

**Date:** February 10, 2022

**Bill number:** HB0338

**Committee:** Judiciary

**Bill title:** Child Abuse and Neglect - Definition of Neglect

**DHS Position:** Letter of Concern

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The Department of Human Services (Department) respectfully offers this letter of concern regarding House Bill 338. This bill would amend the statutory definition of neglect to exempt parents from a finding of “neglect” for failing to remove or otherwise protect a child from domestic violence in the home.

The bill as written would prevent Child Protective Services (CPS) and the juvenile court from taking action necessary to protect children from the substantial harm that may occur when parent victims of domestic violence remain in the abusive relationship. The Final Report of the General Assembly’s workgroup on child abuse and domestic violence concluded that exposure to domestic violence inflicts substantial harm to children, and a recent report examining child fatalities in Baltimore City found that one or both caregivers had been charged with domestic violence prior to the child’s death in 50% of child fatalities.

The proposed alteration would prevent CPS from taking action to protect children who are repeatedly exposed to domestic violence in a victim's home, including making appropriate plans to protect the child and the victim from further violence. The proposed alterations would remove tools that could help a CPS worker convince a reluctant victim of domestic violence to pursue a protective order or to take other measures to protect the child. Furthermore, it would also prevent CPS from engaging the families in an Alternative Response under Md. Code Ann., Family Law § 5-706 that would provide the victim parent and the victim children the social services that they need. Those results would contradict the purpose of the federal Child Abuse Prevention and Treatment Act (CAPTA).

Moreover, the juvenile court's authority to protect children requires evidence sufficient to overcome the presumption that parents act in their child's best interests. Evidence that the child has experienced, and will continue to experience, ongoing abuse or neglect by each parent is generally sufficient to overcome that presumption. However, if the definition of neglect excludes the victim parent's conduct, the victim parent could retain the presumption such that the juvenile courts would be barred from intervening to protect the child from continuing or ongoing domestic violence in the home.

Ultimately, the amendment would force a CPS investigator to tell some children who fear repeated violence in their homes, “I’m sorry, there is nothing we can do.”

The Department wants to recognize the sponsor for their willingness to collaborate and work through these

concerns. We look forward to continuing these discussions in hopes of finding a solution that fully addresses the needs of domestic violence victims and children in the home.

The Department appreciates the opportunity to provide the aforementioned information, and we hope it is helpful during the committee's deliberations.