

Delegate Luke Clippinger, Chair
Delegate Vanessa E. Atterbeary, Vice Chair
Judiciary Committee - Family law

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Support for H.B. No.1242, Relating to Family Law - Fundamental Parental Rights

I submit for the record my position on Equal Shared Parenting where equality between the dad and mom is recognized when they go into family court so that their child has equal access to both fit parents. Maryland is far from this goal, however, Delegate Cox's H.B. No.1242 Relating to Family Law which establishes that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent's child. As it stands today the State of Maryland does not have any statues that guarantees these fundamental rights even though one of our neighboring states such as Virginia has already passed their pre-emptive Bill in March, 2013 to prevent parental rights from being eroded through potential court actions.

I used to be a Virginia resident. In 2001 my ex-wife and I decided to move to Anne Arundel County to start our family. Today we are the proud parents of two wonderful teenage daughters that were born here in Annapolis. Both kids are presently attending school in the area. Both are honor students and great artists. The oldest is about to go to college in the Fall. The youngest will do so in a couple of years. My relationship with my two daughters is strong today because of our faith in family values, strong work ethics, morals and our belief in God.

In 2014 all seemed fine at home until the imminent loss of our primary income. Little did I know that a storm was in lurking on the horizon, a man-made storm outside of my line of sight that would challenge our spirits and wills. Personally, I survived the storm because of my faith, my individual core convictions and family values learned growing up in a large family. I believe my kids endured it because I have not given up on my responsibilities to them.

However, back in 2015 and as recent as last year my relationship with my daughters was almost completely fractured by the experience of going having to go through the Maryland court system during the divorce proceedings and post proceeding which I fight against it for the impact it would have and still has in all of us. The litigation proceedings were long, intrusive and devastating to all involved. Its effects of such litigious process will be felt for many years, financially, emotionally and spiritually. Had our family been residents of Virginia at the time of the divorce, my kids' rights, their mother's rights and my rights would have been likely preserved and spared of the extreme experiences and side effects of such litigation. We will never know how Virginia family courts would have handled our divorce. Instead, our family were led through Maryland's existing legal or illegal avenues where no one claims responsibility or is held accountable for what it does to families going through such intrusive and destructive process. Its shadow actors are immune from the harm they cause. I am well aware I am not a perfect man, but I know what integrity and honor means and what standard of care we as consumers should receive in any line of business. I can attest our rights were intruded upon during this process.

As a veteran who served honorably in the U.S. military, who also worked for the U.S. Senate community and worked in a private non-profit organization serving the public for the greater good, the public interest and our national interest, I am in awe that I lost my rights to my kids under Maryland law. When I worked in those institutions, I believe I left my mark in each of those systems for the better because my peers acknowledged my contributions. Consequently, when I learned that I was

going to lose access and lose rights to my children, and did so in Court, I pursued to regain and assert my natural rights. The reality is, two years later since my divorce decree, I will never regain my legal rights because my kids will age out soon. Today Maryland family laws are used by to infringe on parental fundamental rights without just cause. Hearsay is commonly accepted and perception of truth is left to the discretion of a judge even if a truthful testimony under oath is given.

The burden of proof is not on the state but instead it is imposed on the parents seeking the court to protect their rights. Most of us, however, are unaware of our rights even when we are legally represented. In my case, my attorney recused herself compromising my case weeks before my trial. As I learned later after the trial the damage and erosion of my rights had been taken away since 2015 when I was ill advised to sign a document that was not in my best interest or the family's interest. I should have never gone to trial in 2018 but taken my losses, given up my rights to my kids willingly. It would have been the lesser of two evils. One, to give up the right to raise my kids and to impart my core values, my culture and spiritual guidance or to stand up and fight to preserve what remained from the marriage against the state. I chose the latter as a matter of principle and to demonstrate my civic duty to stand up for what I believe deep in my soul and for what this nation once used to stand for, liberty and justice for all and above all, FAMILY UNITY.

As grievous as my case was, I am extremely lucky, extremely blessed that my family has survived this tsunami. I count my blessing every day. My advocacy team and I took this case all the way through each of the appeal courts in Maryland to be heard and finally the U.S. Supreme Court for its consideration. The Special Court of Appeals affirmed the Circuit Court with a poor narrow response when parental fundamental rights were raised. The USC naturally refused even though we cited case precedence in their acknowledging that family relationships are sacred and protected by the U.S Constitution. The moral and lesson of my story is that today every Maryland family member is at risk. Maryland is at risk when its family laws can unjustly erode parents' rights during any litigation proceedings without any

protections in place. Where kids are involved, they should not be forced to choose between two fit parents. The state should discourage court actors to incite collusion between parents. We have a situation in the U.S. of supporting children and family in our popular culture but not fully supporting them when divorce takes place in our social policies. Maryland needs to develop better social and working policies that adequately support all types families whether they are divorced or not. H.B. 1242 would prevent Maryland Courts as Virginia Courts do from ruling parental rights as “ordinary” rights whereas “Fundamental” means parent’s rights cannot be taken away unless the Maryland state has a compelling reason to do so by demonstrating clear and convincing evidence. When rights are “ordinary,” the state has more leeway in overriding parents’ decisions.

Passing of this new legislation we would be creating a pre-emptive statute that would prevent and preserve the rights for future generations, to create stronger families and to avoid what my family and other families unnecessarily have, are or would have to endure should they go into civil litigation and the family courts. I urge the committee to pass H.B. No.1242 to preserve and protect Maryland families’ fundamental rights.

Thank you for this opportunity to testify.