

HB0324 Child Abuse - Domestic Violence FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR HB0324
Child Abuse and Neglect - Domestic Violence

Bill Sponsor: Delegate Lopez

Committee: Judiciary

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0324 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state with well over 30,000 members.

A woman who is the victim of domestic violence and unable to protect her children because of the harm to herself or further harm to the children should not be charged with criminal child abuse and neglect. The abuser is the perpetrator, and if anyone is charged, it should be that person.

We support this bill and recommend a **FAVORABLE** report in committee.

HB 324 FAV House of Ruth.pdf

Uploaded by: Dorothy Lennig

Position: FAV



Marjorie Cook Foundation
Domestic Violence Legal Clinic
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TESTIMONY IN SUPPORT OF HOUSE BILL 324
February 9, 2023
DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

The House of Ruth Maryland is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. House of Ruth has offices in Baltimore City, Baltimore County, Prince George’s County, and Montgomery County. House Bill 324 would create a rebuttable presumption that child neglect does not extend to victims of domestic violence for failure to leave their abusers. **We urge the House Judiciary Committee to issue a favorable report on House Bill 324.**

House Bill 324 would specify that there is a rebuttable presumption that child neglect does not include a failure of a victim of domestic violence to prevent a child from witnessing domestic violence, to leave a home or relationship in which domestic violence has occurred, or to call the police or social services, or file a protective order. This bill would alleviate an unfortunate reality: that victims, instead of the perpetrators of abuse, are often blamed and punished for the impacts of the abuse on their children.

House of Ruth staff have worked with numerous clients over the years who have had their children removed because they “failed to protect” the children from the impacts of domestic violence perpetrated by the clients’ abusive partners. Instead of holding the abuser accountable for his acts of domestic violence and either removing him from the home or requiring him to participate in an abuse intervention program, some Child Protective Services (CPS) workers and others in the legal system instead try to force victims to end the relationship, move out of the house, call police or take other legal action to stop the abuse by threatening to remove the children from the victim’s care or actually doing so. This approach is misguided at best and can, in some instances, actually increase the danger for the victim and her children, as the time immediately after separation from an abuser is the most dangerous.

A House of Ruth employee worked with “Ms. A,” whose children’s father, “Mr. B,” abused her repeatedly and threatened to kill her if she ever called police or tried to leave the relationship. After Mr. B assaulted one of the children, CPS removed the children from Ms. A on the rationale that because Mr. B abused Ms. A, she should have known that eventually he would hurt the child. Ms. A was restricted to having only supervised visits with the children and CPS eventually moved to terminate her parental rights. Ms. A endured almost two years of hearings, continuances and other delays, all while trying to get her children back. Instead of helping Ms. A to be safe and

holding Mr. B accountable for his abusive behavior, the system punished Ms. A for being a victim. HB 324 would curtail this misuse of the system.

The rebuttable presumption established in this bill creates a layer of protection in particularly egregious cases. In situations where CPS is able to overcome the rebuttable presumption, it would be able to establish that the victim did in fact commit child neglect by failing to protect the children from the impacts of domestic violence. This will protect children in cases so horrific that removing the child from the abused parent to be the only way to protect the child.

The House of Ruth urges a favorable report on House Bill 324.

2023-02-09 HB 324 (Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

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February 2, 2023

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: HB0324 – Criminal Law – Victims of Child Sex Trafficking and Human
Trafficking – Safe Harbor and Service Response (Support)

House Bill 324 creates a rebuttable presumption that a domestic violence victim parent's failure to protect a child from witnessing the domestic violence does not constitute neglect. Under the existing definitions of neglect, under Courts and Judicial Proceedings Article § 3-801 and Family Law Article § 5-701, failing to protect a child from witnessing domestic violence is sufficient evidence to constitute neglect.¹ Under this law, if domestic violence is occurring between adults in the home, the Department of Social Services can remove the child and initiate a neglect case against the non-abusive parent for merely living in the same household together. House Bill 324 amends Maryland's current law that penalizes survivors of domestic violence for their own victimization, and fails to account for the numerous, complex reasons why survivors do not, and often cannot, leave the relationship. Adult victims of domestic abuse should not be re-victimized by losing their children to child welfare agencies merely because they were in a relationship with their abuser. The bill would still permit the presumption in favor of a parental victim of domestic violence to be rebutted by actual evidence that the victim-parent created unsafe conditions for the child or otherwise engaged in neglect.

For the foregoing reasons, we urge a favorable report on HB 324.

¹ See, e.g., *In re S.B.*, No. 696, 697, 2017 WL 118088 (Md. Ct. Spec. App. Jan. 12, 2017); *In re Adoption of Devon W.*, 223 Md.App. 773 (Md. Ct. Spec. App. 2015); *In re Y.D.*, No. 2460, 2017 WL 4876778 (Md. Ct. Spec. App. Oct. 30, 2017); *In re Adoption/Guardianship of Jasmine D.*, 94 A.3d 837 (Md. Ct. Spec. App. 2014).

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us

cc: Committee Members

HPP Testimony HB 324- FAV.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 324
TITLE: Child Abuse and Neglect – Domestic Violence
COMMITTEE: Judiciary
HEARING DATE: February 9, 2023
POSITION: **SUPPORT**

House Bill 338 will establish a rebuttable presumption that the “failure to protect” a child from witnessing violence, as well as failing to leave an abusive relationship, failure to report the violence, or failing to seek an order of protection, is *not* considered neglect as defined under the law. The Human Trafficking Prevention Project at the University of Baltimore School of Law supports this bill because it will prevent victims of interpersonal violence, many of whom are also survivors of human trafficking, from being accused of neglect when they are unable to leave their partners.

Under the existing definition, failure to protect a child from witnessing domestic violence is sufficient evidence to constitute neglect.¹ What the current law fails to recognize is that separation does not necessarily make victims of violence safer. Leaving an abuser can be the most dangerous time for victims of domestic violence and their children, as many victims face significant threats or harm when they attempt to leave their abusers. In fact, victims are more likely to be killed following separation from their abusers than at any point in the relationship, and domestic violence tends to escalate when the victim decides to leave.

Additionally, victims of domestic violence commonly remain entrapped in abusive relationships because they lack the resources to do so, with the choice to stay often being the most familiar of a host of terrible options.² Victims may not have their own income or access to cash or bank accounts, need their partners’ health insurance for themselves or their children, or have difficulty securing childcare or transportation.³ Those who do risk their and their families’ safety by leaving often find themselves homeless,⁴ which then puts them at increased risk of being trafficked, given that homelessness commonly precedes a trafficking experience.⁵

While there is no doubt that witnessing domestic violence has negative impacts on children, removal due to allegations of neglect also has devastating effects.⁶ Additionally, removal of a child under the current neglect standard amounts to penalizing victims of domestic violence for their own victimization, and may actually serve to deter victims from leaving because they fear the very real possibility of losing their children if they disclose their abuse.

¹ Courts and Judicial Proceedings Article § 3-801 and Family Law Article § 5-701.

² See generally Domestic Violence Hotline, *50 Obstacles to Leaving*, <https://www.thehotline.org/resources/get-help-50-obstacles-to-leaving/>.

