

**HB 1307 - WLCMD - UNF.pdf**

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Position: UNF

BILL NO: House Bill 1307  
TITLE: Family Law – Child Custody and Visitation – Visitation Reevaluations and Remedies  
COMMITTEE: Judiciary  
HEARING DATE: February 29, 2024  
POSITION: **OPPOSE**

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House Bill 1307 would allow litigants in family law child access cases to run to court every time the other party does not comply exactly with a court ordered child access schedule. The Women's Law Center of Maryland (WLC) opposes HB 1307 as it is seeking to address an issue that is already addressed in our laws and would muddy the waters for courts and litigants and potentially overwhelm the courts.

HB 1307 largely overlaps with an existing statute - Md. Code Ann., Fam. Law § 9-105, "Unjustifiable denial or interference with visitation granted by order." Section 9-105 addresses the exact same concerns as HB 1307. The statute permits a court to take certain actions against a parent upon a finding that the parent has "unjustifiably denied or interfered with visitation granted by a custody or visitation order," including (1) rescheduling the visitation; (2) modifying the order "to ensure future compliance with the order"; or (3) award fees and costs against the offending party. As structured, HB 1307 would create a new statute, FL § 9-109, while leaving FL § 9-105 in place. We are concerned that having two competing statutes with different approaches will completely confuse everyone. The existing statute also allow the court to craft relief for what each cases requires. Nothing about child access cases is one size fits all.

In addition, as drafted, HB1307 arguably includes a very broad swath of cases. It appears someone could file for an expedited hearing if the other party is 10 minutes late for the child exchange. 20 minutes? 30 minutes? If any time a party does not comply exactly with any court ordered provision the other party can run to court and petition for an expedited hearing, the court will be clogged beyond their ability to manage.

There are other provisions of the bill that are incomprehensible. The bill adds in provisions for modification of the court order, when there is clear law in Maryland that in order to modify custody, the litigant must show a material change of circumstances. And the last lines of the bill, page 3, lines 2-3 referencing contempt, state the obvious – contempt is the normal and existing avenue to address noncompliance with a court order. Expedited hearings should be for emergent or safety situations.

Finally, the punitive nature of the possible relief, especially community services, is inappropriate in a child access case.

For these and other reasons, the Women's Law Center of Maryland urges an unfavorable report on HB 1307.

***The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.***

**hb1307.pdf**

Uploaded by: Linda Miller

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 1307  
Family Law – Child Custody and Visitation – Visitation  
Reevaluation and Remedies  
**DATE:** February 21, 2024  
(2/29)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 1307. This bill would allow a parent to petition for an emergency hearing within ten (10) days of the filing of the petition if another parent fails to comply with an existing visitation order. It would require the court to make certain calculations and make certain awards. The bill would also authorize the court to take certain actions if a parent fails to comply with an order.

This bill attempts to address interference with a parent’s access to his, her, or their children. The mechanics of and language in this bill, however, would be impossible to implement and would unintentionally cause disruptions for children.

Section 9-109(a)(2) would require courts to hold a hearing on a petition for emergency reevaluation of a visitation schedule within ten (10) days. This timeline would be impossible to meet and would interfere with the court system’s ability to handle other pending matters including cases in which a child’s or vulnerable adult’s health or safety is at risk, emergency motions to stay foreclosures and evictions, and jury trials. Courts are constitutionally mandated and are in the best position to schedule matters, including matters that require emergency or expedited relief, as interests and justice require. To this end, each circuit court has a differentiated case management plan that includes procedures for emergency relief and expedited case processing in family law actions where there is a credible prospect of imminent and substantial physical or emotional harm to a child. Md. Rule 16-302. Whether expedited processing is warranted depends upon the facts alleged.

Section 9-109(a)(1) would also allow a parent to file a petition for relief when another parent fails to comply with a court-ordered visitation schedule “without just cause.” This standard is broad and leaves it to the petitioning parent to decide what is “just cause.” In high-conflict cases, it is not uncommon for a disagreement over a custody order or

unforeseen delays in dropping off a child to another parent to be characterized as failure to comply with an order. Paired with the ten-day hearing requirement, this statute could unintentionally be used as an escalation tool to jump the scheduling queue. This would also escalate the level of conflict between parents, which will in turn impact their children.

If the court finds that a parent fails to the comply with a visitation order, Section 9-109(b)(ii) of the bill mandates that the court award the petitioner extra time to compensate for any time missed with that parent's child. In custody and visitation cases, the court's paramount concern is the best interest of the child. While "make-up time" may seem fair on its face for parents (and is an option courts may order), that may not be what is best for a particular child. For example, if the child is being breastfed or the existing visitation order takes into account the child's social needs that are specific to one parent's household, this could cause disruptions and stress for that child. Sections 9-109(b)(1)(iii)(3) mandates that noncompliant parents incur any costs associated with any awarded "make-up time." This does not allow for consideration of a parent's ability to pay and could interfere with a parent's child support and other obligations. These types of mandates limit judicial discretion and the court's ability to consider each child's unique facts and circumstances.

