

## Maryland Laws Regarding Abuse, Abandonment, Neglect and Best Interest of the Child

Updated September 26, 2019

### Child Abuse

**Physical Abuse** – Md. Code Ann., Fam. Law §5-701

- Physical injury of child under circumstances that indicate child's health or welfare is harmed or at substantial risk of being harmed

**Sexual Abuse/ Exploitation** – Md. Code Ann., Fam. Law §5-701

- Sexual molestation or exploitation: allowing or encouraging child to engage in pornography or similar activity, prostitution, incest, rape, sexual offenses, sodomy, unnatural or perverted sexual practices
- Sex trafficking: recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting child for purpose of commercial sex act

**Emotional Abuse** – Md. Code Ann., Fam. Law §5-701

- Mental injury of child under circumstances that indicate child's health or welfare is harmed or at substantial risk of being harmed

**Domestic Violence as Child Abuse** – Md. Code Ann., Fam. Law § 4-501(b)(2)

### Abandonment

**UCCJEA** - Md. Code Ann., Fam. Law § 9.5-101

- “abandoned” means left without provision for reasonable and necessary care or supervision

### Child Neglect

**Neglect** - Md. Code Ann., Fam. Law, § 5-701(s)

- “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:
  - that the child's health or welfare is harmed or placed at substantial risk of harm; or
  - Mental injury to the child or a substantial risk of mental injury.

### Domestic Violence Include Child Abuse

Parent-Child Relationship Covered by the Domestic Violence Statute? Yes

#### **Relationships Covered by State Domestic Violence Statutes:**

Family Law- Domestic Violence- Md. Code Ann., Fam. Law § 4-501

(m) “Person eligible for relief” includes:

- (1) the current or former spouse of the respondent;
- (2) a cohabitant of the respondent;
- (3) a person related to the respondent by blood, marriage, or adoption;

(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;

### **Acts That Constitute Child Abuse:**

Family Law- Domestic Violence - Md. Code Ann., Fam. Law § 4-501

(b)(1) “Abuse” means any of the following acts:

- (i) an act that causes serious bodily harm;
- (ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;
- (iii) assault in any degree;
- (iv) rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
- (v) false imprisonment; or
- (vi) stalking under § 3-802 of the Criminal Law Article.

(2) If the person for whom relief is sought is a child, “abuse” may also

### **Domestic Violence Protection Order Statutes**

Family Law- Domestic Violence- Md. Code Ann., Fam. Law § 4-505

(a)(1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse

### **Endangerment**

*Maryland’s endangerment statute includes all persons including children.*

**Reckless endangerment-** Md. Code Ann., Crim. Law § 3-204

(a) A person may not recklessly:

- (1) engage in conduct that creates a substantial risk of death or serious physical injury to another;
- or
- (2) discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another

### **Forced Marriage as Child Abuse: State Laws**

Md. Code Ann., Crim. Law § 3-1103 - Marriage trafficking.

(a) In general. -- A person may not knowingly:

- (1) take or detain another with the intent to use force, threat, coercion, or fraud to compel the other to marry any person;
- (2) receive a financial benefit or thing of value in relation to a violation of this subsection; or
- (3) aid, abet, or conspire with another to violate this subsection.

(b) Violation; penalties. -- A person who violates this section is guilty of the felony of forced marriage and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$ 15,000 or both.

(c) Venue. -- A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the victim.

### **Best Interest of the Child**

Through case law *Montgomery County v. Sanders*, 38 Md. App. 406 (1977), Maryland courts consider the following factors to determine the best interests of the child, among others:

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- fitness of the parents
- character and reputation of the parties
- parents' wishes and any agreement between them
- the potential for maintaining family relations
- child's wishes (if of suitable age and discretion)
- material opportunities affecting the future life of the child
- age, health, and sex of the child
- the residences of the parents and the opportunity for visitation
- the length of separation of the parents
- whether there was any prior voluntary abandonment or surrender of custody of the child

**MD Family § 9-101** - The court's discretion to determine custody is limited if there is evidence of abuse or neglect.

**MD Family § 5-323** - Maryland provides the following factors to determine whether terminating a parent's rights is in child's best interests:

- nature and extent of services offered to the parent before the child's placement
- parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests to be returned to parent's home
- extent to which the parent has maintained regular contact with child and caregivers
- parent's contribution to child's care and support, if the parent is financially able to do so
- parental disability
- whether additional services would be likely to bring about a lasting parental adjustment
- abuse or neglect of the child or a minor
- substance abuse
- conviction of crime of violence against any child or other parent of child, or aiding or abetting same
- involuntarily loss of parental rights to a sibling of child
- child's emotional ties with and feelings toward parents, siblings, and others who may affect the child's best interests
- the child's adjustment to home, school, community, and placement
- the child's feelings about severance of the parent-child relationship
- likely impact of terminating parental rights on child's well-being

### **More on the best interest of the child**

***Fairbanks v. McCarter*, 330 Md. 39. (1993)** - factors to determine grandchild's best interests for purposes of determining whether to award grandparental visitation rights

**MD Family § 5-525** - factors to determine determining the permanency plan that is in the best interests of child in an out-of-home placement

**MD Family § 5-3B-22, MD Family § 5-3B-16** - factors to determine whether it is in the best interests of a prospective adoptee to terminate a parent's rights by nonconsensual adoption