

HOUSE BILL 1036

D4, D1

1lr1152
CF SB 675

By: **Delegate Atterbeary**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody – Cases Involving Child Abuse or Domestic Violence – Training**
3 **for Judges and Child’s Counsel**

4 FOR the purpose of requiring the Maryland Judiciary, in consultation with certain
5 organizations, to develop a training program for judges presiding over child custody
6 cases involving child abuse or domestic violence and to review and update the
7 training program at certain intervals; requiring the training program to include
8 certain information; requiring the Maryland Judiciary to make information on a
9 certain training program available on request; requiring the Maryland Judiciary to
10 adopt procedures to identify child custody cases that may involve child abuse or
11 domestic violence as soon as possible for a certain purpose; requiring the Maryland
12 Judiciary to order a certain danger and lethality assessment to be conducted if the
13 court has reasonable grounds to believe that a child custody or visitation case may
14 involve child abuse or domestic violence; requiring a judge to receive certain training
15 or continued training before the judge is authorized to preside over a child custody
16 case involving child abuse or domestic violence; requiring an individual to receive
17 certain training or retraining before the individual is authorized to serve as a child’s
18 counsel in a child custody case involving child abuse or domestic violence; defining a
19 certain term; providing for a delayed effective date for certain provisions of this Act;
20 and generally relating to the training of judges and child’s counsel for child custody
21 cases involving child abuse or domestic violence.

22 BY adding to
23 Article – Family Law
24 Section 9–101.3, 9–101.4, and 9–109
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2020 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Family Law

9–101.3.

(A) THE MARYLAND JUDICIARY, IN CONSULTATION WITH DOMESTIC VIOLENCE AND CHILD ABUSE ORGANIZATIONS, SHALL:

(1) DEVELOP A TRAINING PROGRAM FOR JUDGES PRESIDING OVER CHILD CUSTODY CASES INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE; AND

(2) REVIEW AND UPDATE THE TRAINING PROGRAM AT LEAST ONCE EVERY 2 YEARS.

(B) THE TRAINING PROGRAM DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE TRAINING ON:

(1) THE TYPICAL BRAIN DEVELOPMENT OF INFANTS AND CHILDREN;

(2) THE IMPACT OF ADVERSE CHILDHOOD EXPERIENCES, TRAUMA, COMPLEX TRAUMA, AND CHRONIC TOXIC STRESS ON A CHILD’S BRAIN DEVELOPMENT AND THE WAYS THAT A CHILD’S RESPONSE TO TRAUMA VARIES;

(3) THE PROCESS FOR INVESTIGATING A REPORT OF SUSPECTED CHILD ABUSE OR CHILD SEXUAL ABUSE, INCLUDING:

(I) THE ROLE OF CHILD ADVOCACY CENTERS AND FORENSIC INTERVIEWS;

(II) THE LIMITATIONS OF LOCAL DEPARTMENTS OF SOCIAL SERVICES IN INVESTIGATING REPORTS OF SUSPECTED CHILD ABUSE AND CHILD SEXUAL ABUSE; AND

(III) THE LIMITATIONS OF THE INVESTIGATION PROCESS, INCLUDING THAT CHILD ABUSE AND CHILD SEXUAL ABUSE MAY HAVE OCCURRED EVEN WITHOUT AN INDICATED FINDING OF ABUSE, ANY PHYSICAL EVIDENCE OF ABUSE, OR A VERBAL DISCLOSURE OF ABUSE BY THE CHILD;

(4) THE DYNAMICS AND EFFECTS OF CHILD SEXUAL ABUSE, INCLUDING GROOMING BEHAVIORS AND THE DISCLOSURE OF CHILD SEXUAL ABUSE BASED ON THE DEVELOPMENTAL STAGES OF THE CHILD, INCLUDING DELAYED DISCLOSURE;

(5) THE DYNAMICS AND EFFECTS OF PHYSICAL AND EMOTIONAL

1 CHILD ABUSE;

2 (6) THE DYNAMICS AND EFFECTS OF DOMESTIC VIOLENCE,
3 INCLUDING COERCIVE CONTROL, LETHALITY ASSESSMENTS, LITIGATION ABUSE,
4 AND THAT DOMESTIC VIOLENCE CAN OCCUR WITHOUT A PARTY SEEKING OR
5 OBTAINING A PROTECTIVE ORDER OR WITHOUT DOCUMENTED EVIDENCE OF ABUSE;

6 (7) THE IMPACT OF EXPOSURE TO DOMESTIC VIOLENCE ON
7 CHILDREN AND THE IMPORTANCE OF CONSIDERING THE IMPACT OF EXPOSURE TO
8 DOMESTIC VIOLENCE ON CHILDREN WHEN MAKING CHILD CUSTODY AND
9 VISITATION DECISIONS;

10 (8) THE POTENTIAL IMPACTS OF EXPLICIT AND IMPLICIT BIAS ON
11 CHILD CUSTODY DECISIONS;

12 (9) BEST PRACTICES TO ENSURE THAT REASONABLE AND FEASIBLE
13 PROTECTIVE MEASURES ARE TAKEN TO REDUCE THE RISK OF TRAUMATIZING OR
14 RETRAUMATIZING A CHILD THROUGH THE COURT PROCESS, INCLUDING AVAILABLE
15 METHODS TO OBTAIN RELEVANT INFORMATION WITHOUT THE NECESSITY OF
16 REPEATED, DETAILED TESTIMONY FROM THE CHILD;

17 (10) AVAILABLE PROTECTIONS FOR FAMILIES, INCLUDING THE
18 SEALING OF RECORDS;

19 (11) PARENTAL ALIENATION, INCLUDING:

