

To: House Judiciary Committee
**From: Justice for Victims of Crime Clinic, University of Maryland School of Law, 500 W. Baltimore Street
Baltimore, Maryland 21201**
Re: In SUPPORT of House Bill HB0338
Date: February 10, 2022

Testimony in Support of House Bill HB0338

House Bill 338 will amend Maryland's laws related to child abuse and neglect to preserve healthy relationships between children and their non-offending caretakers whenever possible. In Maryland, the state can remove a child from their home based on a parent or caretaker's abuse or neglect. This legislation alters the definition of "neglect" to clarify that a parent who is also a victim of domestic violence does not commit neglect by failing to take immediate action to prevent their own abuse.

Current Maryland law defines neglect as a parent or caretaker's failure to give proper care and attention to a child such that the child's health or welfare is harmed or placed at substantial risk of harm. In practice, this sweeping definition allows the state to remove a child simply because they were incapable of preventing their own abuse at the hands of the child's other caretaker. As a result, the state removes children from the custody of non-offending parents even though the child's relationship with that parent may be the main source of safety, stability, and comfort in the abused child's life. Unfortunately, this is not an uncommon occurrence. In 2019, out of 7,661 victims of child abuse or neglect, 39% of children were classified as victims of child abuse or neglect based on domestic violence in the home.¹

The Justice for Victims of Crime Clinic represents parties who are victims of a broad range of crimes, including domestic violence. Too often our work provides a front row seat to the ways that Maryland's laws fail to help—or even unwittingly punish—crime victims. Our current laws related to child abuse and neglect punish victims of domestic violence for any perceived delay in reporting their abuse to law enforcement, leaving the relationship and/or shared home, or taking legal action against their abusers. If a victim who is also a parent does not take immediate, decisive action against their abuser, the current definition of neglect allows the state to label that parent as complicit in neglecting their child. After suffering the horrifying physical and emotional abuse of intimate partner violence, a victim who is a parent can then be traumatically separated from their child.

The victims we represent in our Clinic delay contacting law enforcement and pursuing legal remedies for many legitimate reasons. This is especially true for crime victims who face language, educational, and/or cultural barriers to accessing help and resources. Our Clinic's Spanish-speaking clients have delayed contacting the police in the face of domestic violence and other crimes because they worried that they could not communicate with police officers or that doing so would expose their

¹ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2021). *Child Maltreatment 2019*. Table 3-11. Available from <https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

family's immigration status. Our Clinic served an immigrant crime victim who was devastated to learn that her partner and co-parent of twelve years had sexually abused her daughter. Our client was terrified that state authorities would not believe her, or would not help her, simply because of her immigration status. Instead of seeking help, our client worked day and night to scrape together enough money to leave the abuser and find a safe place for her children to live entirely on her own. Many recent immigrants to the United States, like our client, do not know that help and resources are available, especially since their undocumented status precludes them from so many other social services. The legal system related to crime victim support, compensation, and victim's rights appears complicated, opaque, unfriendly, and full of hidden traps. It often takes time for an immigrant victim of domestic violence or other crimes to build trust and confide in a friend, medical professional, or social worker who can help navigate these systems.

Financial barriers also prevent victims of domestic violence from leaving their abusers – a reality that is well documented in both social science research and the experience of lawyers who represent domestic violence victims. Our Clinic served an immigrant crime victim who lived through almost a decade of brutal violence in Baltimore simply because the only person she knew in the United States was her husband, who she was dependent on for money, food, shelter, and their child's welfare. The perpetrator beat our client severely when she tried to leave the house in order to find work or build relationships. Luckily, our client eventually found support from a local nonprofit and was able to leave her abuser. However, under our current child abuse and neglect laws, the state could have removed our client's child from her custody at any time simply because their child witnessed the domestic violence.

Using the child welfare system to punish victims of domestic violence is neither trauma informed nor victim centered and worse, this approach harms the very population the state is supposed to protect: children. Research clearly demonstrates that even temporary separation from a parent can cause serious and permanent emotional and psychological harm to children, such as separation and attachment disorders, and post-traumatic stress disorder. Despite the fact that social services can provide targeted, in-home services that resolve the underlying causes of child neglect, children are removed from their homes and placed in foster care even when a loving, supportive, non-offending caretaker remains in the home. If the child welfare system believes the non-offending caretaker who is a victim of domestic violence needs further support, it should be provided without the threat of further traumatizing both the victim and the child.

Parents have a constitutionally protected right to the care and custody of their children premised on the unique, ancient, and enduring bonds between parents and children. This right, long affirmed by the Supreme Court, should only yield when the safety of the child is clearly threatened and no safe caretaker is available for the child. House Bill 338 will support victims of domestic violence and help Maryland's children by giving families a greater chance to preserve safe parent-child relationships within the family home.

This testimony is submitted on behalf of the Justice for Victims of Crime Clinic at the University of Maryland Carey School of Law and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.