

Will New Legislation Approved by the Maryland Legislature Improve the Lives of Adolescents in High Conflict Custody Cases?

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In high-conflict custody cases, parents often disagree about whether a child needs mental health treatment. Divorced parents often have joint legal custody of a child, which means that the parents have to agree on a decision regarding mental health treatment for their child. If the parents are unable to reach an agreement that a child requires mental health treatment, and it is necessary to ask the court to order mental health treatment, it can take close to a year to reach a trial date. A year is a very long time for a child to go without needed mental health treatment.

Under prior law, a child age 16 or older had the same capacity as an adult (anyone age 18 or over) to consent to mental health treatment. Under the new law, any child age 12 or older who is determined by a health care provider to be “mature and capable of giving informed consent” can consent to mental health treatment. The new law provides, however, that a child under the age of 16 “may not consent to the use of prescription medications to treat a mental or emotional disorder.”

Under both the prior law and the new law, a minor does not have the capacity to object to mental health treatment if it is authorized by a guardian or parent. In addition, a mental health provider may decide whether to provide information about mental health treatment to a guardian or parent, even if the child objects.

It is unclear how often mental health providers will determine that a child between 12 and 16 is mature and capable of giving informed consent to mental health treatment, but the new legislation could help adolescent children caught in the middle obtain the mental health treatment they need.

If you have questions about this or any other Family Law issue please contact Catherine H. “Kate” McQueen at (240) 507-1718 or kmcqueen@offitkurman.com.