
To: Members of The Senate Judicial Proceedings Committee

From: MSBA FAMILY AND JUVENILE LAW SECTION
By Ilene Glickman, Esquire and Daniel Renart, Esquire

Date: March 31, 2021

Subject: **House Bill 505** – Child Custody – Legal Decision Making and Parenting Time

Position: **SUPPORT**

The Maryland State Bar Association (MSBA) Family and Juvenile Law Section (FJLSC) **supports House Bill 505 – Child Custody – Legal Decision Making and Parenting Time.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

In 2013, the General Assembly passed HB 687, convening the Commission on Child Custody Decision Making. The Commission was charged with studying child custody decision-making and offering recommendations to improve and bring statewide uniformity to the process of making custody determinations. Dozens of experts, including Commissioners, committee and subcommittee members, met over 90 times to examine current procedures, psychological research, processes in other jurisdictions, and best practices. House Bill 505 is a result of these efforts.

In its Final Report issued December 1, 2014, the Commission sets forth ten “guiding principles” that were discussed and approved by the Commission. The first of these principals is:

The need for a **Maryland Custody Decision-Making Statute** providing a clear, consistent, predictable, gender-neutral process guiding custody determinations for litigants, lawyers, and judges, focusing on factors that

affect a child's long-term adjustment, including significant regular contact with each parent, parenting quality, a child's developmental needs, the quality (conflict or not) of the relationship between the parents or parent figures, the parents' psychological adjustment, and a child's need to maintain significant relationships. (Commission on Child Custody Decision Making, Final Report, p. 8.)

Currently, determinations regarding children are made based on factors set forth in several Maryland appellate cases. In order to know what testimony and evidence to present to a court in support of one's claim for custody or visitation, a person has to identify the correct appellate decisions and be able to analyze them. While this has become fairly straightforward for experienced family law attorneys, most unrepresented litigants would find this a nearly impossible task. Further, the appellate decisions at issue are decades old, and not necessarily reflective of today's families and the modern demands of parenting. HB 505, which codifies the factors that a court must consider when deciding issues regarding custody and visitation, makes this information available and accessible to all litigants and reflects the latest research and best practices regarding children.

HB 505 rests on the premise that neither parent is presumed to have any right to custody or visitation that is superior to the right of the other parent. Unlike a presumption of joint custody, which focuses on the desires of the parents instead of the interests of the children and which was expressly rejected by the Commission, HB 505 sets forth a uniform method for courts to analyze the circumstances of *each individual child and family* and make decisions that are in the best interest of those individual children. This is the only approach that will protect the health, safety and welfare of Maryland's children.

HB 505 represents thousands of hours of analysis and thinking by leading experts in a variety of disciplines related to children and the legal processes used to determine custody and visitation. HB 505 is an important evolution in the way Maryland courts make decisions regarding children and we urge the House Judiciary Committee to issue a favorable report.

For the reasons stated above, the FJLSC **supports House Bill 505 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith, Esquire by e-mail at msmith@lawannapolis.com or by telephone at 410-280-1700 OR Daniel Renart, Esquire by e-mail at drenart@rghlawyers.com or by telephone at 301-383-1525.