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## *The Maryland House of Delegates*

ANNAPOLIS, MARYLAND 21401

**February 18, 2021**

### **Testimony in Support of House Bill 505 – Child Custody – Legal Decision Making and Parenting Time**

Good afternoon Mr. Chairman and members of the Committee. Thank you for the opportunity to speak to you on behalf of **House Bill 505 – Child Custody – Legal Decision Making and Parenting Time**.

This legislation is a result of the Commission on Child Custody Decision-Making, which was established by the General Assembly in 2013 and tasked with studying child custody practices and policies in Maryland and making recommendations based on its findings. House Bill 505, if enacted, will create a child custody statute that provides a clear, predictable and consistent guide for parents, lawyers, and courts.

The bill tracks Maryland Rule 9-204.1 and 9-204.2 that was approved by the Court of Appeals in September 2019 and became effective December 1, 2019. The new Rules require parties in a contested custody case to submit proposed Parenting Plans prior to the start of any custody trial. The Rules improve procedure and list factors for the parties and the Court to consider in the determination of the best interest of the child or children.

First, the new Rules and House Bill 505 change the dynamics of custody determinations by using neutral, positive terms – instead of the traditional “custody” or “visitation.” This reflects an important finding of the Commission that determinations in these cases should be child-focused. Specifically,

1. Decision-making authority is used instead of legal custody. Decision-Making Authority refers to how to make major long-term decisions about a child’s medical care, mental health, education, religious training, and extracurricular activities.
2. Parenting time is used instead of physical custody, visitation, or access. Parenting time refers to where a child lives and the amount of time he or she spends with each parent.

The new Rules and House Bill 505 provide that in determining what decision-making authority and parenting time arrangement is in the best interest of the child, the parties (and subsequently the Court) may consider the following factors:

- (1) Stability and the foreseeable health and welfare of the child;
- (2) Frequent, regular, and continuing contact with parties who can act in the child's best interest;
- (3) Whether and how parties who do not live together will share the rights and responsibilities of raising the child;
- (4) The child's relationship with each party, any siblings, other relatives, and individuals who are or may become important in the child's life;
- (5) The child's physical and emotional security and protection from conflict and violence;
- (6) The child's developmental needs, including physical safety, emotional security, positive self-image, interpersonal skills, and intellectual and cognitive growth;
- (7) The day-to-day needs of the child, including education, socialization, culture and religion, food, shelter, clothing, and mental and physical health;
- (8) How to:
  - (A) place the child's needs above the parties' needs;
  - (B) protect the child from the negative effects of any conflict between the parties; and
  - (C) maintain the child's relationship with the parties, siblings, other relatives, or other individuals who have or likely may have a significant relationship with the child;
- (9) Age of the child;
- (10) Any military deployment of a party and its effect, if any, on the parent-child relationship;
- (11) Any prior court orders or agreements;
- (12) Each party's role and tasks related to the child and how, if at all, those roles and tasks have changed;
- (13) The location of each party's home as it relates to their ability to coordinate parenting time, school, and activities;
- (14) The parties' relationship with each other, including:
  - (A) how they communicate with each other;
  - (B) whether they can co-parent without disrupting the child's social and school life; and
  - (C) how the parties will resolve any disputes in the future without the need for court intervention;
- (15) The child's preference, if age-appropriate.

These factors include significant regular contact with each parent, consideration of a child's developmental needs, the level of conflict that exists in the relationship between the parents, the parents' psychological adjustment, and a child's need to maintain significant relationships. The legislation specifically stipulates that neither parent is presumed to have any right to legal decision making or parenting time that is superior to the right of the other parent. The bill rejects the concept of a presumed schedule of parenting time. Court rulings concerning legal decision making and parenting time must be guided by the best interest of the child.

Attached are technical amendments that have been submitted to Committee. I respectfully request a favorable report for House Bill 505.



**HB0505/503626/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

02 FEB 21  
16:31:30

BY: Delegate Dumais  
(To be offered in the House Judiciary Committee)

AMENDMENTS TO HOUSE BILL 505  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 8, after “record” insert “or in a written opinion”.

AMENDMENT NO. 2

On page 10, in line 23, after “**RECORD**” insert “**OR IN A WRITTEN OPINION**”.



**HB0505/343624/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

28 JAN 21  
13:43:14

BY: Delegate Dumais

AMENDMENT TO HOUSE BILL 505  
(First Reading File Bill)

On page 10, strike beginning with the colon in line 23 down through “**(1)**” in line 24; and strike beginning with the semicolon in line 25 down through “**OF**” in line 26 and substitute “**AND**”.

On pages 10 and 11, strike beginning with the semicolon in line 27 on page 10 down through “**CONSIDERED**” in line 2 on page 11.