³ *Id.*

⁴ ACLU, *Domestic Violence and Homelessness*, <https://www.aclu.org/sites/default/files/pdfs/dvhomelessness032106.pdf> (citing that domestic violence is the primary cause of homelessness for women and families).

⁵ See generally Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking, Housing and Homelessness Systems* (July 2018), <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Housing-and-Homelessness-Systems.pdf>.

⁶ See generally Shanta Trivedi, *The Harm of Child Removal*, 43 *New York University Review of Law & Social Change* 523 (2019), https://scholarworks.law.ubalt.edu/all_fac/1085.

Leaving a violent relationship is far from simple and is often a process rather than a one-time event. This bill will help victims of interpersonal violence rather than penalizing them for not leaving their abusers and could ultimately result in increasing the likelihood that victims of violence ask for help when they need it. For these reasons, the Human Trafficking Prevention Project at the University of Baltimore School of Law supports House Bill 324. We respectfully urge a favorable report.

Testimony HB324.pdf

Uploaded by: Julia Levine

Position: FAV

TESTIMONY SUPPORTING HOUSE BILL 324 FEBRUARY 9, 2023

The Justice for Victims of Crime (“JVC”) Clinic at the University of Maryland Carey School of Law supports H.B. 324. The JVC Clinic represents parties who are victims of a broad range of crimes, including domestic violence. Our work provides unsettling insight into the ways that Maryland’s current laws fail to help crime victims.

House Bill 324 aims to amend Maryland’s current legal framework governing children and their non-offending caretakers in domestic violence situations. In Maryland, the state can remove a child from their home based on a parent or caretaker’s abuse or neglect. H.B. 324 seeks to create a “rebuttable presumption” that “neglect” excludes the failure of a domestic violence victim to take difficult actions. These actions include preventing the child from witnessing the domestic violence, leaving the home where the abuser lives, ending a relationship with an abuser, reporting the domestic violence to law enforcement or social services, or seeking an order of protection against the abuser.

Current Maryland law defines neglect in a way that allows the state to remove a child simply because a victim of domestic violence could not prevent their own abuse at the hands of their partner. As a result, the state removes children from the custody of non-offending parents even though the child may have a stronger relationship with that parent. This child also likely sees the non-offending parent as their main source of safety, stability, and comfort through their experience as an abused child. In 2019, out of 7,661 victims of child abuse or neglect, 39% of children were classified as victims of child abuse or neglected based on domestic violence in the home.¹

The Clinic represents victims of domestic violence that delay contacting law enforcement and pursuing legal remedies for a variety of legitimate reasons. This delay is especially common for crime victims who face language, educational and/or cultural barriers to accessing help and resources. A study conducted by the National Domestic Violence Hotline found that domestic violence survivors are often hesitant to call the police to ask for help, citing fear of reprisal, eviction, arrest, embarrassment, immigration status and fear of losing custody of their children. 71% of these victims feared the police would do nothing if called.² Similarly, 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 effectively communicate with police officers or that doing so would expose their family’s immigration status.

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/data-research/child-maltreatment>.

² Nat’l Domestic Violence Hotline, *Survivors of Domestic Violence Report Feeling Less Safe After Contacting Law Enforcement*, <https://www.thehotline.org/news/survivors-of-domestic-violence-report-feeling-less-safe-after-contacting-law-enforcement/>.

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. So, instead of seeking help from these groups, 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, unfriendly, and full of hidden traps. It often takes time for an immigrant victim of domestic violence 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, which is a reality that is well documented in both social science research and the experience of the 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 severely beat our client when she tried to leave the house, find work, and build outside relationships. Luckily, our client eventually found support from a local nonprofit and was able to leave her abuser. However, under our current laws, the state could have removed our client's child from her custody at any time simply because her 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. 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.³ 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. By creating this rebuttable presumption that various behaviors do not constitute neglect or the sole reason for removal, victims of domestic violence will be protected from getting their children taken from them when it is not in the child's best interests. House Bill 324 helps Maryland's children and victims of domestic violence by providing a greater chance to preserve safe parent-child relationships within the family home.

³ See *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Soc'y of Sisters*, 268 U.S. 510 (1925).

HB 324 - FAV - Women's Law Center of MD.pdf

Uploaded by: Laure Ruth

Position: FAV

BILL NO: House Bill 324
TITLE: Child Abuse and Neglect - Definition of Neglect
COMMITTEE: Judiciary
HEARING DATE: February 9, 2023
POSITION: **SUPPORT**

House Bill 324 would create a presumption that child neglect does not include, on the part of a victim of domestic violence, failing to protect a child from witnessing domestic violence, failing to leave a home or relationship in which domestic violence has occurred, failing to call the police or social services, or failing to file a protective order. The Women's Law Center of Maryland (WLC) supports this bill as this bill would address an unfortunate reality: that victims, instead of the perpetrators of abuse, are often blamed and punished for the impacts of the abuse on their children.

Instead of holding the abuser accountable for their acts of domestic violence, some Child Protective Services (CPS) workers and others in the legal system instead try to force victims to end the relationship, move out of the house, call police or take other legal action to stop the abuse by threatening to remove the children from the victim's care or actually doing so. This approach is misguided at best and can, in some instances, actually increase the danger for the victim and her children, as the time immediately after separation from an abuser is the most dangerous. The Women's Law Center engages in a trauma-informed and victim-focused practice. We understand that a uniform response to being a victim of intimate partner violence that would force victims to act in a certain way or risk having their children removed is not practical or reasonable. HB 324 would make it clear that victim-blaming and removal of children is not an acceptable response to the trauma of being a victim.

HB 324 would hopefully also create uniformity in the counties as not every county engages in these cases in the same manner. It would make clear that punishing victims for being victims is not acceptable.

We understand some opposition to this bill is based on a belief that this does not happen. We had a case in January where this exact scenario occurred in Baltimore City.

Therefore, the Women's Law Center of Maryland, Inc. supports House Bill 324 and urges a favorable report.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

Domestic Violence Coordinating Council of Frederic

Uploaded by: Lesley Lopez

Position: FAV



The Honorable Luke Clippinger & Members of the House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

Dear Chairperson Clippinger and Judiciary Committee:

The Frederick County Domestic Violence Coordinating Council (DVCC) writes in support of House Bill 324—Child Abuse and Neglect—Domestic Violence. The Frederick County DVCC is a multidisciplinary group of government agencies, criminal and civil justice stakeholders, service providers, and community members, collaborating with the goal of reducing and preventing domestic violence in Frederick County.

Several members of the DVCC work directly with victims of domestic violence, and something we hear repeatedly is that victims are afraid to seek help from law enforcement, the courts, and/or service providers, because they are afraid that their children will be placed in CINA proceedings. Abusers often capitalize on this fear in order to keep the Victim and their children trapped in the cycle of violence.

This legislation would make clear that CINA proceedings are disfavored when they are aimed at curtailing a Victim's rights to their children, based solely on an alleged "failure to protect." If passed, victims will be able to see that Maryland stands with them, and won't punish them for abuse they suffer. This law will help service providers, law enforcement, and those entrusted with the stories of victims, to encourage them to seek assistance in order to find safety for themselves and their children.

We urge a favorable report on HB 324.


