

**CRC testimony HB0048 (4).pdf**

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Position: FAV



**January 27, 2026**

**RE: SUPPORT— HB0048 the Right to Fight Act**

Dear Chair Bartlett, Vice Chair Davis, and members of the Judiciary Committee,

This testimony is submitted by Civil Rights Corps (CRC), a civil rights organization dedicated to challenging systemic injustice in the United States legal system, in support of HB0048. This bill would help families by ensuring that the Department of Social Services (DSS) is required to make reasonable efforts to reunify a family even when a parent has a past involuntary termination of parental rights (TPR). The current law exempts DSS from that duty. This means that if a parent fights in court to keep her parental rights—as many loving parents would want to—and loses in the risky trial process, the state can easily take and immediately adopt out any future child she has. In practice, this exception coerces parents to “voluntarily” give up their parental rights rather than fight in court and risk the loss of future children—a horrible choice no parent should have to make. HB0048 changes that, and ensures that parents can fight for their rights to one child, without risking their rights to another.

Civil Rights Corps specializes in innovative, systemic challenges to civil rights violations using litigation, advocacy, and public education. Since its founding in 2016, the organization has developed pathbreaking legal challenges to pretrial detention practices; debtors’ prisons; prosecutorial misconduct; corporate and municipal profiteering off of family separation in jails; and other practices that punish people for poverty and unnecessarily separate families. These legal cases—and related policy collaboration with state supreme courts, rulemaking bodies, attorney generals, federal government officials, legislators, local presiding judges, and others—have resulted in widespread changes in how some of the most marginalized people in our society are treated.

For over a year CRC has investigated the Maryland child welfare system, also known as the family regulation system.<sup>1</sup> We submit this testimony with firsthand knowledge that Maryland families are subjected to intense, unnecessary surveillance and trapped in cycles of state intervention in their families. HB0048 will fix a law that significantly harms Maryland families, and allow parents to overcome past challenges to grow healthy families.

Importantly, this bill helps protect cash-poor families. The strongest predictors of whether a family will be investigated by the family regulation system are how much money they have and the color of their skin. Overwhelmingly, the families who are investigated are

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<sup>1</sup> Throughout our testimony, we will use the term “family policing” or “family regulation” system to describe what has been most commonly referred to as the “child welfare” or “child protection” system, to honor the ways directly impacted people describe this system and in recognition of the system’s racist history and the harm and trauma caused by forced family separation.



those who need a food pantry, have difficulty paying rent, can't afford utilities, or are not receiving the public benefits they are entitled to.<sup>2</sup> These are not neglectful families—these are families that our government has neglected—families we have failed to care for as any decent society should. In Maryland, thousands of families are facing economic neglect and are therefore at risk of foster system involvement. In 2022, 18% of Maryland children had working parents living below 200% of the federal poverty line,<sup>3</sup> and in Baltimore, poverty rates for school-age children regularly exceed the national average.<sup>4</sup> Enacting HB0048 will have a profound impact on economically marginalized families. These are the parents and children who are most likely to be faced with repeated family regulation system intervention, even when all they need are support and material resources.

Maryland's current policy of punishing parents for contesting the termination of their parental rights contravenes well-established constitutional principles that enshrine the right to family integrity. Threatening a parent who fights to keep their current children with state seizure of future children infringes the parents' due process right to do everything they can to maintain their bond with their child and their right to raise that child. It also infringes the rights of the future child, whose ability to know and be loved by their natural family—parents, siblings, aunts, uncles, and grandparents—and by that family's close community and neighbors, by diminishing the future child's right before the child is even born.

State policies that allow courts to exempt child welfare agencies from making reasonable efforts to reunite families are rooted in the Adoption and Safe Families Act, a 1997 federal statute. This statute permits states to forgo reasonable efforts when there's been a prior involuntary TPR, but notably, the statute does not require states to adopt such a policy.

The waiver of the reasonable efforts requirement due to a prior involuntary TPR is bad policy and unconstitutional. As child welfare legal expert Vivek Sankaran has written, in the criminal legal system it is recognized that prior convictions do not make someone permanently guilty of future bad acts.<sup>5</sup> In any case, the burden lies on the state to show that interfering with a fundamental right, like the right to family integrity, is justified and necessary, for every child impacted.<sup>6</sup>

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<sup>2</sup> Slack, K. S., et al. (2011). *Risk and protective factors for child neglect during early childhood: A cross-study comparison*, Children & Youth Services Review, 33(8), 1354-1363. <https://doi.org/10.1016/j.chidyouth.2011.04.024>

<sup>3</sup> "Children in low-income working families by age group in Maryland." *Kids Count Data Center*, Annie E. Casey Foundation, January 2024. <https://datacenter.aecf.org/data/tables/5048-children-in-low-income-working-families-by-age-group>

<sup>4</sup> Annie E Casey Foundation, A profile of Youth and Adults in Baltimore, available at, [https://www.aecf.org/blog/a-profile-of-youth-and-young-adults-in-baltimore#:~:text=Poverty%20increased%20among%20Baltimore's%20school,and%20U.S.%20\(19%25\)%20rates.](https://www.aecf.org/blog/a-profile-of-youth-and-young-adults-in-baltimore#:~:text=Poverty%20increased%20among%20Baltimore's%20school,and%20U.S.%20(19%25)%20rates.)

