
To: Members of The House Judiciary Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Ilene Glickman, Esquire and Daniel Renart, Esquire

Date: March 4, 2021

Subject: **House Bill 1036:**
Child Custody – Cases Involving Child Abuse or Domestic Violence – Training for
Judge’s and Child’s Counsel

Position: **OPPOSE**

The Maryland State Bar Association (MSBA) FJLSC **opposes House Bill 1036 – Child Custody – Cases Involving Child Abuse or Domestic Violence – Training for Judges and Child’s Counsel.**

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.

This bill proposes to require the Maryland Judiciary, in consultation with domestic violence and child abuse organizations to develop a training program for Judges presiding over child custody cases involving child abuse or domestic violence and requiring an individual to receive certain training before the individual is authorized to serve as child’s counsel in a child custody case involving child abuse or domestic violence. The FJLSC opposes HB1036 for the following reasons:

1. It is the opinion of the FJLSC that any requirements for both the Judicial training and child’s counsel should be and remain in the Rules Committee both because the Committee is made up, in part, of practicing attorneys on the ground with first- hand knowledge of the issues faced by Courts and child’s counsel in child custody cases

involving abuse and domestic violence and because needed changes can more easily and timely made.

2. The topics proposed to be included in the training are much too specific and include terms and concepts that will regularly change based on advances/changes in social science.
3. The FJLSC has grave concerns that the provisions proposed to be included in the training are either not in accord with current social science or are a misuse of existing concepts, terms, tools and information. By way of example, proposed Section 9-101.3 (B) (11) regarding parent alienation references only a very small portion of the existing data and research, and puts forth on only one side of the debate on this issue and is unclear and misleading. While Parent Alienation Syndrome is not a syndrome recognized by the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5) or other health organizations, there is research to demonstrate that a child will suffer significant damage when one parent engages in a campaign to denigrate the other.¹ Sometimes the behavior results in the child resisting or even refusing contact with the other parent. Regardless of whether it reaches this level, the child at issue suffers harm². This type of behavior is causing significant harm to an untold number of children. Consideration of this circumstance is not inappropriate and, in fact, the opposite is true, consideration of this behavior is critical to the well-being of the child. Section 9-101.3 (B) (11) implies that it is not.
4. Another example of the misuse of currently existing tools and information is the requirement to order a danger and lethality assessment in certain circumstances.
5. The requirement that Judges and Child's Counsel receive 60 hours of training is onerous. With regard to Child's Counsel the immediate result would be that there would likely be no one trained to serve.

For the reason(s) stated above, the FJLSC **OPPOSES House Bill 1036 and urges an unfavorable committee report.**

Should you have any questions, please contact Rebecca A. Fleming, Esquire by telephone at 410-339-4100 or by e-mail at rfeleming@tnsfamilylaw.com or Ilene Glickman by telephone at (410) 821-8718 or by e-mail at ilene@lawhj.com.

¹For one example, See, *Don't Alienate the Kids!*, Bill Eddy, LCSW, JD.

² There is a difference in these situations and cases where a child's resistance to or refusal to have contact with one parent is justified. It however, is very difficult to determine which situation is present in a child custody case involving a child refusing or resisting a parent.