Child Custody Court Proceedings, that Senator Carozza so proudly served on, addresses emotional abuse and psychological safety numerous times and recommends that it be a factor in custody decisions (<https://bit.ly/4pRdfSo>).

Needed amendment: Contact refusal issues including alienation, false allegations, and psychological and emotional abuse should be added to the required list. An evaluator who lacks knowledge and experience in these areas by definition should be disqualified from such a case or be required to consult with other experts to develop information that is beyond the scope of the evaluator's practice or area of expertise.

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4. Section (F)(1) (page 3 lines 13-14) requires that an evaluator has **COMPLETED A TRAINING PROGRAM THAT CONFORMS TO GUIDELINES ESTABLISHED BY THE ADMINISTRATIVE OFFICE OF THE COURTS**. The court itself conducts such training programs. The actual content of the court's training programs and the affiliations of the instructors is not public knowledge. In fact, court Rule 16-913(e) prohibits sharing this knowledge with the public: ***(e) Educational and Training Materials. A custodian shall deny inspection of judicial records prepared by, for, or on behalf of a unit of the Maryland Judiciary for use in the education and training of Maryland judges, magistrates, clerks, and other judicial personnel.***

Therefore, there is a lack of transparency concerning the actual implementation of training programs. This is concerning since special interest groups with biased agendas offer training that is not consistent with the guidelines of the APA, AMAL, and AFCC. Likewise, there is concern that these agenda groups have already influenced the judiciary with gender biased narratives. This concern is documented by the judiciary's description of *domestic violence* (see <https://bit.ly/49TsPHj>):

Domestic violence is the mistreatment of one family member or intimate partner by another. The abuse can be physical, sexual, verbal, emotional and psychological. **Most often (but not always) the persons who abuse are men. Most often (but not always) the victims of abuse are women or children.**

This is a false description. CDC statistics show that the ratio is not so disparate and, in some categories, female perpetrators outnumber males (<https://bit.ly/3NFFXIO>) .

Needed amendment: The actual content and instructors of court training programs need to be transparent and monitored for the interference of biased agenda groups.

5. Section (C) (page 2 lines 4-6) states that **A COURT MAY NOT ORDER THE COST OF AN ASSESSMENT TO BE PAID, IN WHOLE OR IN PART, BY A PARTY WITHOUT GIVING THE PARTIES NOTICE AND AN OPPORTUNITY TO OBJECT**. In Section (h)(1) of the court rules it says: ***Removal. The court may remove a person appointed or approved to conduct an assessment upon a showing of good cause.*** Just like it is ethical to inform parties concerning their right to object to fees, there is also a need to inform parties concerning their right to request the removal of an appointed evaluator or his conclusions upon showing good cause.

Needed amendment: A section should be added that requires that the court inform parties of their right to request the removal of an evaluator or his conclusions upon a showing of good cause.

6. Senator Smith has questioned the need for a statute when a judicial rule already exists. Senator West argues that there is already a statute for judicial training and that it makes sense that the custody evaluator training be synchronized with the judicial training. If a future change in training will be necessary, it will be necessary in judicial training as well. Therefore, it makes sense that both trainings be incorporated in statute.

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Senator West neglected to acknowledge that the legislative process is exceedingly slow (as the passage of this bill demonstrates). The fact that the legislature is stuck in this slow process in regard to future judicial training does not exclude a more efficient mode for change in evaluator training.

In regard to judicial training, victims of emotional abuse in Maryland and concerned constituents have serious concerns about biases in the judicial training and the intended custody evaluator training that can have severe repercussions on child safety. This concern is magnified by the judicial branch's lack of transparency in the actual training curriculum and its instructors. In particular, there is concern that the training will be monopolized by a gender biased agenda that ignores emotional abuse and the existence of false allegations (see Section 4. Above).

In consideration of the above, we feel that this bill should only be supported if good faith measures are taken to demonstrate the intent of its stakeholders to provide balanced and comprehensive training in **all** content areas that are recognized by the aforementioned organizations and to demonstrate the efficiency of the legislative process to address future curriculum developments.

Needed amendment:

- A. *Emotional abuse, false allegations, and parent-child contact refusal be added to the required content areas for all evaluators (see Section 3. Above).*
- B. *A clause be added to this bill that would require **judicial training** to include these content areas as well.*

Failure to include these content areas that are consistent with major organizations that the Judicial branch recognizes and that are already on multiple Maryland Judicial webpages would demonstrate that there is an agenda behind this bill that is superseding the actual best interests and safety of children. Likewise, failure to include these content areas in this bill and synchronize the judicial training to match the evaluator training is an indication that the legislative process is incapable of making efficient and timely training changes in the future. Therefore, contrary to Senator West's assertion, a rule would be better equipped to address future changes than a statute.

With these amendments in place, SB222 and HB137 will greatly enhance the standard of MD custody evaluators and ensure that they will possess the knowledge to address all issues. Thank you for your consideration of these important amendments.

Yours,

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