<sup>5</sup> Vivek Sankaran, *Child Welfare's Scarlet Letter: How a Prior Termination of Parental Rights Can Permanently Brand a Parent as Unfit*, NYU Rev. L. & Soc. Change, 41, 685 (2017).

<sup>6</sup> See *Stanley v. Illinois*, 405 U.S. 645 (1972); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).



This principle applies to parenting as well. For example, if a parent has gone through rehabilitation, their prior struggle with addiction should not be used to permanently label them as unfit to parent. And yet that is exactly what Maryland’s current law does, by allowing the state to bypass attempts to reunify families when a parent has made mistakes in the past. Scenarios where parents grow out of past challenges are common as they age out or overcome life struggles they had when they were young.

Like parents, children have constitutional rights to the integrity of their family—to be with their parents.<sup>7</sup> Maryland’s law on prior involuntary TPRs denies future children procedural due process through which to try to stay with their parents.

Maryland’s practice of skipping reasonable efforts when a parent has a past involuntary termination of parental rights is particularly pernicious when paired with Maryland’s “Birth Match” policy. Maryland is one of a small minority of states that have a Birth Match policy.<sup>8</sup> Under this policy, for every birth certificate issued, if one of the parents has had their parental rights terminated within the past 10 years, the local Department of Social Services is required to investigate the parent’s relationship with their newborn child. Combine this Birth Match policy with the waiver of the reasonable efforts requirement, and you have a form of what is functionally state sterilization where if a person has one child taken from them, there’s a high risk that any future child they have will be taken.

Thank you Delegate Toles for reintroducing the Right to Fight Act. Civil Rights Corps urges this committee to issue a favorable report for this crucial reform to protect families from the profound harm of needless separation.

Sincerely,

Alexa Richardson, Attorney  
Civil Rights Corps  
[alexa@civilrightscorps.org](mailto:alexa@civilrightscorps.org)

Abigail Steckel, Litigation Fellow  
Civil Rights Corps  
[abigail@civilrightscorps.org](mailto:abigail@civilrightscorps.org)

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<sup>7</sup> See *Jordan by Jordan v. Jackson*, 15 F.3d 333, 346 (4th Cir. 1994) (recognizing that forced separation of families “implicates the child’s interests in his family’s integrity and in the nurture and companionship of his parents”); see also Shanta Trivedi, *A Child’s Constitutional Right to Family Integrity*, Harv. Civil Rights-Civil-Liberties L. Rev. 56, 267 (2021).

<sup>8</sup> Daniel Gibbs, et al., *Identifying Children at Risk for Maltreatment Fatalities: Assessing the Current Landscape of Birth Match Policies in the United States*, Journal of Public Welfare, March 5, 2025, available at, <https://www.tandfonline.com/doi/abs/10.1080/15548732.2024.2319732>.

**HB0048\_FAV\_OFJ.pdf**

Uploaded by: Dwan Burton

Position: FAV



## OUT FOR JUSTICE

### TESTIMONY IN SUPPORT OF HOUSE BILL 48:

#### **Right to Fight Act**

TO: Members of the Senate Judicial Proceedings and House Judiciary Committee

FROM: **Dwan Burton, Deputy Director, Out For Justice Inc.**

My name is Dwan Burton, and I am submitting this written testimony on behalf of Out for Justice, Inc. (OFJ), a grassroots organization whose mission is to engage, educate, and empower individuals impacted by the legal system. We support **House Bill 48**, which will repeal the authorization for a juvenile court to waive a local department's obligation to provide certain services if a parent has involuntarily lost certain parental rights.

As the Deputy Director of Out For Justice, I have seen firsthand the devastating impacts of the current legal precedents regarding involuntary loss of parental rights. We specifically support women who have returned home from incarceration, many of whom involuntarily lost parental rights while they were incarcerated, and reach out to Out for Justice, pursuing assistance in navigating the legal process.

One particular case that stood out was that of a disabled member whose daughter was forcibly removed from her care upon incarceration. After faithfully serving and reentering society, the member discovered that her daughter had been adopted by a family nearby. Despite never having displayed any violence or having ever harmed her daughter, she has been prevented from ever contacting her daughter. Today, she lives with the knowledge that her only daughter lives closeby but remains inaccessible.

As it currently stands, the law does not require reasonable efforts to reunify a child with their guardian if a parent has involuntarily lost parental rights. The proposed changes in House Bill 48 will strengthen family reunification efforts while maintaining the courts' ability to waive reunification in cases of abuse or other similar concerns. If **House Bill 48** is passed into law, marginalized families across Maryland will be able **to reunify with their child safely and without delay, while also maintaining the safety of the children involved.** For these reasons, I respectfully urge a favorable report.

**HB0048\_DHS\_FAV.pdf**

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Position: FAV



**DEPARTMENT OF HUMAN SERVICES**

*Wes Moore, Governor · Aruna Miller, Lt. Governor · Rafael López, Secretary*

January 29, 2026

The Honorable J. Sandy Bartlett, Chair  
House Judiciary Committee  
101 Taylor House Office Building  
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB0048 - FAMILY LAW - CHILDREN IN NEED OF ASSISTANCE  
TERMINATION OF PARENTAL RIGHTS - POSITION: FAVORABLE**

Dear Chair Bartlett and Members of the Judiciary Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for its consideration and respectfully requests a favorable report for House Bill 48 (HB 48).

