

SENATE BILL 355

D4

11r0937

(PRE-FILED)

By: **Senators Carozza and Lee**

Requested: October 13, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Custody Evaluators – Qualifications and Training**

3 FOR the purpose of requiring that an individual meet certain educational and experiential
4 requirements in order to be appointed or approved by a court as a custody evaluator;
5 requiring that, beginning on a certain date, an individual complete certain initial
6 training in certain areas in order to be appointed or approved by a court as a custody
7 evaluator; requiring that an individual receive certain ongoing education and
8 training in order to continue to be appointed or approved by a court as a custody
9 evaluator; requiring a court to provide to the parties in a certain action certain
10 information regarding a custody evaluator in the jurisdiction; requiring a custody
11 evaluator to provide certain information in writing to both parties in certain actions
12 prior to conducting a custody evaluation; authorizing the Administrative Office of
13 the Courts to adopt certain procedures; defining a certain term; and generally
14 relating to custody evaluators.

15 BY adding to
16 Article – Family Law
17 Section 9–109
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2020 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

Article – Family Law

22 **9–109.**

23 **(A) IN THIS SECTION, “CUSTODY EVALUATOR” MEANS AN INDIVIDUAL**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 APPOINTED OR APPROVED BY A COURT TO PERFORM A CUSTODY EVALUATION.

2 (B) A COURT MAY NOT APPOINT OR APPROVE AN INDIVIDUAL AS A CUSTODY
3 EVALUATOR UNLESS THE INDIVIDUAL:

4 (1) HAS ATTAINED AT LEAST A MASTER'S DEGREE IN A FIELD
5 PROVIDED UNDER ITEM (2) OF THIS SUBSECTION, REGARDLESS OF THE
6 JURISDICTION IN WHICH THE CUSTODY EVALUATOR IS LICENSED;

7 (2) IS:

8 (I) A PHYSICIAN LICENSED IN ANY STATE WHO IS BOARD
9 CERTIFIED IN PSYCHIATRY OR HAS COMPLETED A PSYCHIATRY RESIDENCY
10 ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL
11 EDUCATION OR A SUCCESSOR TO THAT COUNCIL;

12 (II) A MARYLAND LICENSED PSYCHOLOGIST OR A
13 PSYCHOLOGIST WITH AN EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;

14 (III) A MARYLAND LICENSED CLINICAL MARRIAGE AND FAMILY
15 THERAPIST OR A CLINICAL MARRIAGE AND FAMILY THERAPIST WITH AN
16 EQUIVALENT LEVEL OF LICENSURE IN ANY OTHER STATE;

17 (IV) A MARYLAND LICENSED CERTIFIED SOCIAL
18 WORKER-CLINICAL OR A CLINICAL SOCIAL WORKER WITH AN EQUIVALENT LEVEL
19 OF LICENSURE IN ANY OTHER STATE;

20 (V) 1. A MARYLAND LICENSED GRADUATE OR MASTER
21 SOCIAL WORKER WITH AT LEAST 2 YEARS OF EXPERIENCE IN ONE OR MORE OF THE
22 AREAS LISTED IN SUBSECTION (C)(1) OF THIS SECTION; OR

23 2. A GRADUATE OR MASTER SOCIAL WORKER WITH AN
24 EQUIVALENT LEVEL OF LICENSURE AND EXPERIENCE IN ANY OTHER STATE; OR

25 (VI) A MARYLAND LICENSED CLINICAL PROFESSIONAL
26 COUNSELOR OR A CLINICAL PROFESSIONAL COUNSELOR WITH AN EQUIVALENT
27 LEVEL OF LICENSURE IN ANY OTHER STATE; AND

28 (3) HAS EXPERIENCE, OBTAINED EITHER THROUGH OBSERVATION
29 UNDER CLINICAL SUPERVISION OR THROUGH THE PERFORMANCE OF CUSTODY
30 EVALUATIONS WITH THE FOLLOWING:

31 (I) FAMILY SYSTEMS, PARTNER CONFLICT, AND CONFLICT

1 RESOLUTION STYLES;

2 (II) NORMATIVE CHILD, ADOLESCENT, AND ADULT
3 DEVELOPMENT;

4 (III) THE IMPACT OF INTERPERSONAL LOSS AND CHRONIC
5 STRESS ON AN INDIVIDUAL AND FAMILY SYSTEM;

6 (IV) MENTAL HEALTH DIAGNOSES, INCLUDING CURRENT
7 SUBSTANCE ABUSE ISSUES RELEVANT TO THE CAPACITY OF AN INDIVIDUAL TO
8 PROVIDE HEALTHY, PROTECTIVE, OR RESTORATIVE PARENTING;

9 (V) THE IMMEDIATE AND LONG-TERM NEURODEVELOPMENTAL
10 IMPACT OF CHILD NEGLECT, ALL TYPES OF CHILD ABUSE, AND EXPOSURE TO
11 DOMESTIC VIOLENCE;

