

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

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 338
Child Abuse and Neglect – Definition of Neglect
DATE: February 2, 2022
(2/10)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 338, as drafted. This bill amends the definition of “neglect” found in § 3-801 of the Courts and Judicial Proceedings Article and § 5-701 of the Family Law Article. The amendment provides that neglect does not include, on the part of a victim of domestic violence, the failure to protect the child from witnessing domestic violence, failure to leave the home in which the alleged perpetrator resides, failure to end the relationship with the alleged perpetrator, or failure to seek a protective order.

While the Judiciary appreciates what this bill is trying to do, its approach is problematic. From a structural standpoint, it is difficult to work from a negative inference of what neglect is. Defining neglect with a list also limits a court’s ability to make a determination based on facts or circumstances that do not fall within the list. The language of the bill also concludes that one party is a victim but identifies another as the “alleged perpetrator.”

The Judiciary is also concerned with the proposed amendments to Md. Code, Courts and Judicial Proceedings Art., § 3-801 which would limit a court’s ability to take steps to protect a child in a CINA case. For example, a finding of neglect may be needed for the court to take protective action on behalf of a child or to order services. The amendments also seem to elevate a parent’s actions (or inactions) over what may be in the best interest of a child. This bill impermissibly shifts the court’s focus from the best interest of the child to the best interest of the parent. In essence, the bill might result in the court having to hold an evidentiary hearing to determine whether a parent is a victim of domestic violence before proceeding with the substance of the Child in Need of Assistance (CINA) petition.

The Judiciary is open to working with the bill's sponsors to craft a more workable framework that does not unfairly penalize victims of domestic violence but allows a court to intervene when needed to protect a child.

cc. Hon. Lesley Lopez
Judicial Council
Legislative Committee
Kelley O'Connor