With offices in every jurisdiction of Maryland, DHS provides preventative and supportive services, economic assistance, and meaningful connections to employment development and career opportunities to assist Marylanders in reaching their full potential. Our Social Services Administration (SSA) implements services for children in out of home care, who would be impacted by HB 48. The bill gives juvenile courts discretion to assess parental capability in Child in Need of Assistance (CINA) cases, rather than requiring courts to consider a prior contested termination of parental rights (TPR).

Today, when a parent has parental rights terminated for one child through a contested hearing, they are automatically at risk of losing parental rights for any additional children that may come to our attention in the future. Every family's situation is different and in most situations families deserve careful consideration of their present circumstances and capacities before the law permanently and irrevocably severs them from each other. HB 48 removes the statutory presumption that a prior termination of parental rights for an elder sibling means the parent should be considered permanently unable to provide safe care for any subsequently born child(ren). By restoring judicial discretion, HB 48 would enable the courts to consider a parent's capacity to provide safe care for their child(ren).

We are committed to family preservation because family matters. Changes proposed by HB 48 prioritize the critical, developmental connections between children and their families. Concerns about extreme cases are covered by the federal [Adoption and Safe](#)

[Families Act of 1997](#) (ASFA) which does not require reasonable efforts to preserve and reunify a family if the parent subjected their child to “aggravated circumstances.” ASFA does not exhaustively define “aggravated circumstances,” but leaves it to the states to define this term.

HB 48 removes a parent’s prior contested TPR as one of the “aggravated circumstances” when determining whether to waive reunification efforts. If HB 48 passes, courts would no longer be required to determine a parent is ineligible for reunification services simply because the parent experienced a prior TPR. As a result, courts and local departments of social services would be empowered to consider the totality of a parent’s present circumstances when deciding whether to make reasonable efforts to preserve a family.

We appreciate the opportunity to offer favorable testimony to the Committee for consideration during your deliberations. If you require additional information, please contact Justin Hayes, acting Director of Government Affairs, at [justin.hayes@maryland.gov](mailto:justin.hayes@maryland.gov).

In service,

A handwritten signature in black ink, appearing to read 'Rafael Lopez', written in a cursive style.

Rafael López  
Secretary

# **OPD HB 48 Right To Fight Favorable.docx.pdf**

Uploaded by: Maria Nenschutzka Villamar

Position: FAV



NATASHA DARTIGUE  
PUBLIC DEFENDER  
KEITH LOTRIDGE  
DEPUTY PUBLIC DEFENDER  
HANNIBAL KEMERER  
CHIEF OF STAFF  
ELIZABETH HILLIARD  
DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: House Bill 0048 - Termination of Parental Rights – “The Right to Fight”**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 1/29/2026**

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The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a **favorable report for House Bill 0048, the Right to Fight Bill**. House Bill 0048 removes the automatic rule that lets DSS bypass reunification services based solely on a parent’s prior involuntary termination of parental rights. It restores judicial discretion and ensures parents are judged on their current ability to safely care for their children, not on past legal battles.

This testimony is provided by OPD’s Parental Defense Division (PDD) which represents parents from all 24 counties in Maryland who are facing a Termination of Parental Rights case. Our multidisciplinary legal team, including dedicated attorneys, licensed social workers, and parent advocates with lived-experience in the DSS system, ensures that families receive high quality legal representation during their Child in Need of Assistance and Termination of Parental Rights cases.

### **The Current Law**

A Termination of Parental Rights (TPR) is the permanent and irreversible severance of the legal relationship between a parent and child, forever eliminating not only the parent’s rights and responsibilities but also the child’s legal ties to all biological relatives, including siblings and grandparents.

Decades of research consistently demonstrates that children are best served by remaining with their families and communities of origin.<sup>1</sup> When the State has a concern and wants to intervene

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<sup>1</sup> Studies have shown that children placed in the foster system are at increased risk for negative outcomes, including emotional, behavioral, neurobiological, and social challenges. Additionally, placement stability positively impacts safety, permanency, and well-being, with each move increasing safety risks and delaying permanency.

<https://www.casey.org/placement-stability-impacts/>. Furthermore, the largest studies comparing the impact on children in the foster system versus keeping comparably maltreated children with their own families suggest that children fare better when kept with their families.

<https://nccpr.org/wp-content/uploads/2025/04/2017-updated-evidence-for-print.pdf>. These findings underscore the importance of prioritizing family preservation and community-based interventions in child welfare practices.

to take custody of a child, they will file a Child in Need of Assistance (CINA) case. If a Court determines that the child should be placed in the foster system, DSS is then required to make what are called “reasonable efforts” to achieve reunification for the family. “Reasonable efforts” include, but are not limited to, arranging family visitation, providing referrals to a drug treatment program, referring parents to a parenting class, and assisting parents in finding psychotherapists. In nearly all cases, a TPR can move forward only after the court finds that attempts to reunify the family have not succeeded.

