



PROTECTING CHILDREN, PROVIDING SUPPORT, PROMOTING CHANGE

Testimony before the House Judiciary Committee
#HB 338: Child Abuse and Neglect – Definition of Neglect

February 10, 2022

We are writing in opposition to House Bill HB #38, which would change the definition of neglect of a child.

Child Justice is a legal-services provider that represents victims of domestic violence in child-custody cases. While we are certainly sympathetic to the plight of such victims, we believe this Bill is a misguided attempt to protect them.

House Bill 338 would remove from the statutory definitions of child neglect a child’s exposure to domestic violence in the child’s home, even if such exposure causes the child mental harm or substantial risk of such harm. This change would result in local DSS agencies losing the legal authority to intervene in families with domestic violence. Indeed, DSS would be unable to protect children and provide services to address the family violence and to address mental harm to children. The inevitable result would be an increase in harm to children, reduction in services to address domestic violence, and perhaps even an *increase* in domestic violence.

The undersigned was a member of the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegations. The Workgroup consisted of subject-matter experts and advocates with vast experience in child-custody cases involving child abuse and domestic violence. Over the course of some 18 months, the Workgroup heard testimony from multiple experts as well as from parents who had gone through these contentious custody cases.

In September 2020, the Workgroup issued its 140-page Report¹ adopting over 20 recommendations focused on better protecting children through such court proceedings. During the course of its work, the Workgroup learned the following:

¹http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnChdAbuseDomViol/FinalReport_Workgroup_to_Study_Child_Custody_Court_Proceedings_Involving_Child_Abuse_or_Domestic_Violence.pdf (hereinafter “Report”).

[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, as one of the identified ACEs, 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.²

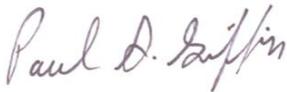
Therefore, the Workgroup recommended the following:

[B]est interest factors must give extra weight to the physical and psychological safety of a child, as this must be the primary priority of any custody decision. Before evaluating *any* other best interest factor, the court must assess physical and psychological safety risks and claims of child abuse or domestic violence.³

By removing a court's authority to consider the harm or risk of harm from the child's exposure to domestic violence, HB 338 would stand in opposition to the Workgroup's recommendation that courts give primacy to assessing psychological safety risks to children.

We believe that the Workgroup's Report should be adhered to on this issue. Therefore, we urge an *unfavorable committee report on HB 338: Child Abuse and Neglect – Definition of Neglect*

Respectfully submitted,



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² *Id.* at 6.

³ *Id.* at 17 (emphasis in original).