

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).