Brett Engler

Chairperson

HB 324 Sponsor Testimony.pdf

Uploaded by: Lesley Lopez

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 9, 2023

Testimony in SUPPORT of HB 324 - Child Abuse and Neglect – Domestic Violence

Summary: HB 324 prevents victims of domestic violence (DV) from losing custody of their children simply because they are victimized by clarifying that a parent not leaving an abusive relationship or preventing a child from witnessing domestic violence does not constitute neglect, removing a barrier that many people in abusive relationships face when they try to leave.

Overview: Domestic abuse victims face many obstacles when they attempt to leave abusive situations, including the threat of homelessness, financial instability, and a lack of social support. Maryland law currently creates an additional hurdle for domestic violence victims who attempt to leave by allowing them to be charged with neglect, making them fear losing custody of their children.

Currently, the definition of neglect in Maryland's code is broad enough to encompass multiple kinds of neglect; however, that broad definition allows domestic violence victims to be prosecuted if their child witnesses abuse in the home or for failing to leave their abuser.

Fear of this kind of prosecution incentivizes victims to stay quiet about the abuse they are experiencing out of fear that if they notify anyone, they will be charged with neglect and their child will be sent to foster care, an extremely traumatic experience for both parent and child.

HB 324 establishes a rebuttable presumption that neglect does not include:

1. A DV victim failing to protect a child from witnessing domestic violence;
2. A DV victim failing to leave the home in which the alleged perpetrator resides;
3. A DV victim failing to end a relationship with the alleged perpetrator;
4. A DV victim failing to report the domestic violence to law enforcement or social services; or
5. A DV victim failing to seek an order of protection against the alleged perpetrator.

HB 324 requires that this presumption be rebutted before a court can give weight to evidence that a parent has not taken the actions above when determining if the child in question is a child in need of assistance.

Conclusion: HB 324 will ensure that Maryland does not prosecute victims of domestic violence who have the strength to come forward for actions that their abuser commits. Thank you and I ask for a favorable report for HB 324.

Testimony Supporting House Bill 324.pdf

Uploaded by: Madeline Dwivedi

Position: FAV

TESTIMONY SUPPORTING HOUSE BILL 324 FEBRUARY 9TH, 2023

The Gender Violence Clinic at the University of Maryland Carey School of Law supports H.B. 324, which amends Maryland’s laws related to child abuse and non-offending caretakers. H.B. 324 would establish a rebuttable presumption that “neglect” does not include certain behaviors on the part of a victim of domestic violence. This new standard would prohibit a court from considering these certain behaviors in determining whether a child is a child in need of assistance under certain circumstances. This bill would prevent victims of domestic violence from being found neglectful if their child is exposed to domestic violence or if the victim does not leave the home.

H.B. 324 assists victims of domestic violence, rather than penalizing them. This bill creates a rebuttable presumption that failing to leave an abuser, exposing a child to domestic violence, failing to end a relationship with an abuser, or failing seeking an order of protection against the abuser does not constitute neglect. The bill requires that these circumstances cannot be the sole basis of removal of a child from a non-abusive guardian who the state has not alleged has committed acts of abuse. This new standard allows the state the opportunity to overcome the presumption in cases where the facts suggest removal if it is truly in the best interest of the child.

Individuals who experience domestic violence are frequently asked why they do not simply leave abusive relationships. There is a multitude of answers as to why and to name a few: children, economics, religion, immigration status, extended family ties, community disapproval, housing, employment, culture, disability, and fear. Separation from violence does not equate to being safe. Leaving an abuser can be a dangerous time for a victim of domestic violence and their children. Many victims face significant threats or harm when they attempt to leave their abusers. Victims are more likely to be killed following separation for their abusers than at any point in the relationship.¹ One study found that in interviews with men who have killed their wives, that threats of separation by their partner or actual separations were most often the precipitating events that led to the murder.² Half of female victims of homicide are killed by intimate partners.³ Leaving can also make children more vulnerable to harm, as was the case with the children of Amy Castillo, drowned by their father during a visit after the couple’s divorce.

Victims of domestic violence remain entrapped in abusive relationships because they lack resources, support, or shelter. In some instances, victims may not be financially stable or have access to the proper finances to leave. Their partner may be providing the victim’s health insurance. Leaving may require finding

¹ *Why Do Victims Stay*, NAT’L COALITION AGAINST DOMESTIC VIOLENCE, <https://ncadv.org/why-do-victims-stay> (last visited Feb. 5, 2023).

² Patricia Tjaden & Nancy Thoennes, *Extent, Nature, and Consequences of Intimate Partner Violence*, DEPT. OF JUSTICE (2000) <https://www.ojp.gov/pdffiles1/nij/181867.pdf>.

³ Emiko Petrosky et al., *MMWR*, CNTRS. FOR DISEASE CONTROL AND PREVENTION (2017) https://www.cdc.gov/mmwr/volumes/66/wr/mm6628a1.htm?s_cid=mm6628a1_w.

new housing, but often, bed shelters are scarce and paying for housing may be impossible. Around 50% of homeless women state domestic violence as the reason for causing their homelessness.⁴ Victims of violence can also lack support when attempting to leave their partners. Victims may fear being ostracized from their families or religious communities if they leave their partner. Threats to disclose a person's undocumented status or to share salacious details with family, friends, and employers can keep a person entrapped in a violent relationship.

No one wants children to witness domestic violence but removing children from their otherwise loving and attentive caregivers who themselves are victims also creates lasting trauma for children. However, when a child is separated from his or her guardian(s), long-term detrimental emotional and psychological consequences may follow and be worse than leaving the child at home.⁵ There is significant trauma due to removal of the child and the high rates of abuse in foster care.⁶ Often, removal can leave children with separation and attachment disorders, trauma, frustration, anxiety, grief, and confusion.⁷

Leaving an abusive relationship is far from simple and is often a process as opposed to a singular choice. There is a multitude of reasons victims are unable to leave violent relationships. This bill recognizes the complicated nature of the decisions and circumstances, while considering the benefit of keeping children with their non-abusive guardian. Thus, this bill would allow for victims of violence to be more likely to ask for help, which protects both the victims and their children.

⁴ *Domestic Violence and Homelessness*, ACLU <https://www.aclu.org/sites/default/files/pdfs/dvhomelessness032106.pdf> (last accessed Feb. 5, 2023).

⁵ Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U R. OF L. & SOCIAL CHANGE 523, 523 (2019).

⁶ *Id.*

⁷ *Id.* at 528.

HB 324_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: House Bill 324
TITLE: Child Abuse and Neglect - Definition of Neglect
COMMITTEE: Judiciary
HEARING DATE: February 9, 2023
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Judiciary Committee to issue a favorable report on HB 338.**

The current definition of neglect under Courts and Judicial Proceedings Article § 3-801 and Family Law Article § 5-701 is harming survivors of domestic violence and their children. Under the existing definition, failing to protect a child from witnessing domestic violence is sufficient evidence to constitute neglect.¹ Therefore, if domestic violence is occurring between adults in the home, the Department of Social Services can remove the child and initiate a neglect case against the non-abusive parent for merely living in the same household together. HB 324 is crucial because it creates a rebuttable presumption that neglect does not include a child witnessing domestic violence, a victim failing to leave the home where the abuser lives, failing to end their relationship with the abuser, failing to report the abuse to law enforcement or DSS, or failing to seek a protective order against their abuser.

