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From: Daniel G. Saunders, Ph.D., Professor Emeritus

To: Maryland House Judiciary Committee

Re: Support for Maryland House Bill 1036: Child Abuse and Domestic Violence Training for Judges and Child's Counsel

Chairman Clippinger, Vice-Chair Atterbeary, and Members of the Committee, I am grateful for the opportunity to voice my strong support for House Bill 1036.

I am Professor Emeritus at the University of Michigan's School of Social Work. My research, teaching, and service over my 45-year career have focused on the problems of dating and domestic violence. I have counseled victims and offenders, helped develop policies, educated professionals, including judges and attorneys, and researched various professional groups' beliefs and behavior, including judges and attorneys.

In October 2019, I provided detailed in-person and written testimony to Maryland's "Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations" (written testimony at http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/Testimony_by_Daniel_Saunders.pdf; video testimony at <http://mgahouse.maryland.gov/mga/play/ec54a59f-cbd7-4a4a-95ed-dd4010b6381d/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&autostart=true>)

The implementation of the Workgroup's recommendations will significantly improve the lives of Maryland's families by increasing the safety and well-being of survivors of domestic violence and their children. House Bill 1036 flows directly from the Workgroup's recommendations.

Professionals' Inadequate Responses

Custody and visitation determinations in domestic violence (DV) cases need to be developed with extreme care. Victims and their children risk serious harm if sole or joint custody is awarded to a violent parent or if that parent is not awarded custody but has poorly supervised visits (Saunders, 2015). Children risk being re-exposed to DV or being directly abused both physically and psychologically. All professional groups, including law enforcement, health care, child welfare, mental health, and family courts too often fail to detect domestic violence, or when they do detect it, fail to adequately protect victims and their children (Saunders, 2020). Although responses have improved over the years, much work remains to be done to improve

professionals' knowledge of DV and subsequent responses. Like the general public, judges and children's counsel are susceptible to myths about family violence and the child's best interests.

In our 2011 survey comparing judges, attorneys, domestic violence workers and custody evaluators, judges and private attorneys reported less knowledge of post-separation violence, screening, and danger assessment than other groups (62-77%)(Saunders, Faller & Tolman, 2015). Thirty-nine percent of judges had fewer than 6 of the seven areas of knowledge surveyed. Judges were more likely to believe domestic abuse victims try to alienate the child from the other parent (29%) than domestic violence workers and legal aid attorneys (19-20%). Results were similar for the belief that domestic violence victims hurt the child if they are reluctant to co-parent with the abuser. Several beliefs of the judges were highly related to each other: that mothers make false allegations of DV, DV is not important in custody evaluations, mothers alienate the children, and victims hurt children if they do not co-parent. These beliefs were related to the belief that an abusive father in a case scenario should receive sole or joint custody and that supervision of visits was not needed.

In Morrill et al.'s (2005) survey of judges, several questions tended to be answered incorrectly, for example: "Few battered women ever stand up forcefully to their mates" (false), and "There is an established psychological profile of women who become involved with abusive men" (false).

Gender bias in the courtroom in relation to custody decisions has been documented in numerous reports at the national, state, and local levels (Dragiewicz, 2010). The bias is shown in the tendency to disbelieve or minimize women's accounts of abuse, to punish them for reporting abuse, and to hold them to higher standards than fathers.

The Impact of Education and Training

Training is mandated for judges in 24 U.S. jurisdictions (through 2016, NCJFCJ), including training for all judges in 17 states, plus Guam and the District of Columbia. An additional four states mandate training for some courts and locations.

Judges who received DV education in the Morrill et al. study (52 of 60 judges) were twice as likely to give battered mothers sole physical custody. These judges were also more likely to have made orders that protected the mother's address. Judges with more knowledge about DV were more likely to grant sole physical and legal custody to the battered mother. These judges were less likely to believe that a father's right of visitation was inviolable.

