

ANTHONY G. BROWN
Attorney General



CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN A. QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.
(410) 576-7036

WRITER'S DIRECT DIAL NO.
(410) 576-6584

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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