There are limited exceptions in the law that allow DSS to forgo reunification services and proceed directly to TPR. Under Courts and Judicial Proceedings 3-812(b) and Family Law Article § 5-323(e)(2)(v),<sup>2</sup> the exceptions are as follows:

1. **Severe Abuse or Neglect:** Subjecting a child to chronic neglect or life-threatening conditions;
2. **Violent Criminality:** Convictions for murder, manslaughter, or felony assault of a child or their sibling; or
3. **Prior Involuntary Termination:** Instances where a parent previously chose to hold the State to its burden of proof in a contested trial rather than consenting to the termination.

The purported goal of this provision is to avoid "frivolous" reunification attempts in cases of heinous violence. However, the law as currently written **wrongly equates a parent’s exercise of their constitutional right to a trial with the commission of a violent crime.**

House Bill 48 addresses this third category. Under current law, an “involuntary” termination of parental rights is defined solely by a parent’s refusal to consent. If a parent argues that termination is not in the child’s best interest, goes to trial, and the court ultimately disagrees, that single outcome can permanently bar the parent from receiving reunification services for any future children and eliminate the time ordinarily provided to attempt reunification. By treating the exercise of a legal defense as an “aggravated circumstance” on par with murder or severe abuse, the law creates an unjust barrier to family preservation—one that HB 48 is designed to remove.

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<sup>2</sup> House Bill 48 also amends Family Law Article § 5-323(e)(2)(v) to eliminate DSS’s ability in a TPR case to seek a waiver of its duty to have made reasonable reunification efforts in the underlying CINA matter based solely on a prior involuntary TPR. In practice, this means DSS must continue working with families toward reunification regardless of a past involuntary termination. The bill does not remove the court’s ability to consider a prior TPR as a factor in its decision; it simply prevents a prior involuntary TPR from automatically excusing DSS from providing reasonable efforts.

## Maryland's Current Law Harms Families and Communities

Current law forces parents into an impossible choice: Either fight in court to keep their child, OR preserve their chance to receive reunification services for other children who are in the foster system now or may be in the future.

**Maryland law currently distinguishes between voluntary and involuntary terminations in a way that is both arbitrary and punitive.** A parent who exercises their right to a trial risks losing the right to DSS assistance in all future cases, a penalty not faced by those who consent to the TPR. **This framework functions as a coercive tool, threatening parents with the permanent loss of future family preservation services as a “cost” for fighting for their children to not be permanently separated from them and their entire biological family.<sup>3</sup> HB 48 removes this unjust barrier, ensuring that exercising the right to hold the State to its burden of proof does not come at the price of a parent's other children.**

Additionally, current law **prohibits the court from exercising any discretion** to deny DSS's request. Specifically, § CJP 3-812(d) states that “(d) If the court finds by clear and convincing evidence that any of the circumstances specified in subsection (b) of this section exists, *the court shall waive the requirement that reasonable efforts be made to reunify the child* with the child's parent or guardian.” This means that even if the court believes that the parent could reunify with his or her child with some assistance from DSS but DSS has requested waiver on the basis of a prior involuntary TPR, the **court** has no discretion in the matter and **has no choice** but to waive the requirement that DSS make reasonable efforts to assist the parent. Again, this is what HB 48 seeks to fix.

This provision is fundamentally unfair. It punishes parents simply for using their legal right to challenge the allegations against them. In essence, it forces parents to choose: either give up their fight to keep their current child or risk losing the right to be considered for reunification with any future children. **House Bill 0048 is simple: remove the provision that punishes parents for exercising their fundamental right to parent.**

### Real-Life Impact

To illustrate the devastating consequences of this law, consider a 16-year-old mother in foster care whose parental rights to her baby are being challenged. If she decides to fight to keep her child and loses, she will face permanent consequences, even if years later she matures, builds a

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<sup>3</sup> When a TPR is granted it severs the legal relationship between the child and all biological relatives including siblings, grandparents, aunts, uncles, and cousins.

stable life, and finds herself in a situation where her future child is removed due to circumstances beyond her control.

For example, if this mother, now an adult with a steady job and a stable home, is the victim of a domestic violence incident that leads to her new child being temporarily placed in foster care, DSS could file a motion to waive reasonable efforts based on her prior involuntary TPR, and the court would have no choice but to grant that motion, denying the mother the opportunity to receive the same reunification services available to other parents. The Department can then file a TPR petition immediately. This is unjust and undermines the intent of child welfare laws which favor keeping families together whenever possible.<sup>4</sup>

The automatic waiver of reasonable efforts also harms children by denying them any meaningful opportunity to maintain legal and emotional ties to their families. **When reunification services are waived, children lose the chance to work toward maintaining a connection not only with a parent, but with their other biological family members, including siblings, grandparents, and extended relatives, even if maintaining those family ties and bonds would be in the child's best interest.** Opponents of this bill may argue that this concern is ameliorated because children can be placed with relatives or kin. This does not resolve the issue though, because that ignores the fact that often siblings, due to being too young, and grandparents, due to being elderly, often are unable to immediately assume care of a child.<sup>5</sup> This bill would allow the Court to consider the child's individual circumstances before deciding whether immediately moving towards adoption is what's best for the child.

Passing HB 48 does not mean that unfit parents will automatically regain custody of their children. It simply ensures that every case is evaluated fairly based on the parent's and children's current circumstances, rather than being prejudged based on the parent asserting their constitutional right to a trial in the past for another child.

