

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.