The current law penalizes survivors of domestic violence for their own victimization, and fails to account for the numerous, complex reasons why survivors do not, and often cannot, leave the relationship. On average, it takes a survivor seven tries to successfully leave their abuser.² Abusers use countless methods to control their partners, including isolating survivors from friends and family, controlling their finances, gaslighting survivors into doubting their experience of abuse, and threatening to harm or kill them or their children if they leave. For survivors, staying in the relationship is frequently the key to survival. It is often mistakenly assumed that there is less danger to a survivor and their children once they no longer live with the abuser, but, in reality, the risk of being harmed or killed is highest when they try to leave.³

In failure to protect cases, the law punishes survivors for staying with their abusers, yet that very same law is actually making it more difficult for them to leave. Many survivors who want to seek help are deterred from doing so because they fear the very real possibility of losing their children if they disclose

¹ See, e.g., *In re S.B.*, No. 696, 697, 2017 WL 118088 (Md. Ct. Spec. App. Jan. 12, 2017); *In re Adoption of Devon W.*, 223 Md.App. 773 (Md. Ct. Spec. App. 2015); *In re Y.D.*, No. 2460, 2017 WL 4876778 (Md. Ct. Spec. App. Oct. 30, 2017); *In re Adoption/Guardianship of Jasmine D.*, 94 A.3d 837 (Md. Ct. Spec. App. 2014).

² <https://www.thehotline.org/resources/get-help-50-obstacles-to-leaving/>

³ Bancroft, L., & Silverman, J. (2002). The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics.

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their abuse. In one case from 2017 involving two parents in an abusive relationship who lived together with their child, one spouse sought a protective order against the other. At the protective order hearing, the case was automatically forwarded to DSS, who then removed the child from the home citing multiple domestic violence incidents between the parents as “ample evidence to support the court’s finding that [the child] was neglected.”⁴ HB 324 is therefore necessary to remove a real barrier survivors face when trying to seek help. Instead of penalizing survivors, as is done under the current law, this bill shows survivors that they are supported and encourages them to get help without having to fear that they will lose their children in the process.

Additionally, removing children from their non-abusive parents in these situations can be detrimental to the child’s well-being. While it must be acknowledged that witnessing domestic violence can be harmful to children, that harm is only increased with placement in foster care.⁵ One psychologist reported that “children removed from their natural homes and placed in a series of foster homes suffered long-term psychological problems that were actually more serious than the problems experienced by physically abused children who continued to be at-risk for abuse who remained with their parents.”⁶ After witnessing violence, children need the stability and familiarity of a non-abusive parent more than ever. Removal is distressing for children and results in developmental problems, difficulty forming attachments, chronic health problems, difficulty regulating emotions, and mental health conditions such as PTSD.⁷ It is impossible to solve one trauma by inflicting more trauma. Instead, survivors and their children should be empowered through resources and support. HB 324 accomplishes this goal of supporting survivors by keeping their children in the home rather than further traumatizing them.

Finally, HB 324 is an opportunity for Maryland to catch up to other states that have already adopted this policy approach. In New York, courts found that a mother’s inability to prevent her children from witnessing domestic violence does not constitute neglect and to find otherwise would unfairly punish both survivors and their children.⁸ Maryland should also step up as a leader in protecting survivors and their children from further trauma and victimization by the legal system.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on HB 324.**

⁴ *In re Y.D.*, 2017 WL 4876778, at *9.

⁵ Evan Stark, *Nicholson v. Williams Revisited: When Good People Do Bad Things*, 82 Denv. U. L. Rev. 691, 720 (2005).

⁶ <https://wscadv.org/wp-content/uploads/2015/06/CPS-Reforming-Child-Protective-Services.pdf>

⁷ Bartlett, J., & Rushovich, B. (2018). *Implementation of Trauma Systems Therapy-Foster Care in Child Welfare*.

⁸ *Nicholson v. Scoppetta*, 344 F.3d 154 (2d Cir. 2003).

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MOPD Definition of Neglect Testimony-HB324 Final.p

Uploaded by: Natasha Khalfani

Position: FAV



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POSITION ON PROPOSED LEGISLATION

BILL: HB 0324 – Child Abuse and Neglect – Definition of Neglect

POSITION: SUPPORT

DATE: February 7, 2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 0324.

In Maryland, a victim of domestic violence can have her children removed from her custody because her children are being exposed to her abuse.

Many times, for a victim of domestic violence it is not a choice to stay. There are various components of domestic violence that leave victims trapped in an abusive relationship. Victims are often alienated from family and friends so that they have no support and are forced to rely solely on their abuser. Many victims are financially reliant on their abuser so that they will not have the financial resources to live separate and apart from the abuser. Further, many victims of domestic violence are emotionally and psychologically abused and made to think they are in some way worthless or not capable of living separate and apart from their abuser. And lastly, victims of domestic violence are often surveilled and threatened that if they try to leave they would lose their children and even their lives as the abuser will threaten that he or she would kill the victim rather than live without them. This is the backdrop for which many victims of domestic violence will stand before the court and have their children taken away from them because they did not leave their abuser.

As an attorney in the Parental Defense Division of the Maryland Office of the Public Defender, I have represented mothers who were in this very situation. They were in abusive relationships. In every instance, the mother had tried to escape her abuser and the abuser continued to force himself into her home or into her life; sometimes making apologies and promises that the abuse would never happen again, sometimes using guilt and shame to coerce the victim to “help” the abuser and yet other times threatening to kill her if she did not allow him to stay. In one case, a mother actually did make it out of her home with her children only for her husband to find her and drive to where she was to pick her up and force her to come home. The mother fearing for her safety and not wanting to be abused in front of her children acquiesced. In

another case, a young mother moved out of her abuser's family home and got her own apartment. Only to have the abuser move out of his family home and use his homelessness to guilt her into staying until he "got on his feet," she reluctantly did and was attacked by her abuser in her home. She managed to get away and call the police, but the response was that CPS was called and her child was removed from her care.

For each of these women, what they needed was help to escape and support to keep their abuser away. Understanding that a simple, "no," or "I don't want you here," or "you can't stay here," or "I don't want to go with you," was simply not enough to escape their abuser. They needed support. They needed someone to make their abuser stay away. They needed the strength and support of their communities to provide a safe place and a presence that would not make leaving such a lonely and scary feat. Instead, what they received was their children being removed from their care and made to feel that the abuse they suffered was all their fault.

In order to get their children back, these mothers often had to find new housing, they had to take parenting and anger management as well as get domestic violence counseling and individual therapy. Many also had to figure out how they would support their children and themselves without the assistance of their partner. They had to restart their whole lives in order to get their children back. For one that would take six months, for another a year and a half and for another, the fight continues for her to get her children back; while the abuser did nothing.

For each of these women, there was no disagreement that they could care for their children. There was no disagreement that there were no safety concerns for the children while in the care of their mothers. The only issue was that their mother could not stop their abuser from hitting them. Even in two cases where the abusers came into court and corroborated the mother's position that she had in no way hurt her children and had tried to protect them from witnessing their abuse, the court still took their children. In one case, the court used the protective order that the mother obtained against her abuser as evidence against her that she was experiencing violence in the home.