## Conclusion

Maryland's child welfare system should focus on what is ***currently best for each child***, not penalize parents for exercising a legal right in the past. Every parent deserves a fair chance to demonstrate they can provide a safe and loving home, and all children deserve for their parents to be able to fight to keep them. Repealing FL § 5-323(e)(2) and CJP § 3-812(b)(3) is a

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<sup>4</sup> A key objective of the CINA statute is to "conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare." Maryland Courts and Judicial Proceedings §3-802.

<sup>5</sup> For example, if a baby is born and has a biological 14 year old sibling, the 14 year old is not old enough to care for the child, but often will still want to be legally related to the baby.

necessary step toward a more just system that advances due process for parents and acknowledges the fundamental right to maintain the parent-child relationship when appropriate.

**For these reasons we urge the Committee to issue a favorable report for House Bill 0048** and remove this unconstitutional and unjust barrier to family preservation.

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

**Authored by:** Nena C. Villamar, [nenavillamar@maryland.gov](mailto:nenavillamar@maryland.gov), Hayley Lichterman, [hayleylichterman@maryland.gov](mailto:hayleylichterman@maryland.gov), Kenneth Wardlaw, [kennethwardlaw@maryland.gov](mailto:kennethwardlaw@maryland.gov), and Natasha Khalfani, [natashakhalfani@maryland.gov](mailto:natashakhalfani@maryland.gov).

# Written Testimony - HB 48.pdf

Uploaded by: Shanta Trivedi

Position: FAV

## Support HB 944

Family Law - Children in Need of Assistance and Termination of Parental Rights

Testimony of the Sayra & Neil Meyerhoff Center for Families, Children & the Courts, University of Baltimore School of Law

Tuesday, January 27, 2026

House Judiciary Committee

Delegate Bartlett, Vice-Chair Davis and Members of the Committee:

Shanta Trivedi serves as the Faculty Director and Aubrey Edwards-Luce is the Executive Director of the Sayra and Neil Meyerhoff Center for Families, Children, and the Courts (CFCC) at the University of Baltimore School of Law. CFCC envisions communities where children and families thrive without unnecessary involvement in the legal system. We engage communities as we work tirelessly to transform systems that create barriers to family well-being. Additionally, Professor Trivedi teaches courses on Family Law and the Child Welfare System and writes legal scholarship and articles in the media about the child welfare system, particularly as it affects low-income and minority families. Professor Trivedi has also represented hundreds of parents who have been separated from their children or who were at risk of being separated while Director Edwards-Luce has represented hundreds of children in these proceedings. **We urge you to issue a favorable report on HB48.**

HB48 would remove a prior termination of parental rights (TPR) as an “aggravated circumstance” that excuses DSS from making “reasonable efforts” in a child welfare case. Reasonable efforts are the government’s responsibility to help families to stay together or to reunify once they have been separated. For example, the reasonable efforts requirement obligates DSS to provide services and supports to a family who may be struggling with food insecurity, substance use disorder, trauma or mental health concerns. The child welfare system is supposed to be rehabilitative and aims to prioritize reunification yet under current law, if a parent has had their rights to a child terminated in the past, DSS has no obligation to provide these important supports.

It is crucial therefore to understand how a TPR can occur and what the effects of the current law are. TPR is a permanent, irreversible severing of the parent-child relationship. For this reason, it is often referred to as the “civil death penalty.” As one mother described it:

[t]he parents’ names are removed from the birth certificate, erasing any record of the relationship, no matter how long the family was together prior, or how bonded they are. For many, that means the sudden and total cessation of contact. Sometimes, the agency arranges a final meeting, where the parent must try to explain to their child that this is the last time they will see each other, and why. Sometimes, they don’t get even that.<sup>1</sup>

TPR is deeply traumatizing for children, especially those who already have a relationship with their families. A legal proceeding that ends their familial relationship does not undo their biological and emotional connection and cannot erase their memories. In fact, many children continue to have contact with their biological families after TPR and may even return to the very families they were taken from if an adoption fails or once they are old enough.<sup>2</sup>

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<sup>1</sup> Elizabeth Brico, “The Civil Death Penalty”—My Motherhood Is Legally Terminated, FILTER MAGAZINE, (Jul. 13, 2020), <https://filtermag.org/motherhood-legally-terminated/>

<sup>2</sup> Piaadora Footman, *Two Steps Back- Many Adopted Teens are Ending Up Back in Foster Care. What Does That Mean for Children—and Their Parents?*, RISE MAGAZINE, (Jan. 8, 2013) <https://www.risemagazine.org/2013/01/two-steps-back/>

Under Maryland law, unlike in other states, there is no opportunity for a parent to petition for post-TPR contact, or to have their TPR reconsidered after a change of circumstances. Based on a directive from federal law, DSS is required to file a TPR if a child has been in foster care for 15 out of the prior 22 months – a completely arbitrary timeline. Those 15 months do not have to be consecutive. If the child is with kin or a court determines that it is otherwise not in their best interests to have their relationship with their parents terminated, TPR is not required but too often we fail to rely on these exceptions.

For a parent to reunify with their child, they must engage in certain services to address the initial allegations that brought the case to court. Many parents are required to do parenting classes, substance use treatment, anger management, therapy or mental health services. They are also often required to secure employment and have stable housing – difficult things to achieve for low-income families. If a parent is incarcerated or in immigration detention, most of these services are unavailable to them, making TPR an inevitability. If a parent is struggling with substance use disorder, relapse is a normal part of recovery but can lead to a child going back to foster care and a parent having to start from scratch. Mental health concerns, even with treatment do not always resolve in a neat timeline like the one prescribed. Thus, even when parents are doing their best, they may not always be able to meet the requirements in the necessary timeframe.

