
BILL NO: Senate Bill 57
TITLE: Family Law- Child Custody and Visitation
COMMITTEE: Judicial Proceedings
HEARING DATE: January 26, 2021
POSITION: **SUPPORT WITH AMENDMENTS**

Senate Bill 57 would amend Family Law Section 9-101 to require the court to articulate its findings under this statute. It makes other alterations to that and other sections, and also codifies factors a court must consider in hearings involving custody. The Women's Law Center of Maryland (WLC) supports the concept of this bill, but thinks the custody factors are better articulated elsewhere.

Senate Bill 57 arises out of recommendations made by the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, constituted by statute in 2019. The Women's Law Center was appointed to this Workgroup. The Workgroup worked tirelessly, and delved deeply into how domestic violence, child abuse, and child sex abuse effects children and families and how courts manage cases with such allegations. There were many professional experts who presented to the Workgroup. After over 18 months of meetings the recommendations were finalized. The conclusion of the Workgroup, generally, was that stakeholders in child custody proceedings, including judges and magistrates, need more education of newer research, and that courts are not carefully and fully considering evidence of harm to victims when making custody decisions in the best interests of the child.

SB 57 is an effort to make courts be more deliberate in their approach to cases where such allegations are made. Anecdotally, the common view is that courts frequently completely disregard Family Law Code Section 9-101 and 9-101.1. The parts of SB 57 that address specifically these Code Sections, if passed, may reinforce to courts that they must address these allegations explicitly and articulate specific findings. This may help litigants, many of whom are unrepresented, to understand how a court came to its ruling, and may in turn increase faith in the court system. Detractors of SB 57 opine the court will just continue to not address allegations of domestic violence or child abuse, and that making the requirements for the court more stringent will have the opposite of the intended effect. The WLC supports requiring articulation by the court of why it has determined abuse is not likely to reoccur.

SB 57 also amends Section 9-105, to add "ANY REASONABLE EFFORT TO PROTECT A CHILD OR A PARTY TO A CUSTODY OR VISITATION ORDER FROM THE OTHER PARTY MAY NOT BE CONSIDERED AN UNJUSTIFIABLE DENIAL OR INTERFERENCE WITH VISITATION GRANTED BY A CUSTODY OR VISITATION ORDER," We appreciate the effort to make clear that a "protective parent" should not be penalized, but there may be a better way to do this. We are also concerned about potential for abuse of the very broad language in this section in high conflict cases.

The WLC, respectfully, thinks SB 57 is a valiant effort to try to do too much. It is troublesome to add a somewhat piecemeal and non-vetted codification of the case law factors about custody into this bill. Let custody factors stand alone for consideration.

We have long supported codifying custody factors and have been involved in this issue for many years. Our preference regarding codification of the custody factors is for HB 505, a bill that has been presented

over the years, in the same or very similar form, since the extremely well-regarded Custody Commission completed its work in 2013. The WLC was also part of the Custody Commission. The Custody Commission had a much broader charge than the Workgroup, and the language in HB 505 reflects the work of an impressive number of experts in family law. It addresses cases where domestic violence has been alleged and it updates statutory language to try to move the conversation forward from “custody and visitation” to more modern concepts of parenting. It has been widely vetted.

Therefore, the Women’s Law Center of Maryland, Inc. support with amendments Senate Bill 57.

The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.