12 (VI) CULTURALLY AND SPIRITUALLY SENSITIVE CLINICAL
13 INTERVIEWING SKILLS;

14 (VII) HOW CHILDREN RESPOND TO TRAUMATIC STRESS AND WHY
15 THE VERBAL AND NONVERBAL EXPRESSION OF TRAUMATIC STRESS BY A CHILD MAY
16 BE DELAYED;

17 (VIII) ALL FORMS OF DOMESTIC VIOLENCE, INCLUDING SEXUAL
18 VIOLENCE, STALKING, AND PSYCHOLOGICAL AGGRESSION;

19 (IX) THE IMMEDIATE AND LONG-TERM IMPACTS OF PARENT
20 SEPARATION ON A CHILD;

21 (X) PROTECTIVE FACTORS THAT PROMOTE A CHILD'S HEALTHY
22 RESOLUTION OF PARENT SEPARATION; AND

23 (XI) PROTECTIVE FACTORS AND PARENT PRACTICES THAT
24 PROMOTE TRAUMA RECOVERY IN CASES OF CHILD ABUSE.

25 (c) (1) BEGINNING OCTOBER 1, 2022, IN ADDITION TO MEETING THE
26 EDUCATIONAL REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION AND
27 COMPLYING WITH THE CONTINUING EDUCATIONAL REQUIREMENTS OF THE
28 APPLICABLE FIELD, BEFORE APPOINTMENT OR APPROVAL BY A COURT AS A
29 CUSTODY EVALUATOR, AN INDIVIDUAL MUST COMPLETE AT LEAST 60 HOURS OF
30 INITIAL TRAINING IN THE FOLLOWING AREAS:

31 (I) NEUROTYPICAL INFANT AND CHILD DEVELOPMENT;

1 **(II) THE IMPACT OF ADVERSE CHILDHOOD EXPERIENCES,**
2 **TRAUMA, COMPLEX TRAUMA, AND CHRONIC TOXIC STRESS ON THE**
3 **NEURODEVELOPMENT OF A CHILD AND THE VARIOUS RESPONSES OF CHILDREN TO**
4 **TRAUMA;**

5 **(III) THE INVESTIGATION PROCESS AFTER A LAW ENFORCEMENT**
6 **AGENCY OR LOCAL DEPARTMENT HAS RECEIVED A REPORT OF SUSPECTED CHILD**
7 **ABUSE OR CHILD SEXUAL ABUSE, INCLUDING:**

8 **1. THE ROLE OF CHILD ADVOCACY CENTERS AND AN**
9 **EXPLANATION OF THE FORENSIC INTERVIEW;**

10 **2. THE LIMITATIONS OF LOCAL DEPARTMENTS IN**
11 **INVESTIGATING REPORTS OF SUSPECTED CHILD ABUSE AND CHILD SEXUAL ABUSE;**
12 **AND**

13 **3. THAT THE LACK OF A FINDING OF INDICTED CHILD**
14 **ABUSE OR CHILD SEXUAL ABUSE BY LAW ENFORCEMENT OR A LOCAL DEPARTMENT**
15 **DOES NOT MEAN THAT CHILD ABUSE OR CHILD SEXUAL ABUSE DID NOT OCCUR;**

16 **(IV) THE DYNAMICS AND EFFECTS OF CHILD SEXUAL ABUSE,**
17 **INCLUDING GROOMING BEHAVIORS BY FAMILY OFFENDERS AND THE DISCLOSURE**
18 **OF CHILD SEXUAL ABUSE BASED ON DEVELOPMENTAL STAGES OF THE CHILD,**
19 **INCLUDING DELAYED DISCLOSURE;**

20 **(V) THE DYNAMICS AND EFFECTS OF PHYSICAL AND**
21 **EMOTIONAL CHILD ABUSE;**

22 **(VI) THE DYNAMICS AND EFFECTS OF DOMESTIC VIOLENCE,**
23 **INCLUDING COERCIVE CONTROL, LETHALITY ASSESSMENTS, LITIGATION ABUSE,**
24 **AND THAT DOMESTIC VIOLENCE CAN OCCUR WITHOUT A PARTY SEEKING OR**
25 **OBTAINING A PROTECTIVE ORDER OR OTHER DOCUMENTED EVIDENCE OF ABUSE;**

26 **(VII) THE IMPACT OF EXPOSURE TO DOMESTIC VIOLENCE ON**
27 **CHILDREN AND THE IMPORTANCE OF CONSIDERING THIS IMPACT WHEN MAKING**
28 **CHILD CUSTODY AND VISITATION DECISIONS;**