In comparison, the other aggravated circumstances include engaging in, facilitating or failing to protect a child, a sibling of the child or another child in the household from chronic or severe physical abuse, chronic and life-threatening neglect, sexual abuse, torture or death. Additionally, reasonable efforts are excused where a parent has been convicted of a crime of violence against the child or the other parent of the child or aiding or abetting, conspiring or soliciting to commit a crime of violence or abandoning the child. Being convicted of killing a child is very different to failing to secure appropriate housing or employment in the requisite timeline and having your rights terminated as a result.<sup>3</sup> Further, aggravated circumstances as a whole are arguably unconstitutional. TPR completely severs the fundamental right to parent under the 14<sup>th</sup> Amendment substantive Due Process Clause. If a state fails to make reasonable efforts, even assuming a compelling state interest, this is not the least restrictive means through which the state could meet its goal.

In many situations, parents have drastically changed their life circumstances between a prior TPR and their current child welfare case yet will not receive the benefit of supports to keep them with their current child because of this draconian and punitive law. As such, current law leads to absurd results. Many parents have struggled with substance use disorder in the past and have been in recovery for years, others have left the abusive relationships that caused them to have child welfare involvement, others have been released from incarceration and are trying to rebuild their lives. In some cases, parents have had rights to their children terminated as teenagers when they were themselves in the foster system and were not in a position to properly care for a child. 20 years later, that same parent could be in a stable familial relationship, be employed and housed and the state would not have to make reasonable efforts to keep them with their child if they had contact with the system.

**HB48** would correct the law to better meet the goals of the child welfare system – protecting children from unnecessary harm and trauma and ensuring parents have a chance to rehabilitate. We therefore urge a favorable report.

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<sup>3</sup>Md. Code Ann., Cts. & Jud. Proc. § 3-812 (West)

# **SWASC HB48 FAV.pdf**

Uploaded by: UM SWASC

Position: FAV

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## TESTIMONY IN SUPPORT OF HB 48

### Family Law - Children in Need of Assistance and Termination of Parental Rights (Right to Fight Act) Judiciary Committee January 29, 2026

**Social Work Advocates for Social Change strongly supports HB 48**, which will repeal the provision that waives the court's responsibility to pursue reasonable reunification efforts when a custodial parent has previously had parental rights of a sibling to a Child in Need of Assistance (CINA) terminated. The current statute is detrimental to family justice, basing Child Protective Services (CPS) reports on potentially unrelated events rather than current circumstances. Present law disregards years of positive parental progress and eliminates a parent's right to fight for their child, with families of color being disproportionately affected.

**HB 48 promotes racial justice, and may significantly improve outcomes for Black children and families in Maryland.** Historically, CPS has disproportionately interfered with the lives of Black families versus white families in all domains, including the removal of children and termination of parental rights.<sup>1</sup> This alarming reality has been attributed to a higher likelihood of poverty among Black families compared to White families.<sup>2</sup> HB 48 removes a punishing statute preventing the reunifications of families in which poverty is often the common denominator in their division.

**HB 48 promotes improved mental health outcomes for children placed in the foster care system.** Thirty-nine percent of children aged seven through eleven, and sixty percent of children aged 12-17 in the foster care system rely on mental health services to manage clinical behavioral symptoms.<sup>3</sup> Continued contact between a child and their biological family has an overwhelmingly positive impact on children within foster care as well as those who have transitioned out of foster care<sup>4</sup>. This continued contact, often in the form of reunification, is indicated by healthy emotional and development outcomes with children who remain in contact with their biological parents having significantly lower rates of depression and mental health conditions compared to their counterparts<sup>5</sup>. In children who are ultimately adopted, grief

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<sup>1</sup> Thomas MMC, Waldfogel J, Williams OF. Inequities in Child Protective Services Contact Between Black and White Children. *Child Maltreat*. 2023 Feb;28(1):42-54. doi: 10.1177/10775595211070248. Epub 2022 Feb 2. PMID: 35081781; PMCID: PMC9325927. <https://pmc.ncbi.nlm.nih.gov/articles/PMC9325927/>

<sup>2</sup> Thomas MMC, Waldfogel J, Williams OF. Inequities in Child Protective Services Contact Between Black and White Children. *Child Maltreat*. 2023 Feb;28(1):42-54. doi: 10.1177/10775595211070248. Epub 2022 Feb 2. PMID: 35081781; PMCID: PMC9325927. <https://pmc.ncbi.nlm.nih.gov/articles/PMC9325927/>

<sup>3</sup> Vandivere, S., Malm, K., & Radcl, L. (2009). *Adoption USA: A chartbook based on the 2007 National Survey of Adoptive Parents*. US Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation.