In a study of state laws in 46 states, the states that mandated DV training for judges were significantly more likely to have evaluators who recommended professional supervision of visits with the non-residential abusive parents. Mandated training was not related to the judge's responses to a case scenario of domestic violence in a family with a child.

Jaffe (2010) evaluated the national training program for judges called "Enhancing Judicial Skills in Domestic Violence Cases" (EJS) that has been operating since 1999 by the National Council of Juvenile and Family Court Judges and the Family Violence Prevention Fund. Judges trained from 2006 and 2010 (n=341) reported that: 1) the program helped them

develop a stronger role in coordinating and providing access to resources for diverse populations; 2) they had overestimated their skills and competence with DV cases before the training; and 3) after several months, the vast majority of judges saw the ways they had changed in the areas of “access to justice, judicial leadership, victim safety, and batterer accountability.”

Strengths of the Bill

House Bill 1036 has many strengths that help fill the gaps in knowledge and practice that I reviewed above. For example, its provisions require that judges and child’s counsel be trained on:

- The impact of childhood traumas, complex trauma, and toxic stress, and the variety of responses that can ensue.
- Information that child abuse may have occurred “even without an “indicated” finding and/or any physical evidence of abuse and even if a child did not verbally disclose abuse in a forensic interview.”
- Coercive and controlling forms of abuse, including litigation abuse. These forms of abuse can occur without physical abuse yet can be extremely harmful to abuse victims and their children and can unfairly pressure victims in custody proceedings (Jeffries, 2016; Wisconsin Governor’s Council on Domestic Abuse, 2017).
- Potential impacts of bias by those making custody/visitation determinations. Initial and ongoing bias reduction education is needed (See in particular Dr. Patricia Devine’s work at the University of Wisconsin). The National Center for State Courts has training material for judges on implicit bias (https://ncsc-search.squiz.cloud/s/search.html?collection=ncsc-meta&profile=_default&query=bias)
- Available protections for families. Safeguards and safety planning inside and outside the courtroom setting are essential (See, for example, the detailed safety procedures and planning mandated by California’s Administrative Code).
- The invalidity of “parental alienation syndrome”.
- Information on lethality assessment. This information is crucial to avoid the most tragic outcomes in custody/visitation cases. Some risk factors are counter-intuitive.

The bill further requires these essential elements:

- Uniform screening to identify child abuse and domestic abuse. Non-detection is a major problem across all professions.
- An order for danger and lethality assessment. This assessment is essential for helping to prevent abuse recurrence and homicide. For lethality assessment, the Danger Assessment Instrument (DAP) is the most valid measure (Note: The Maryland Network Against Domestic Violence helped develop the Lethality Assessment Program (LAP) for law enforcement officers. The LAP was derived from a longer instrument, the Danger

Assessment Instrument (DAI)). The DAI, has been used in a variety of settings, including family court. Separate instruments would need to be used to assess the risk of non-lethal domestic violence and the risk of lethal and non-lethal abuse of children. Valid instruments are available to assess these forms of risk (Hoft, & Haddad, 2017; Messing & Thaller, 2013).

- Sixty initial hours of training are required, along with 10 hours of ongoing training every other year. In the past 45 years, the knowledge needed in family court cases involving domestic violence and child abuse has expanded greatly. Recent examples of knowledge development include the knowledge that: trauma may make some victims seem non-credible because they are forgetful or have difficulty giving a coherent account of events; severe trauma to children may make them bond to an abuser; coercive behavior is very damaging to parents and children, even in the absence of physical abuse; joint legal custody provides opportunities for harassment, manipulation, and coercion that harms children and parents. Research shows that ongoing training is necessary for effective responses to domestic abuse in the health care field. It seems likely that similar “booster sessions” are needed for judges and child’s counsel.

In summary, House Bill 1036 contains many essential elements for enhancing your citizens' safety: a comprehensive list of training topics, screening and lethality assessment requirements, and training beyond the initial training.

Thank you for the opportunity to provide comments.

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