Attempts to interfere with a parent's time with his, her, or their child are challenging for all. A goal of custody and visitation orders, however, is to provide children with stability and predictability while allowing courts to take steps to help ensure the same. It is for this reason there is a high standard for modifying a custody or visitation order. This bill would create a path for parent to circumvent that standard and would drive-up conflict and litigation costs and be destabilizing for children.

cc. Hon. N. Scott Phillips  
Judicial Council  
Legislative Committee  
Kelley O'Connor

**HB 1307\_MNADV\_OPP.pdf**

Uploaded by: Melanie Shapiro

Position: UNF



**BILL NO:** House Bill 1307  
**TITLE:** Family Law – Child Custody and Visitation – Visitation Reevaluations and Remedies  
**COMMITTEE:** Judiciary  
**HEARING DATE:** February 29, 2024  
**POSITION:** **OPPOSE**

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The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the House Judiciary Committee to issue an unfavorable report on HB 1307.**

House Bill 1307 would allow litigants in family law child access cases to run to court every time the other party does not comply exactly with a court ordered child access schedule. HB 1307 largely overlaps with an existing statute - Md. Code Ann., Fam. Law § 9-105, “Unjustifiable denial or interference with visitation granted by order.” Section 9-105 addresses the exact same concerns as HB 1307. The statute permits a court to take certain actions against a parent upon a finding that the parent has “unjustifiably denied or interfered with visitation granted by a custody or visitation order,” including (1) rescheduling the visitation; (2) modifying the order “to ensure future compliance with the order”; or (3) award fees and costs against the offending party. As structured, HB 1307 would create a new statute, FL § 9-109, while leaving FL § 9-105 in place. We are concerned that having two competing statutes with different approaches will be confusing, especially for pro se litigants. The existing statute allows the court to craft relief for what each case requires, which MNADV believes is the appropriate approach since all family’s circumstances are unique.

As drafted, HB1307 is overly broad and lacks specificity as to what constitutes grounds for an expedited hearing. If any time a party does not comply exactly with any court ordered provision the other party can run to court and petition for an expedited hearing, the courts will be overwhelmed. HB 1307 also adds in provisions for modification of the court order, when there is clear law in Maryland that states that to modify custody the litigant must show a material change of circumstances.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on HB 1307.**



**2024 02 22, HB 1307\_FLSC\_UNF.pdf**

Uploaded by: Michelle Smith

Position: UNF

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**To:** Members of House Judiciary Committee

**From:** Maryland State Bar Association Family Law Section Council

**Date:** February 26, 2024

**Subject:** **House Bill 1307:**  
Family Law – Child Custody and Visitation – Visitation Reevaluations and Remedies

**Position:** **OPPOSE**

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The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **opposes House Bill 1307 – Family Law – Child Custody and Visitation – Visitation Reevaluations and Remedies.**

The FLSC is the formal representative of the Family Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of Family Law and, at the same time, tries to bring together the members of the MSBA who are concerned with Family Laws and in reforms and improvements in such laws through legislation or otherwise. The FLSC 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.

The FLSC acknowledges and appreciates the extent to which this body is seeking to ensure that Court Orders concerning custody and visitation are followed, however, HB 1307 runs afoul of various existing guardrails for the enforcement of Court Orders and this may not be the most efficient way of handling this issue. First, it is unclear whether when the draft includes all the times that the parties fail to follow the Court Order or is it only when it was done maliciously or intentionally. The language now appears to cover every time that visitation is missed, which would overrun the Courts and possibly create an insurmountable traffic jam of cases particularly because each would require its own expedited hearing. Moreover, if there were to be an expedited hearing within 10 days of the filing of an emergency evacuation plan, the Judicial branch would lose control of its ability to maintain and regulate court calendars and schedules. It is noteworthy that if someone were being denied all visitation and access, that the Circuit Courts already allow for the filing of emergency proceedings to determine whether the case needs to be addressed on an expedited basis.

Similarly, HB 1307 largely overlaps with an existing statute—namely, Md. Code Ann., Fam. Law § 9-105. That statute—titled “Unjustifiable denial or interference with visitation granted by order”—addresses the exact same concerns as HB 1307. The statute permits a court to take certain actions against a parent upon a finding that the parent has “unjustifiably denied or interfered with visitation granted by a custody or visitation order,” including (1) rescheduling the visitation; (2) modifying the order “to ensure future compliance with the order”; or (3) award fees and costs against the offending party. As structured, HB 1307 would create a new statute, FL § 9-109, while leaving FL § 9-105 in place.

Enacting this new legislation in tandem with an existing law that already accomplishes the same purpose will simply frustrate the already complex practice of family law in the State of Maryland. More importantly, the existing statute leaves more discretion in the hands of the judiciary to craft appropriate sanctions and remedies for violations of a custody schedule. Child custody is not an area of the law that lends itself to simple, one-size-fits-all solutions that HB 1307 would impose on Maryland courts. The bill also requires an emergency hearing “if a parent fails to comply with a court-ordered visitation schedule without just cause,” without considering how broad that definition can be. “Failure to comply could mean withholding a child” from a scheduled entirely, or it could mean showing up thirty minutes late to a custodial exchange. Simply put, the potential for unnecessary, vexatious litigation is incredibly high with such broad and sweeping language, particularly in an area of the law as emotionally charged as family law.

Second, this bill ignores that there is an entire area of practice, with well-developed case law that exists associated with the enforcement of Court Orders concerning contempt. The purpose of contempt is to enforce court orders and bring parties into compliance without necessarily being punitive, because it’s central purpose is to be coercive; however, HB 1307 has several characteristics that appear to be punitive in nature. For example, the automatic imposition of attorney’s fees and cost to the “at fault” party appears to be punitive because it is based on success of the filing party.

Third, Section B(3) of HB 1307 contradicts current law concerning the standards to obtain a modification. The Courts have been very clear that in order to obtain a modification, the moving party must prove that there is a material change in circumstances. While the denial of visitation could constitute one of the many facts that are presented as material changes in circumstances, unless there is an adverse impact on the children it may not constitute as a basis for the modification.

The FLSC urges House Judiciary Committee, for the reasons stated above, to issue an unfavorable report on HB 1307.

Should you have any questions, please contact:

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