Being the victim of domestic violence is not the fault of the victim. We would never blame a victim of robbery for being robbed. We would never blame a carjacking victim for getting car jacked. We have even progressed from not blaming rape victims for being sexually assaulted, but in taking children away from their loving parent because that parent cannot protect herself against an abusive mate, we continue to blame and punish victims of domestic violence for their abuse.

In redefining neglect so that there is a rebuttable presumption that neglect does not include a victim of domestic violence who is being abused in front of her children, the legislature will guide the court in acknowledging that the victim is not the perpetrator and should be protected. It will also prevent courts from further traumatizing children by taking them away from a parent who loves them and provides proper care and attention.

Many who would oppose this bill will note the harmful effects of exposure to domestic violence on the child. They would note that exposure to domestic violence is an Adverse Childhood Experience (ACE) that can cause lifelong mental and physical illness to the child.

What is often overlooked in such an argument is that the separation from a loving parent is also an Adverse Childhood Experience and can also cause lifelong mental and physical illness of the child. Additionally, research also shows that children who enter foster care are far worse off and have a higher risk of post-traumatic stress disorder, anxiety, depression, attachment disorder, teen pregnancy, low school performance, drug use and housing instability than their peers who can remain in their home and get access to services.

Not finding a victim of domestic violence as neglectful does not mean that nothing can be done to help the child being exposed to domestic violence. A court can give custody of the children to the victim. The court can order the abuser to enter treatment as a condition of visitation with his children; the court can order the abuser out of the home, as well as order the mother to ensure therapeutic services for her children, work with the department to put services and a plan in place to escape the abuser and/or create a healthier environment for the family. Additionally, victims can work voluntarily with the Department of Social Services to receive the help they need for themselves and their family's whether they choose to end the relationship with the abuser or not.

Victims of domestic violence love their children and want the best for their children. As we come to understand the dynamics of domestic abuse, we need to shift our intentions from punishment to safety for the victim and her children and services for the entire family. We cannot treat the traumatic experience of being exposed to domestic violence by causing more trauma separating a child from a loving parent to which they are bonded. HB 324 is a bill that addresses only those victims of domestic violence whose children are not being abused or neglected and are otherwise safe with their non-abusive parent but for that parent is themselves a victim. HB 324 is necessary and important in continuing the fight against domestic violence. For these reasons we support HB 324.

Authored by: Natasha Khalfani, Esq. Assistant Public Defender, (301) 580-3786,
Natasha.Khalfani@maryland.gov

Bronfein Family Law Clinic Testimony.pdf

Uploaded by: Rian Wieser

Position: FAV

Support HB 324 Bronfein Family Law Clinic

Dear Chairman Clippinger and Members of the Judiciary Committee:

The Bronfein Family Law Clinic (“FLC”) writes in strong support of HB 324”. The FLC is comprised of student-attorneys who each possess a variety of skills relevant to addressing the punitive way that failure to protect laws are wielded against domestic violence victim, including handling family law cases involving domestic violenceⁱ (“DV”). Each student has completed, or is completing, education relevant to family law and is being supervised by attorneys with expertise in the area of domestic violence, neglect and family law matters.

HB 324 seeks to implement a rebuttable presumption that “neglect” in Child in Need of Assistance proceedings, does not include failures to take certain actions by the domestic violence victim. In doing so, HB 324 seeks to dismantle the misuse of neglect laws to penalize victims of domestic violence in Maryland.

Throughout the country, there has been a practice of punishing these victims for their perceived failure to protect the child/ren in the home from witnessing domestic violence that is inflicted against the parent by anotherⁱⁱ. There are myriad reasons why domestic violence victims may be limited in their options following an act of violence against them. One reason is the fear that if they seek out help from police, physicians, social workers, or other such mandatory reporters, it could trigger the involvement of child protective service agencies, which have the power to remove children from the home. Indeed, 71% of survivors of abuse describe feeling that mandatory reporting and the potential of losing their children dissuades them from seeking care.ⁱⁱⁱ Unsurprisingly, there are domestic violence offenders who wield the threat of child protective services’ power to remove children from the home as a tool to control their victim^{iv}.

In addition to the valid fear that revealing violence in their home could cause them to lose their children, domestic violence victims contend with an onslaught of additional barriers to obtaining help and justice. These barriers include (i) “retaliation” by the abuser against themselves and/or their children if they try to escape; (ii) contending with “psychiatric disorders” arising as a result of the abuse; (iii) “economic dependence” on their abuser (as well as the fact that “low socioeconomic status places them at even greater risk for revictimization”); (iii) a range of psychological factors; (iv) sociocultural factors, including the “patriarchal and sexist attitudes and practices” in the United States, where it has “historically been socially acceptable for males to use aggression against their wives to resolve interpersonal conflicts”; and (v) an “ineffective” criminal justice system riddled with confusing and arguably ineffectual practices and results.^v These realities may prevent them from taking some of the actions that often support the idea that survivors “fail to protect” their children such as leaving their abuser, calling the police or seeking an order of protection.

Maryland legislators have the power to protect both children in need and parents who are victims of domestic violence and therefore also vulnerable. HB 324 does nothing to minimize the powers of the law to protect children in need, but it does add a layer of security to victimized parents, which could empower them to seek out help from appropriate avenues when faced with a situation of violence. **For all of these reasons, we urge a favorable report on HB 324.**

Support HB 324 Bronfein Family Law Clinic

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- ⁱ “Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a Systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, psychological violence, and emotional abuse.” The United States Department of Justice, National Institute of Corrections, *DV/IPV: Domestic Violence/Intimate Partner Violence*, (2018) Accession Number: 031384. Retrieved From: <https://nicic.gov/dvipv-domestic-violenceintimatepartner-violence>. Last Accessed: February 5, 2023.
- ⁱⁱ Domestic and intimate partner violence, while feasibly experienced by anyone, disproportionately impacts women, is seen in higher rates for ethnic minority women (though, unsurprisingly, this “disappears once socioeconomic status and substance use are controlled for”) and has much more damaging consequences for women than men (including greater risks of rape, being stalked, and being injured). Denise Hien, Lesia Ruglass, Interpersonal partner violence and women in the United States: An overview of prevalence rates, psychiatric correlates and consequences and barriers to help seeking, *International Journal of Law and Psychiatry*, Volume 32, Issue 1, 2009, Pages 48-55, <https://doi.org/10.1016/j.ijlp.2008.11.003>; Further, United States, like many other countries, has maintained a “patriarchal construct of motherhood” which has allowed for the prevalence of domestic and intimate partner violence to occur by historically treating violence in the home a private matter. Sarah Singh, Punishing Mothers for Men’s Violence: Failure to Protect Legislation and the Criminalisation of Abused Women, *29 Feminist L. Stud.* 181 (2021).; Arnall E and Stewart S(2021)Developing a theoretical framework to discuss mothers experiencing domestic violence and being subject to interventions: A cross-national perspective. *International Journal for Crime, Justice and Social Democracy*10(2): 113-126 <https://doi.org/10.5204/ijcjsd.1561>
- ⁱⁱⁱ Iavicoli LG. Mandatory reporting of domestic violence: the law, friend or foe? *Mt Sinai J Med.* 2005;72(4):228 231. *Virtual Mentor.* 2009;11(2):137-140. doi: 10.1001/virtualmentor.2009.11.2.jdsc1-0902.
- ^{iv} Amanda Mahoney, How Failure to Protect Laws Punish the Vulnerable, *Health Matrix*, Vol. 29, Issue 1. (2019), p. 430-460.
- ^v Denise Hien, Lesia Ruglass, Interpersonal partner violence and women in the United States: An overview of prevalence rates, psychiatric correlates and consequences and barriers to help seeking, *International Journal of Law and Psychiatry*, Volume 32, Issue 1, 2009, Pages 48-55, <https://doi.org/10.1016/j.ijlp.2008.11.003>.