<sup>4</sup> McWey, L. M., Acock, A., & Porter, B. E. (2010). The impact of continued contact with biological parents upon the mental health of children in foster care. *Children and Youth Services Review*, 32(10), 1338–1345. <https://doi.org/10.1016/j.childyouth.2010.05.003>

<sup>5</sup> McWey, L. M., Acock, A., & Porter, B. E. (2010). The impact of continued contact with biological parents upon the mental health of children in foster care. *Children and Youth Services Review*, 32(10), 1338–1345. <https://doi.org/10.1016/j.childyouth.2010.05.003>



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resulting from the loss of their birth family and culture, even a family and culture they cannot remember, can permeate into adulthood and cause identity and relational difficulties<sup>6</sup>.

**As rising social workers, we are obligated to advocate for racial and social justice in family law as well as the wellbeing of children involved in the child welfare system.** With involuntary Termination of Parental Rights (TPR) as one of the conditions under which the courts can waive the requirement of reunification efforts, parents are faced with an impossible choice: fight for their current child and potentially lose access to reunification efforts of a future child or voluntarily terminate their parental rights to their current child. It is devastating, unfair, and unjust for a parent to have to make this choice. This forced decision introduces unimaginable pain into family units and directly conflicts with social work values that center around justice, dignity, and the preservation of families.<sup>7</sup>

### **Social Work Advocates for Social Change urges a favorable report on HB 48.**

*Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.*

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<sup>6</sup> Meyer, M., Wiggins, E., & Elliott, G. M. (2023). Adult Adoptees' Adoption-Related Experiences of Counseling, Loss, and Grief: A Transcendental Phenomenological Study. *The Professional Counselor (Greensboro, N.C.)*, 13(2), 129–144. <https://doi.org/10.15241/mm.13.2.129>

<sup>7</sup> National Association of Social Workers. (2021). *Code of ethics*. National Association of Social Workers. <https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English>

# **HB 48 Maryland Legal Aid -Fav With AMENDMENTS.pdf**

Uploaded by: Erica LeMon

Position: FWA



**HB 48 Family Law - Children in Need of Assistance and Termination of Parental Rights  
(Right to Fight Act)  
January 29, 2026  
House Judiciary Committee  
Position: FAVORABLE WITH AMENDMENTS**

*Maryland Legal Aid submits written and oral testimony on HB48.*

Maryland Legal Aid serves residents in each of Maryland’s 24 jurisdictions, providing free legal services to the State’s low-income and vulnerable residents in a range of civil legal matters. Maryland Legal Aid is Maryland’s largest civil non-profit law firm, representing vulnerable young people in Child in Need of Assistance (CINA) matters across the State. Maryland Legal Aid urges the Committee’s favorable report on HB48 with amendments.

Currently, Courts and Judicial Proceedings 3-812 does not allow for judicial discretion to determine if it is in the best interest of the child to waive the department’s responsibility to make reasonable efforts toward reunification. Maryland Legal Aid supports the judiciary to have this discretion. Family Law 5-323 currently provides for judicial discretion. Maryland Legal Aid supports maintaining this judicial discretion.

Currently, the language of Courts and Judicial Proceedings 3-812 states, “If the court finds by clear and convincing evidence that any of the circumstances specified in subsection (b)3 of this section exists, the court shall waive the requirement that reasonable efforts be made to reunify the child with the child’s parent or guardian.” As written, the bill removes the local department’s ability to request a waiver of reunification efforts when a parent has previously had their parental rights involuntarily terminated with respect to another child. Maryland Legal Aid proposes adding judicial discretion into the bill, and changing the word “shall” to “may”. This makes the language consistent with the current language of Family Law 5-323, which states that “A juvenile court may waive a local department’s obligations for services described in subsection (d)(1) of this section if the juvenile court finds by clear and convincing evidence that one or more of the acts or circumstances listed in subsection (d)(3)(iii), OR (iv), or (v) of this section exists.”

Eliminating this discretion altogether could increase the risk of harm to a second sibling child and delay the ability to achieve permanency. In these rare but serious cases, after their rights were involuntarily terminated, a parent abuses or neglects a second child to such a degree that the second child is also removed and found to be a CINA. Depending on the circumstances, the Department’s ability to seek a waiver of reunification efforts may be an important tool for protecting the sibling child. HB 48 as written would eliminate that protection.

Maryland Legal Aid believes the bill should be amended to grant the juvenile court discretion rather than mandating a waiver under current law or prohibiting one under the bill as introduced. This balanced approach ensures courts can act in the best interest of the child, based on the facts of each case, and treat each child before the court as an individual. It also allows CINA attorneys to advocate for what their child clients want – including reunification with a parent whose rights had been previously terminated or asking the court to move directly towards a different permanency goal.

Maryland Legal Aid urges the Committee to issue a FAVORABLE report with the amendments suggested on House Bill 48. If you have any questions, please contact: Erica I. LeMon, Advocacy Director for Children's Rights at [elemon@mdlab.org](mailto:elemon@mdlab.org) (410) 951-7648 or (410) 935-0937.

