

MD's highest court affirms the importance of meaningful participation rights of child parties

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In a landmark decision for Maryland's children and youth involved in the child welfare system, the Supreme Court of Maryland recently issued its opinion in *In re K.B.*, reaffirming a fundamental principle that advocates have long championed: Children have a right to meaningful participation in decisions that shape their lives. *In re K.B.* ("K.B."), No. 60, Sept. Term, 2025, 2026 WL 2132934 (Md. July 24, 2026).

At the center of the case is K.B., a teenager whose Child in Need of Assistance case concerned whether she should be placed into foster care and removed from her grandmother's custody, where she had lived nearly her entire life.

Prior to the start of a contested hearing, the juvenile court ordered K.B. removed from the courtroom.

Her attorney objected to K.B.'s exclusion, arguing that K.B. was a party, wanted to attend, and that her participation was necessary.

The juvenile court expressed a general belief that children under 15 should not be present during contested custody-related hearings, stating that K.B.'s attorney could speak on her behalf.

The Appellate Court of Maryland upheld K.B.'s exclusion from the courtroom.

On July 24, 2026, the court reversed the lower court ruling.

Although the case was deemed moot because K.B. had been reunified with her grandmother, the Supreme Court recognized the broader significance of the issue and the importance of addressing the case on the merits.

In doing so, the court solidified protections for Maryland children involved in dependency proceedings, sending a powerful message about the importance of procedural due process for child parties.

The Supreme Court of Maryland held that K.B.'s exclusion violated her procedural due process rights and emphasized that child s parties possess independent due process rights, not merely a right to have an attorney speak for them.

The court recognized "there is a baseline assumption that a child attends their CINA proceeding to assist counsel" and "the child's presence is invaluable to their attorney."

The opinion established that prejudice is presumed when a child is improperly excluded from a CINA proceeding.

Children can observe proceedings that affect them, comprehend decisions being made on their behalf, correct factual inaccuracies, provide context to their attorneys and contribute meaningful information in real time.

This decision represents a significant advancement in recognizing children as active participants in matters that directly impact their lives.

The juvenile court relied in part on its generalized view that children of K.B.'s age should not attend court due to the challenging nature of contested hearings.

The Supreme Court found such reasoning was insufficient and held that any decision to exclude a child must be based on an individualized assessment of that particular child and the specific circumstances of the case.

Before excluding a child over the objection of the child's attorney, a court must carefully balance the child's due

process interests against any demonstrated risk that participation would be harmful to that child's wellbeing.

The court explained, "any exclusion must be narrowly tailored to the identified harm" and must be "no broader than necessary to protect the child party's wellbeing — and must be supported by facts identified on the record."



The court identified a non-exhaustive list of potential factors to consider in determining whether exclusion is appropriate.

This individualized approach is critical because children are not monoliths.

Youth involved in the child welfare system possess varying levels of maturity, resilience, comprehension, and lived experience.

Many have navigated significant trauma, family disruption, and court involvement.

Determining whether participation is appropriate requires attention to the unique circumstances of each child.

Research and practice have demonstrated that children and youth are more likely to trust court processes, engage with services, and experience positive outcomes when they are meaningfully included in decisions affecting them.

When young people are heard, they gain a sense of dignity, agency, and ownership over the process.

When they are excluded, they can experience confusion, frustration and distrust.

The child welfare system exists to protect children and promote their well-being.

That mission cannot be fully realized without authentic youth engagement.

In this case of first impression, Maryland's highest court affirmed that children have a right to be present, heard, and to meaningfully participate.

When courts decide where a child will live, who will care for them, and what their future will be, one principle must remain at the center of every proceeding: meaningful participation of the child is crucial.

The *In re K.B.*, opinion firmly enshrined that principle into Maryland jurisprudence, recognizing that children are not merely the subjects of child welfare proceedings, but rights-bearing participants whose meaningful participation matters.

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