

Support with Amendments HB338
Child Abuse and Neglect – Definition of Neglect
Testimony of Shanta Trivedi, Esq.
Thursday, February 10, 2022
House Judiciary Committee



Dear Del. Clippinger and Members of the House Judiciary Committee:

I am an Assistant Professor of Law at the University of Baltimore School of Law. I teach courses on Family Law and the Child Welfare System and have written extensively in these areas with a focus on family separation, particularly as it affects low-income and minority families. In my career, I have represented hundreds of parents in both child welfare and domestic violence proceedings. I am also the Faculty Director of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC). CFCC's mission is to create, foster and support a national movement to integrate communities, families and the justice system in order to improve the lives of families and the health of the community. I believe that HB 338 is necessary to prevent the traumatic separation of children from loving parents who are accused of nothing besides being unlucky enough to experience violence at the hands of their partner. I urge you to issue a favorable report on HB 338 and to consider potential amendments.

HB 338 removes “failure to protect” a child from witnessing violence from the definition of neglect, as well as failing to leave an abusive relationship, reporting the violence or failing to seek an order of protection. A definition of neglect that historically has included “failing to protect” a child from witnessing violence is unconscionable. Such a law tells women who are themselves subject to violence and control by another person that they should somehow be able to control the perpetrator’s actions to protect their children. It incorrectly places blame on the blameless and also sends a message to children that their non-perpetrator parent is at fault. Further, it places children at risk of removal from not one, but both of their parents. Domestic violence experts have expressed that this can be more traumatic than doing nothing at all.¹ Such an approach is antithetical to the stated goal of the child welfare system - protecting children.

Further, it is well-documented that the reasons that women² don’t leave abusive relationships are complex. Many women are simply choosing among a host of terrible options. For many, lack of material resources and housing options prevent them from leaving. Others fear that the violence will escalate if they leave. This fear is valid as data shows that the period after a woman leaves an abusive relationship is the most dangerous for her.³ Other women choose to stay and endure abuse because they truly believe that this option is better for their children. Many survivors cannot support their children on their own, have nowhere to go or their children have a good relationship with their father that they do not want to disrupt. Immigrant survivors may fear reporting because they or their child’s father are undocumented and they do not want to risk deportation. African American survivors may choose not to report because they do not want to contribute to mass incarceration, fear police violence or have had other negative experiences with the police.

There is no doubt that witnessing domestic violence has negative impacts on children. But removal due to allegations of neglect also has devastating effects. Children who are removed from their parents suffer feelings of anxiety, grief and loss. Those who are placed into foster care face the likelihood of being moved from one foster home to another and have worse long-term outcomes than their peers on important metrics. They are more likely to experience poverty, to have contact with the juvenile justice system, to become pregnant at a young age, to have mental health struggles and to experience poverty.

CFCC proposes an amendment that would allow DSS to provide support for survivors who want to leave violent situations if it is safe and practicable to do so. **I urge you to support HB338 with such an amendment.**

¹ *Nicholson v. Williams*, 203 F. Supp. 2d 153, 199 (E.D.N.Y. 2002)

² Not all survivors of violence are women and violence certainly exists in same-sex couples. However, women in heterosexual relationships experience violence at higher rates. Huecker, Martin R., King, Kevin C., Jordan, Gary A., Smock, William, *Domestic Violence*, <https://www.ncbi.nlm.nih.gov/books/NBK499891/>

³ US. Dep’t of Justice, Findings From the National Violence Against Women Survey, <https://www.ojp.gov/pdffiles1/nij/181867.pdf> (July, 2000).