29 **(VIII) THE POTENTIAL IMPACT OF CUSTODY BIAS AND IMPLICIT**
30 **BIAS ON CHILD CUSTODY DECISIONS, INCLUDING THE CORE PROBLEM OF A BIAS OF**
31 **PRESUMPTION OF COACHING IN CUSTODY CASES AND THAT ALLEGATIONS OF ABUSE**
32 **ARE FALSE;**

1 **(IX) INFORMATION ON HOW SURVIVORS OF DOMESTIC VIOLENCE**
2 **MAY PRESENT INFORMATION IN A MANNER THAT DOES NOT CONFORM TO GENERAL**
3 **EXPECTATIONS FOR CREDIBILITY;**

4 **(X) BEST PRACTICES TO ENSURE THAT REASONABLE AND**
5 **FEASIBLE PROTECTIVE MEASURES ARE TAKEN TO REDUCE THE RISK OF**
6 **TRAUMATIZATION OR RE-TRAUMATIZATION BY THE COURT PROCESS ON THE CHILD,**
7 **INCLUDING AVAILABLE METHODS TO OBTAIN RELEVANT INFORMATION WITHOUT**
8 **THE NECESSITY OF REPEATED, DETAILED INTERVIEWS OF THE CHILD;**

9 **(XI) BACKGROUND AND CURRENT RESEARCH-INFORMED**
10 **LITERATURE REGARDING PARENTAL ALIENATION, ITS INVALIDITY AS A SYNDROME,**
11 **AND THE INAPPROPRIATENESS OF ITS USE IN CHILD CUSTODY CASES;**

12 **(XII) THE LIMITATIONS OF SEXUAL OFFENDER EVALUATIONS**
13 **AND RISK ASSESSMENTS IN THE ADJUDICATORY PHASE OF CHILD SEXUAL ABUSE**
14 **CASES AND THE ETHICAL PROHIBITIONS ON THE USE OF THESE ASSESSMENTS TO**
15 **DETERMINE LIKELIHOOD OF OFFENDING;**

16 **(XIII) TOOLS THAT CAN HELP ASSESS THE CREDIBILITY OF A**
17 **CHILD WITNESS AND INFORMATION ON HOW METHODS SUCH AS CHILD THERAPY**
18 **AND EXPRESSIVE ARTS ARE LEGITIMATE THERAPEUTIC TOOLS TO MEASURE BOTH**
19 **THE DEGREE OF TRAUMATIC IMPACT AND THE EFFECTIVENESS OF THERAPEUTIC**
20 **AND SYSTEM INTERVENTION;**

21 **(XIV) THE CORRELATION BETWEEN CHILD SEXUAL ABUSE AND**
22 **CHILD PORNOGRAPHY;**

23 **(XV) APPROPRIATE STANDARDS FOR THE KNOWLEDGE,**
24 **EXPERIENCE, AND QUALIFICATIONS OF CHILD SEXUAL ABUSE EVALUATORS AND**
25 **TREATMENT PROVIDERS AND THE LEGAL AND ETHICAL CONSIDERATIONS OF**
26 **ALLOWING OR RELYING ON UNQUALIFIED EVALUATORS AND THERAPISTS TO**
27 **PRACTICE OUTSIDE THEIR FIELDS OF EXPERTISE; AND**

28 **(XVI) HOW THE INAPPROPRIATE APPLICATION OF THE BEST**
29 **INTEREST OF THE CHILD STANDARD CAN HARM CHILDREN SUFFERING FROM ABUSE**
30 **AND THE NECESSITY OF WEIGHING THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF**
31 **THE CHILD BEFORE WEIGHING OTHER BEST INTEREST FACTORS.**

32 **(2) FOLLOWING COMPLETION OF THE INITIAL TRAINING**
33 **REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, IN ORDER FOR A**
34 **COURT TO CONTINUE TO APPOINT OR APPROVE AN INDIVIDUAL AS A CUSTODY**
35 **EVALUATOR, THE INDIVIDUAL MUST COMPLETE 10 HOURS OF CONTINUING**

1 **EDUCATION AND TRAINING EVERY 2 YEARS.**

2 **(D) IN ANY ACTION IN WHICH CHILD SUPPORT, CUSTODY, OR VISITATION IS**
3 **AT ISSUE, A COURT SHALL PROVIDE INFORMATION TO THE PARTIES REGARDING THE**
4 **ROLE, AVAILABILITY, AND COST OF A CUSTODY EVALUATOR IN THE JURISDICTION.**

5 **(E) BEFORE ENGAGING IN THE CUSTODY EVALUATION PROCESS, A**
6 **CUSTODY EVALUATOR SHALL PROVIDE, IN WRITING, INFORMATION REGARDING THE**
7 **POLICIES, PROCEDURES, AND FEES AND COSTS FOR THE EVALUATION.**

8 **(F) THE ADMINISTRATIVE OFFICE OF THE COURTS MAY ADOPT**
9 **PROCEDURES TO IMPLEMENT THIS SECTION.**

10 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
11 **1, 2021.**