Testimony - Failure to Protect - HB 324 - FINAL.pd

Uploaded by: Shanta Trivedi

Position: FAV

Support HB324
Child Abuse and Neglect – Definition of Neglect

Testimony of Shanta Trivedi, Esq.

1401 N. Charles St.
Baltimore, MD 21201

Tuesday, February 7, 2023

House Judiciary Committee



Sayra and Neil Meyerhoff
Center for Families,
Children and the Courts

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

I am an Assistant Professor and Faculty Director of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC) at the University of Baltimore School of Law. I teach Family Law and Child Welfare course and write extensively on those topics, including how Intimate Partner Violence (IPV) and the child welfare system intersect. In my career, I have represented hundreds of parents in both child welfare and domestic violence proceedings.

HB 324 creates a rebuttable presumption that the definition of parental neglect does not include the following: a victim’s “failure to protect” a child from witnessing violence; not leaving an abusive relationship; not reporting violence; or not seeking an order of protection. Historically, these so-called failures have been used as evidence that a survivor of violence is neglecting her¹ child. In some cases, removal is not immediate, but the threat of removal is used to coerce compliance with whatever plan the child protective agency determines is best, often ignoring the complexities of IPV or the survivor’s wishes. In many cases, however, the agency does remove the child from the survivor, despite the fact that she herself is experiencing violence at the hands of another person.

Children who are removed from their parents suffer a host of harms including 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, not receiving consistent medical care, having to change schools, and being separated from their loved ones and communities. Foster children have worse long-term outcomes than their peers on important metrics ranging from a higher likelihood of experiencing poverty, being homeless, having contact with the juvenile justice system, becoming pregnant at a young age, having mental health struggles, and developing substance use disorder.

Children who are exposed to IPV face unique harms if they are removed from their parents. This is because one of the most significant factors impacting how children process exposure to violence is their attachment to their non-offending parent. Further, when IPV is involved, it is critical that a child sees that their non-offending parent is protected and that the violence that they witnessed has come to an end. The child’s relationship with their protective parent is crucial to their development and resilience and the skills necessary to recover from exposure to violence. Secure attachment to the protective parent is the child’s most important protective resource in mitigating any trauma as a result of exposure to violence.² Thus, domestic violence experts have expressed that removing

¹ 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/>

² Osofsky, Joy D. “The Impact of Violence on Children.” *The Future of Children* 9, no. 3 (1999): 33-49,

children from their non-offending parent can be more traumatic than doing nothing at all.³

There is no doubt that witnessing domestic violence has negative impacts on children. That impact, however, is not straightforward or universal. How a child is affected depends on numerous factors including but not limited to their age, gender, who the perpetrator is, exactly what they see, and the frequency, nature, and severity of the violence. Because children's experiences can be so varied, our approach cannot rely on a singular response. Yet, generally, once violence is alleged in child welfare cases, the child is removed from both of their parents – even the non-offending one. Significantly, the CDC considers both exposure to IPV *and* family separation “adverse childhood experiences.”

The reality is that no one who stands before this committee can honestly testify as to which is worse for a child – witnessing violence or being removed from their parents. The evidence suggests, however, that the combination of witnessing violence and then removing a child from their non-offending parent is the most harmful approach of all.

Because HB324 would limit the removals of children from their protective parents, as well as other forms of unnecessary state intervention, I urge you to issue a favorable report.

<https://doi.org/10.2307/1602780>.

³ Nicholson v. Williams, 203 F. Supp. 2d 153, 199 (E.D.N.Y. 2002)

ZC DV Testimony Final.docx.pdf

Uploaded by: Zina Charles

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 324: Child Abuse and Neglect- Definition of Neglect

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 02/06/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 324.

I am Zina Charles, a licensed social worker with the Maryland Office of the Public Defender Parental Defensive Team. I am writing this letter in support of House Bill 324: Child Abuse and Neglect-Definition of Neglect.

Domestic violence is the pattern of coercive, controlling behaviors used by a person to gain or maintain power and domination over their intimate partner. These behaviors may include physical, sexual, emotional financial, verbal, and/or spiritual abuse¹.

Only 52% of victims of domestic violence report incidents to authorities in the United States². The State of Maryland has granted 4,113 temporary protection orders and 1,859 final protective orders granted for domestic violence³.

The effects of domestic violence can cause victims to believe the abuse is their fault, that the abuser loves them, the abuser is not always violent. Victims of domestic violence are often isolated, and economically dependent on the abuser. Reporting domestic violence can cause further abuse and loss of custody of one's children⁴.

In my position, I have seen my clients who are victims of violence blamed for their abuse and have their children removed from their care due to being charged with neglect. Passing this bill will help to protect victims of domestic violence from facing legal consequences of neglect for facing domestic violence.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 324.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Zina Charles, LGSW, LMSW, Social Worker

zina.charles@maryland.gov

1. Child Welfare Information Gateway, Definitions of Domestic Violence (2021). <https://www.childwelfare.gov/pubPDFs/defdomvio.pdf>
2. United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Criminal Victimization (2019).
3. Maryland Judiciary Court Operations Department . Maryland Judiciary Statistical Abstract (2018).
4. Los Angeles Police Department. Domestic Violence Reasons Why Battered Victims Stay with the Batterers

Maryland Office of the Public Defender, Government Relations Division, 45 Calvert St, Suite 108, Annapolis MD 21401
For further information please contact Elizabeth Hilliard, Elizabeth.hilliard@maryland.gov 443-507-8414.

HB324 CPMC.pdf

Uploaded by: judith Schagrin

Position: UNF

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.

House Judiciary Committee

House Bill 324: Child Abuse and Neglect - Domestic Violence

January 9, 2023

***** OPPOSE *****

The Coalition to Protect Maryland is a consortium of organizations concerned with the care of Maryland's most vulnerable families and children. We oppose HB 324 because, if passed, children will be placed unnecessarily at risk.

We are passionate about combating domestic violence, however we must help victims of domestic violence in a way that does not endanger the health and safety of children.

Children exposed to domestic violence are at substantial risk of harm, both physical and emotional. Witnessing a parent being abused can result in serious mental and emotional damage to children, and children exposed to domestic violence often themselves begin exhibiting aggressive and violent behaviors. Children may also be physically injured during domestic violence episodes involving one or more of their parents, caught in the 'crossfire' or singled out by the abuser.

Currently, Maryland's Judges in CINA cases have the ability to consider these harms to children, and may exercise their discretion and take action to protect children. HB 324 would increase risks to the children - the least powerful, most vulnerable members of society - by eliminating protections in domestic violence situations.