**HB0048 CPMC UNFAV JUD.docx.pdf**

Uploaded by: Diana Philip

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 budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and wellbeing.*



**HB0048 - Family Law - Children in Need of Assistance and Termination of Parental Rights (Right to Fight Act)**

**House Judiciary Committee**

**January 29, 2026**

**Position: OPPOSE**

The Coalition to Protect Maryland's Children is a consortium of organizations and individuals formed in 1992 who are concerned about the care of Maryland's most vulnerable children and work together to educate and promote meaningful child welfare reform. **CPMC urges an unfavorable report on HB0048 - Children in Need of Assistance and Termination of Parental Rights (Right to Fight Act).**

In its current form, this legislation would remove the ability of the Department of Social Services (Department) to request a waiver of reunification efforts when a parent has had one's parental rights to a previous child involuntarily terminated. This increases the risk of harmful abuse and neglect to the second child of the same parent, and delays permanency for this second child. It also subjects the first child to a potentially traumatic contested termination of parental rights proceeding regarding the second child. Note that the waiver provision in Maryland was added to comply with federal law from 1997's Adoption Safe Families Act, 42 U.S.C.A. § 671 (West). The purpose is to reduce children lingering in foster care, where the Department's offer of services are not likely to result in a parental rehabilitation.<sup>1</sup>

The termination of parental rights (TPR) involves the parent first abusing or neglecting a child such that the child was removed and found a Child in Need of Assistance (CINA). To trigger a TPR petition, the parent would have then not adequately addressed the problems that led to the CINA finding after many months. To terminate parental rights, the Department files a petition to create a separate, second court case. The parent is entitled to counsel at a TPR trial. At such a trial, the rules of evidence are strictly applied, and rights cannot be terminated unless the court finds by clear and convincing evidence that the parent is unfit, or that exceptional circumstances exist that make continuation of the parent-child relationship detrimental to the child. The court must also find by clear and convincing evidence that TPR is in the best interest of the child. The trial court's ruling is then almost inevitably appealed and

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<sup>1</sup> The legislative history of CJP § 3-812(d) supports the interpretation that the statute imposes a mandatory obligation on the court. In *In re James G.*, 178 Md.App. 543, 943 A.2d 53 (2008), we reviewed in depth the background regarding the "reasonable efforts" requirement, and the significant changes made to federal law in 1997 based on concerns that children were lingering in foster homes for too long because agencies were "'engaged in excessive efforts to 'repair' hopelessly dysfunctional families'" and were "'being reunited with parents when it was not safe to do so in the name of reasonable efforts.'" *Id.* at 575-76, 943 A.2d 53 (quoting Kathleen S. Bean, *Reasonable Efforts: What State Courts Think*, 36 U. Tol. L.Rev. 321, 326 (2005)). The 1997 changes to federal law included a requirement that states, in order to receive federal subsidies, must provide for the waiver of the requirement that local departments make reasonable efforts to reunify the child with the parent under specified circumstances.

*The Coalition to Protect Maryland's Children*

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is reviewed by the Appellate Court of Maryland. Only after that process, which can last a year, are the parent's rights to the first child terminated.

In the scenario in which HB0048 seeks to address, the parent then abuses or neglects a second child to such a degree that that second child is removed and is also found to be a CINA. Only then can the Department seek to waive reunification efforts. This means that the parent who was unable to remedy the abuse or neglect of the first child, such that parental rights to the first child were terminated, has continued to not successfully address their problems, such that they have abused or neglected a second child and caused that child to also become a CINA. The Department's ability to waive reunification efforts in such a situation is not frequently used, but it is an important tool for protecting the siblings of abused and neglected children. This bill would remove that rarely used but important tool to protect abused and neglected siblings.

Moreover, taking away this ability of the Department to waive reunification efforts to the second child delays permanency for that second child. It is a fundamental principle of child welfare that having permanency in a child's life is essential for the developmental wellbeing of that child. If passed, this legislation would delay permanency, possibly for years. Because the waiver provision is intended to shorten a child's stay in care, where a parent has already received services before, without success, it is in children's best interests to permit the Department to file for waiver in CINA cases and for the court, in a TPR case to use this factor as a basis to terminate parental rights. Also, none of this precludes a parent from rehabilitating themselves by accessing services on their own.

It is important to note that HB0048 would also place a great burden on the resources of the courts. There will be many more contested TPRs if this bill is passed.

HB0048 is called the "Right to Fight Act". It appears that the bill title is an attempt to conjure an image of the parent fighting against the Department. However, it is usually the case that the Department will not proceed to request a TPR unless that is what the child also wants. Using the lens of child safety first, it appears that such a perspective is more about a fight of the parent against the state, not a fight for the safety, health, and wellbeing of that child. In addition, in some cases a contested termination of parental rights procedure will cause a child who has already been traumatized by abuse to be re-traumatized by having to testify in a contested TPR trial. HB0048 would therefore harm the "first child" by subjecting more "first children" to traumatizing contested TPR trials regarding subsequent cases about maltreatment of their siblings.

It is critical to maintain the juvenile court's ability to waive the Department's obligation of reunification efforts and for the circumstances to include the involuntary loss of parental rights of a sibling of the child. It is for these reasons that the Coalition to Protect Maryland's Children **urges an unfavorable report on HB0048.**<sup>2</sup>

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<sup>2</sup> Members of CPMC represented by this written testimony include the American Academy of Pediatrics - MD Chapter, Arrow Child and Family Ministries, Citizens Review Board for Children, Court Appointed Special Advocates (MD CASA), Court Appointed Special Advocates (Baltimore County), Maryland Association of Resources for Families and Youth (MARFY), Maryland Children's Alliance, Maryland Network Against Domestic Violence, National Association of Social Workers - MD, State Council on Child Abuse and Neglect, and individual members of the coalition.