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To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Office of the Attorney General

Re: HB0338 – Child Abuse and Neglect - Definition of Neglect – **Oppose**

The Office of the Attorney General urges the Judiciary Committee to unfavorably report House Bill 338. This bill proposes to 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 would immunize certain parents from civil consequences for failing to fulfill their responsibilities to provide for a child’s safety.

House Bill 338 would prevent Child Protective Services (“CPS”) and the juvenile court from taking appropriate action to provide for the safety of children when parent victims of domestic abuse remain in the abusive relationship. The juvenile court's authority to intervene in a family's life requires evidence sufficient to overcome the presumption that parents act in their child’s best interests. That presumption underlies the parent’s fundamental constitutional right to direct and control the upbringing of their children. 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.

Moreover, CPS may act only upon its receipt of a report that a child has been abused or neglected by a parent or other person with legal responsibility for supervising the child. Thus, if HB 338 is adopted in its current form, CPS would lack authority to investigate cases, or otherwise engage a family in services, when the domestic violence is perpetrated by a boyfriend or other person who is not vested with legal responsibility to supervise the child.

Consequently, the bill would require a CPS worker, who may witness the fear in a child's eyes after a violent incident in the home, to tell that child: “I’m sorry, there is nothing that I can

do to help you.” That result runs counter to findings of a legislative workgroup regarding the impacts of domestic violence on children:

[C]hildren who have been exposed to domestic violence are more likely than their peers to (1) exhibit signs of depression and anxiety, fear and withdrawal, low self-esteem, and higher levels of anger and disobedience and (2) experience difficulties in school, concentration, and task completion and score lower on assessments of verbal, motor, and cognitive skills. Children exposed to domestic violence also have higher rates of delinquency and substance use. According to the report, research has demonstrated that frequent exposure to domestic violence teaches and normalizes violence, increasing the risks that the children will become the next generation of victims and abusers. Finally, . . . exposure to domestic violence is also a risk factor for some of the most common causes of death in the United States, including substance abuse, smoking, and obesity.¹

A recent report found that one or both caregivers had been charged with domestic violence prior to the child’s death in 50% of child fatalities examined in Baltimore City.² Lastly, the bill would also foster unhelpful battles in juvenile courts by encouraging parents to assert claims to being victims of domestic violence that would distract the court from its primary purpose to ensure the protection of children.

This bill endangers children who experience domestic violence in the home, because it would limit the role of both CPS and the juvenile courts in the protection of vulnerable children. Delegate Lopez presumably introduced the bill to seek to avoid unnecessary, adverse collateral consequences historically experienced by domestic violence victims. The General Assembly has attempted to address those issues in the past when it provided CPS statutory authority to engage alternative responses in lieu of formal investigations in most domestic violence cases. CPS has furthered those goals by establishing policies to accept appropriate domestic violence-related cases as alternative response risk-of-harm cases. (See SSA Policy 18-06 at pages 16-17.) We would welcome the opportunity to discuss the issue with Delegate Lopez to better understand the circumstances in which CPS and juvenile court may better support victims of domestic violence without the adverse consequences to child safety that would result if HB 338 is enacted in its current form.

cc: Committee Members

¹ General Assembly of Maryland Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations, Final Report (Sept. 2020) at 6.

² Baltimore City Health Dep’t, Child Fatalities in Baltimore City, 2016-2020: Recommendations for Prevention (Dec. 1, 2021).