

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.