HB 324 includes language that the exclusion of protection of children in domestic violence situations is only a "rebuttable presumption." However, it is not specified when and how this presumption might be rebutted. This language is too vague, and Judges and Magistrates will have little guidance as to how to apply this standard, and the same for child welfare caseworkers. The rebuttable presumption language, while an improvement over last year's bill, leaves open the possibility that either the Department, or Judges, will interpret this vague language in a manner that leaves children vulnerable.

Two of the many myths about child welfare are that children are routinely separated from parents in CINA cases as a result of domestic violence, and that a "neglect" finding itself requires the removal of the children. The proposed bill presents a situation where important information related to the safety and welfare of the child can not be considered without a determination of the child's best interests.

Current laws allow the Department, and then Judges and Magistrates, to look at the specific circumstances of each individual situation, and exercise discretion as to whether intervention is necessary to protect a child exposed to domestic violence. The intervention of the CINA Court to protect children in domestic violence situations may be necessary and appropriate in only a small percentage of the most egregious domestic violence cases pertaining to neglect. But the Department and the CINA Court must have the ability to act in those most egregious cases to protect children.

This legislation may very well have a chilling effect on efforts by the Department to safeguard children and provide assistance to victims by removing the only authority granted to compel a parent to take necessary steps to ensure child safety – the Child in Need of Assistance (CINA) process. The DSS caseworker has no way of knowing when and how the “presumption” is “rebutted”. There are better ways to help victims of domestic violence and children such as more support and resources for victims. Other options include better training and more resources when police intervention occurs.

A domestic violence situation that involves children has not one victim, but multiple victims. We must acknowledge that children are also victims of such situations, and that harm to these children must be a concern to all of us. We cannot look at these children and say that the harm to them, that their welfare and safety, is fundamentally and categorically less important than the welfare and safety of other victims.

Children, especially young children, have the least ability to protect, report, seek services, or flee a dangerous situation. Any discussion of the power dynamics of domestic violence must consider that children are the least powerful members of that dynamic. For this reason the Judges in Maryland’s CINA Courts have an ability under current law to protect children from egregious risks of harm in a domestic violence situation.

HB 324 would also force a fundamental change to one of the governing principles guiding Maryland CINA law – that our goal is to not wait until children are harmed, but rather to prevent harm. This principle is an essential one, applied carefully by Maryland’s CINA Judges. HB 324 would reverse that principle for children who are the victims in domestic violence situations.

We all have an obligation to combat domestic violence in our society, and an obligation to help and support its victims. But we also have an obligation to protect the safety and welfare of the most vulnerable and powerless members of our society – children. HB 324 will strip away protections from children in domestic violence situations and place them at risk.

We welcome the opportunity to work as part of a coalition to find strategies to protect adult victims of domestic violence in a way that does not injure and endanger children. HB 324 however does not do that, and we must therefore **ask for an unfavorable report**.

This position is supported by the following member organizations: National Association of Social Workers - MD Chapter, Child Justice, Citizens Review Board for Children, The Family Tree, the Statewide Council on Child Abuse and Neglect, and MD Court-Appointed Special Advocates.

NASW Maryland - 2023 HB 324 UNF - CINA and Domesti

Uploaded by: Mary Beth DeMartino

Position: UNF

House Judiciary Committee

House Bill 324: Child Abuse and Neglect – Domestic Violence

February 9, 2023

*****OPPOSE*****

The Maryland Chapter of the National Association of Social Workers is opposing HB324 out of concern for the risk to children. We understand and value the position of domestic violence advocates with respect to the adult victim, who should be neither be blamed nor penalized for what they cannot control. From a clinical perspective, we believe in most instances good clinical social work intervention can be successful engaging and supporting the victim of domestic violence to take steps to enhance their own safety and well-being. Protecting children by supporting safe caregiving behavior is, in fact, the only means of protecting children in the home setting.

However, the mission of child welfare and child protective services is to ensure the safety of children. Awesome clinical skills aside, the only authority given to DSS to compel a parent to take necessary action to ensure child safety is through the Child in Need of Assistance (CINA) process. HB 324 bill would remove that protection; children exposed to domestic violence, in the absence of some other clear maltreatment - perhaps sustaining an injury at the hands of the violent adult? – won't meet the criteria for being found a Child in Need of Assistance and cannot be removed from the victim parent even when that parent remains in the unsafe environment. The definition of 'rebuttable presumption' is entirely vague.

There is a body of research that supports the position that exposure to domestic violence is harmful to children, that it's correlated with mental health struggles, increased violence toward others, escalated attempts to intervene that increase risk of direct injury, and the ultimate risk of death by homicide of the victim and the children.

As a reminder, like so many other expansions in DSS's role, the additional responsibility to intervene with children exposed to domestic violence came with no additional staffing to serve the increased number of domestic violence involved children and families. Yet DSS soldiers on in their efforts to ensure safety of these children and support the victim/parent. When safety of the children becomes imminent, whether due to the victim's unwillingness or inability to take action for their protection - and we fully understand that they are often unable to take the steps needed to ensure the safety of both due to their own victimization - a CINA finding is the only available safety tool.

Eliminating CINA as an action of last resort suggests that it is acceptable to allow children to suffer the known harm of exposure to domestic violence and to continue the cycle of perpetuating future domestic violence victims and offenders.

In short, we appreciate and value the important work of domestic violence advocates and the commitment to standing by the side of victims who may have neither the emotional or physical resources to leave a dangerous situation. While the preservation of families is a priority for the state's child welfare programs, child safety is at the heart of its mission and we believe it has to take precedence.

We ask for **an unfavorable report** for HB324.

Judith Schagrin, LCSW-C
Co-chair, Legislative Committee
National Association of Social Workers – Maryland Chapter
Janeaddams5@gmail.com

hb324.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 324
Child Abuse and Neglect – Domestic Violence
DATE: February 1, 2023
(2/9)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 324, as drafted. HB 324 creates a rebuttable presumption that “neglect,” as defined in Courts and Judicial Proceedings Article § 3-801 and Family Law Article § 5-701, does not include, on the part of a victim of domestic violence, failure to protect the child from witnessing domestic violence, failure to leave the home of the abuser, failure to seek a protective order, failure to end the relationship with the perpetrator, or the failure to report the abuse to law enforcement or the local department of social services

The Judiciary recognizes the complexity and difficulty of decision making by a victim of domestic abuse in an abusive relationship. The Judiciary’s concern, however, lies with the proposed addition to § 3-819. While the Judiciary understands and is sympathetic to the concerns regarding victims of domestic violence, the broad language of this bill would require the court to disregard potentially critical information. In a Child in Need of Assistance (CINA) matter, the court’s focus is on the safety of the child, and the court must not be precluded from considering evidence that relates directly to harm or threat of harm to the child. This is especially true in cases in which the child is the victim of physical and sexual child abuse and the abuser lived in the home. The Court should have the authority to consider all evidence relevant to the child’s safety.

cc. Hon. Lesley Lopez
Judicial Council
Legislative Committee
Kelley O’Connor

Feb 7 2023 HB 324 CJI Opposition - FINAL.pdf

Uploaded by: Paul Griffin

Position: UNF



PROTECTING CHILDREN, PROVIDING SUPPORT, PROMOTING CHANGE

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@ChildJusticeInc

February 7, 2023

The House Judiciary Committee HB 324 Child Abuse and Neglect – Definition of Neglect ***Opposition***

Child Justice, Inc., **opposes** passage of **House Bill 324: Child Abuse and Neglect – Definition of Neglect**.