20 (I) THE ORIGINS OF PARENTAL ALIENATION;

21 (II) THE INVALIDITY OF PARENTAL ALIENATION AS A
22 SYNDROME; AND

23 (III) THE INAPPROPRIATENESS OF THE USE OF PARENTAL
24 ALIENATION IN CHILD CUSTODY CASES;

25 (12) THE LIMITATIONS OF SEXUAL OFFENDER EVALUATIONS AND RISK
26 ASSESSMENTS;

27 (13) THE TOOLS COURTS CAN USE TO ASSESS THE CREDIBILITY OF A
28 CHILD WITNESS AND INFORMATION ON HOW CHILD THERAPY METHODS, INCLUDING
29 EXPRESSIVE ARTS, ARE LEGITIMATE THERAPEUTIC TOOLS TO MEASURE THE
30 DEGREE OF TRAUMATIC IMPACT AND THE EFFECTIVENESS OF THERAPEUTIC AND
31 SYSTEM INTERVENTION;

(14) THE CORRELATION BETWEEN CHILD SEXUAL ABUSE AND CHILD PORNOGRAPHY; AND

(15) STANDARDS FOR THE KNOWLEDGE, EXPERIENCE, AND QUALIFICATIONS OF CHILD SEXUAL ABUSE EVALUATORS AND TREATMENT PROVIDERS AND THE LEGAL AND ETHICAL CONSIDERATIONS OF APPOINTING AN UNQUALIFIED CHILD SEXUAL ABUSE EVALUATOR OR ALLOWING AN EVALUATOR TO PRACTICE OUTSIDE THE EVALUATOR'S FIELDS OF EXPERTISE.

(C) THE MARYLAND JUDICIARY SHALL MAKE EDUCATIONAL AND TRAINING MATERIALS RELATING TO THE TRAINING OF JUDGES ASSIGNED TO CHILD CUSTODY CASES INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE AVAILABLE ON REQUEST.

(D) THE MARYLAND JUDICIARY SHALL ADOPT PROCEDURES, INCLUDING THE UNIFORM SCREENING OF INITIAL PLEADINGS, TO IDENTIFY CHILD CUSTODY CASES THAT MAY INVOLVE CHILD ABUSE OR DOMESTIC VIOLENCE AS SOON AS POSSIBLE TO ENSURE THAT ONLY JUDGES WHO HAVE RECEIVED TRAINING UNDER THIS SECTION ARE ASSIGNED THOSE CASES.

9-101.4.

IN ANY CUSTODY OR VISITATION PROCEEDING, IF THE COURT HAS REASONABLE GROUNDS TO BELIEVE THAT THE CASE MAY INVOLVE CHILD ABUSE OR DOMESTIC VIOLENCE, THE COURT SHALL ORDER A DANGER AND LETHALITY ASSESSMENT TO BE CONDUCTED BY AN APPROPRIATE INDIVIDUAL TO HELP ENSURE THE SAFETY OF THE PARTIES AND THE CHILDREN.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Family Law

9-101.3.

(E) (1) BEFORE PRESIDING OVER A CHILD CUSTODY CASE INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE, A JUDGE MUST RECEIVE AT LEAST 60 HOURS OF INITIAL TRAINING APPROVED BY THE MARYLAND JUDICIARY THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(2) A JUDGE WHO HAS RECEIVED THE INITIAL TRAINING UNDER PARAGRAPH (1) OF THIS SUBSECTION AND WHO CONTINUES TO PRESIDE OVER CHILD CUSTODY CASES INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE SHALL RECEIVE AT LEAST AN ADDITIONAL 10 HOURS OF TRAINING THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION EVERY 5 YEARS.

1 **(3) A JUDGE WHO IS ASSIGNED TO PRESIDE OVER A CHILD CUSTODY**
2 **CASE INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE MORE THAN 3 YEARS AFTER**
3 **RECEIVING THE INITIAL TRAINING DESCRIBED UNDER PARAGRAPH (1) OF THIS**
4 **SUBSECTION SHALL REGISTER FOR AND ATTEND THE NEXT OFFERED INITIAL**
5 **TRAINING.**

6 **9–109.**

7 **(A) IN THIS SECTION, “CHILD’S COUNSEL” INCLUDES A CHILD’S BEST**
8 **INTEREST ATTORNEY, A CHILD’S ADVOCATE ATTORNEY, OR A CHILD’S PRIVILEGE**
9 **ATTORNEY.**

10 **(B) (1) BEFORE AN INDIVIDUAL MAY SERVE AS A CHILD’S COUNSEL IN A**
11 **CHILD CUSTODY CASE INVOLVING CHILD ABUSE OR DOMESTIC VIOLENCE, THE**
12 **INDIVIDUAL MUST RECEIVE AT LEAST 60 HOURS OF INITIAL TRAINING ON THE**
13 **TOPICS DESCRIBED IN § 9–101.3(B) OF THIS SUBTITLE.**

14 **(2) AFTER AN INDIVIDUAL MEETS THE INITIAL TRAINING**
15 **REQUIREMENT UNDER THIS SUBSECTION, THE INDIVIDUAL MUST RECEIVE AT LEAST**
16 **10 HOURS OF ONGOING TRAINING ON THE TOPICS DESCRIBED IN § 9–101.3(B) OF**
17 **THIS SUBTITLE EVERY 5 YEARS IN ORDER TO CONTINUE TO SERVE AS A CHILD’S**
18 **COUNSEL.**

19 **SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take**
20 **effect July 1, 2023.**

21 **SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section**
22 **3 of this Act, this Act shall take effect July 1, 2021.**