



**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](http://www.mcasa.org)

**Testimony Supporting House Bill 1328 and  
Opposing House Bill 1114  
Lisae C. Jordan, Executive Director & Counsel  
February 27, 2020**

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 the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. 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 Judiciary Committee to report favorably on House Bill 1328.

**House Bill 1328 – Child Custody – Legal Decision Making and Parenting Time**

This bill codifies and updates Maryland's law regarding custody. It continues to include important protections for survivors of child sexual and physical abuse, child neglect, and domestic violence.

HB1328 maintains and recodifies the current §9-101 and §9-101.1 which require that judges consider prior abuse against a child or parent of a child, respectively. Under the new §9-104 (formerly §9-101), if a court has reasonable grounds to believe that a child has been abused or neglected, the court must determine whether the abuse or neglect is likely to occur again. Unless the court specifically finds that there is no likelihood of further abuse or neglect, then the court is required to deny legal decision making or parenting time except for a supervised parenting time arrangement that assures the safety and physiological, psychological, and emotional well-being of the child.

The new §9-105 (formerly §9-101.1) imposes similar requirements when one party has abused the other parent of the party's child, the party's spouse, or a child residing within the household. Under this provision, courts are also required to make legal decision making or parenting time arrangements that best protect the child who is the subject of the proceeding and the victim of abuse.

Importantly, HB1328 does not create a presumption for sole or joint custody, but maintains a best interests of the child standard as the touchstone for decision-making. Judges should have the discretion – and the duty – to consider all factors related to the best interests of a child. This child-centered focus should not be changed with a presumption.

HB1114 is similar in many respects, however, it contains several provisions which could be used against parents who have a good faith belief that their child is being abused or who are themselves victims of abuse. In particular, the following provisions seems destined to be used as weapons against the other party:

Page 2, (a)(5) THE HISTORY OF ANY EFFORTS BY A PARTY TO INTERFERE WITH THE CHILD'S RELATIONSHIP WITH THE OTHER PARTY

Page 3 (b)(3) THE EXTENT TO WHICH EITHER PARTY HAS INITIATED OR ENGAGED IN FRIVOLOUS OR VEXATIOUS LITIGATION, AS DEFINED IN THE MARYLAND RULES;

And this relative to the child's preference:

Page 3(b)(4)(II) THE COURT CONSIDERS THE CHILD'S POSSIBLE SUSCEPTIBILITY TO MANIPULATION BY A PARTY OR BY OTHERS

To the extent that any of these issues are present in a case, they can easily be considered under the more general and child oriented provisions in HB1328, such as the ability to place the child's needs about the parties' needs, and to protect the child from the negative effects of any conflict between the parties. HB1328, page 9, 9-202(a)(8)(i) and (ii). More importantly, there are cases when it is completely appropriate to keep a child away from a parent: in particular, a case involving child sexual abuse. MCASA is concerned that these provisions in HB1114 create a subtle shift away from the needs of a child and are unnecessary and unwise. We therefore support HB1328 and oppose HB1114.

**The Maryland Coalition Against Sexual Assault urges the  
Judiciary Committee to report favorably on House Bill 1328  
and unfavorably on House Bill 1114**