House Bill 324 would strip from the statutory definitions of child neglect a child's persistent exposure to domestic violence in the child's home, an exposure grave enough to cause the child mental harm, or substantial risk of such harm. Both the CINA statute and the Family Law statute would be revised to exclude this significant category of harm and risk of harm. As result, local DSS agencies would lose legal authority to intervene in families with chronic domestic violence and no longer would be able to protect children and provide services to address the family violence and to alleviate the substantial mental harm to children. Juvenile courts would not be able to intervene, either. The result would be an increase in substantial harm to children, reduction in services to alleviate domestic violence, and a likely increase in domestic violence and child abuse.

Under current law, the Juvenile Causes Act and the Family Law Article define child neglect to include circumstances where "the child's health or welfare is harmed or placed at substantial risk of harm" or where "the child has suffered mental injury or been placed at substantial risk of mental injury" resulting from a caregiver's failure to provide "proper care and attention" to the child. Md. Code Ann., Cts. & Jud. § 3-801(s); Md. Code Ann., Fam. Law § 5-701(s). HB 324 would substantially curtail this definition by creating an exception for victims of domestic violence in five circumstances: (1) failing to protect the child from witnessing domestic violence; (2) failing to leave the home; (3) failing to end a relationship with the alleged perpetrator; (4) failing to report the domestic violence; and (5) failing to seek a protective order. In essence, HB 324 would carve out from the statutory definition of child neglect any circumstance where a child experiences tangible mental harm or substantial risk of such harm from persistent exposure to domestic violence. ***Enacting such a carve-out inevitably will injure children.***

This year's bill includes a "rebuttable presumption," and should such presumption be overcome then the above exceptions would not apply. However, there is no guidance as to when and how this presumption might be rebutted. Thus, Judges, Magistrates, and child-welfare caseworkers will have no guidance as to how to apply this standard. We believe the rebuttable presumption language will be interpreted such that children are left at risk of harm.

Exposure to domestic violence is a well-recognized cause of traumatic injury to children. Indeed, in its final report, the Workgroup to Study Child Custody Court Proceedings Involving Child Abuse or Domestic Violence Allegation (“DV Workgroup”)¹ summarized the research literature:

[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. . . . [R]esearch 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

The DV Workgroup strongly recommended revising the “best interests of the child” standard in child-custody cases:

[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 prohibiting a court from considering the harm or risk of harm from the child’s exposure to persistent domestic violence, HB 324 would diametrically contravene the DV Workgroup’s foremost recommendation that courts give primacy to assessing psychological safety risks (and other safety risks) to children. It runs counter to the very positive, substantial work that the General Assembly has done in recent years to reduce exposure to ACEs (adverse childhood experiences) that harm children’s cognitive and emotional development.⁴

Finally, HB 324 also would result in a diminution of services to families in crisis. Without a basis for reporting suspected maltreatment of the child, CPS will not “screen in” a case and refer it for investigation and services, nor will it refer the case for “alternative response” or “Non-CPS Risk of Harm” services. Currently through this “Non-CPS Risk of Harm” track, a local DSS can reach out and offer services for reports of domestic violence, even when it isn’t clear that there has been harm to the child. HB 324 could lead DSS to no longer reach out and offer assistance to these families. Again, the inevitable result would be a higher incidence of harm to the child, as well as increased severity of harm.

For all of these reasons we urge an unfavorable committee report on HB 324, with no amendments.



Paul Griffin
Legal Director
Child Justice, Inc.

¹ The Workgroup was established by SB567 (2019). The Workgroup consisted of subject-matter experts and advocates with vast experience in child-custody cases, child abuse, adverse childhood experiences (ACEs), and domestic violence. Child Justice’s Legal Director, Paul Griffin, served as a member of the Workgroup.

² DV Workgroup Rep. 6 (citing U.S. DHHS report on research literature).

³ *Id.* at 17 (emphasis in original).

⁴ *Id.* at 1, 3, 5-6 (discussing legislative activity, ACEs, and lasting health effects on children).

HB324_DHS_INFO.pdf

Uploaded by: Rachel Sledge

Position: INFO

Date: February 9, 2023

Bill number: HB0324

Committee: House Judiciary Committee

Bill title: **Child Abuse and Neglect – Domestic Violence**

DHS Position: **LETTER OF INFORMATION**

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide written information regarding House Bill 324 (HB 324).

DHS serves as the state's primary social services agency and has the authority for statewide implementation of Child Protective Services (CPS). House Bill 324 intends to eliminate the potential for re-victimization of victims of domestic violence through neglect investigations by CPS or neglect findings in Children in Need of Assistance (CINA) proceedings. DHS has been at the forefront of implementing the Family First Prevention Services Act (FFPSA). FFPSA aims to minimize trauma experienced by children through preventive services supporting DHS's efforts to increase the number of children who can safely remain in their homes.

The Department's approach to cases involving domestic violence is to ensure the safety of children while avoiding retraumatizing the adult and child victims of the violence. To that end, the Department typically assigns reports of domestic violence to a Risk of Harm or Alternative Response that aims to provide any supportive services requested or required by the adult victim to establish safety for all victims. There are times where the Department has been able to use the current definition of neglect to protect both the victim parent and the children by filing for CINA to receive an order controlling conduct of the perpetrator of domestic violence. The General Assembly previously provided CPS statutory authority to engage an alternative response in lieu of a CPS investigative response in most domestic violence cases in 2012 through House Bill 834. CPS has furthered those goals by establishing policies to accept appropriate domestic violence-related cases as Risk-of-Harm cases. To ensure that practice comports with the Department's philosophy, the Department is supportive of enhanced language that would require the local departments to consider whether a risk of harm or alternative response could be engaged prior to assigning the report for investigation.

As written, the bill would require DHS to screen-out some reports of allegations of domestic violence. This would create an unintentional barrier to the Department's ability to provide appropriate services to the family or develop a safety plan for a child experiencing violence in the home. It is critical to the safety and well-being of the child(ren) and the victim parent that the Department retains the authority to engage the victim(s) of domestic violence in an alternative response or risk of harm assessment. Alternative Response and Risk of Harm assessments ensure that the victim and the victim's children have access to the social services that they need in certain cases. Last year, local departments received over 1,000 reports of suspected child abuse or neglect containing allegations of domestic violence. In most of those cases, CPS offered the victim parent services to protect both the children in the home and themselves from experiencing further domestic violence without court intervention or even making an administrative finding against the victim parent. Those efforts ensured that 94% of those reports received last year were resolved without a court making a CINA finding for those children.



The Department is grateful to Delegate Lopez for her concerns on behalf of the children and parents impacted by domestic violence and her partnership in ensuring that the families affected by domestic violence receive the needed services provided by the Department of Human Services. DHS appreciates the opportunity to offer the aforementioned information for the Committee's consideration during your deliberations. DHS welcomes collaboration with the Committee on HB 324.

