

February 15, 2024

The Honorable Luke Clippinger
Chair, Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB 644 - Family Law - Caretaker Bill of Rights - POSITION:
INFORMATIONAL ONLY**

Dear Chair Clippinger and Members of the Judiciary Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide a letter of information on House Bill 644 (HB 644). With offices in every one of Maryland's jurisdictions, we empower Marylanders to reach their full potential by providing preventative and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. Social Services Administration (SSA) within DHS implements the Child Protective Services (CPS) program, the operations of which are directly impacted by HB 644.

HB 644 proposes to require the Department to provide notice to the parent or caregiver upon initial contact during an investigation of specific rights, closely resembling the *Miranda* rights read to suspects who are interrogated while in police custody. The legislation requires us to inform the parent or caregiver with a series of the statements including: the parent is not required to speak to the investigator or sign documents without consulting an attorney; parents are informed of the allegations; statements made by the parent may be used against them in court; the investigator is not an attorney; and exercising these rights may result in the Department filing a petition for to remove children. House Bill 644 would also prohibit the Department from using any information received from an investigation should they violate any of these requirements in any judicial or administrative proceeding.

We recognize the importance of parents and caregivers understanding their rights and responsibilities during a child welfare response. In 2019, we implemented the Integrated Practice Model (IPM), which is a family centered, outcomes driven, and strengths-based approach to working with families. The IPM promotes collaboration with families, and treats families as the experts on themselves. In furtherance of those goals, we revised SSA's Parent's Guide in 2023 to incorporate much of the information HB 644 would require. The Parent's Guide is distributed to families at the initiation of a child welfare response in alignment with COMAR 07.02.04.04(E). We have included the Parent's Guide for Child Protective Services Investigations and Alternative Response with this testimony.



Our apprehension regarding HB 644 is not due to the bill's spirit of transparency, which we share. We are concerned about how the requirements would be implemented because it would compel us to mirror law enforcement's language, could create a more contentious engagement, and the required statements create ambiguities. Our family centered practice requires us to use trauma-informed language with our clients. Requiring the Department to use the framework of *Miranda*, such as "the right to remain silent" and "the right to an attorney," positions the Department as an adversary rather than a partner. As written, the ambiguities and contradictions in HB 644 will likely cause confusion for families and the courts, impeding us from engaging with families to connect them with services and plans for safety, which are the Department's best tools to support families in need and prevent family separation.

We have not been presented with data supporting the need for a notice of rights in addition to what is currently provided. Maryland has the second lowest foster care entry rate in the nation at 1.1 per thousand children¹ and the second lowest rate of disproportionality at 1.9 per thousand of Black or African American children entering foster care.² Few states pass legislation resembling HB 644. The states with laws similar to HB 644 do not outperform Maryland on these key metrics. Maryland's family centered practice model is working for families by engaging collaboratively with parents and caregivers in planning for their children's safety.

We appreciate the opportunity to provide the aforementioned information to the Committee for consideration during your deliberations. We look forward to the decision of the Committee and welcome continued collaboration on HB 644.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at rachel.sledge@maryland.gov.

In service,



Rafael López
Secretary

¹ [The Children's Bureau Child Welfare Outcomes Data By State](#)

² [The Children's Bureau, State-Specific Foster Care Data 2021](#)



HOW ARE COMPLAINTS HANDLED?

If you have any complaints or encounter an issue with CPS, have an open discussion with your CPS worker. Often, having this conversation can resolve your issues. If you have a complaint about any other aspect of your interaction with CPS staff, you may ask to speak to your worker's supervisor or contact the Constituent Services Office of the Maryland Department of Human Services.

CAN I APPEAL A LOCAL DEPARTMENT'S FINDING?

Yes. At the conclusion of a CPS investigation, the local department will provide you with a written notice that the report of abuse, neglect, or mental injury was "ruled out," "unsubstantiated," or "indicated." If you disagree with a finding of "indicated" (more likely or not that abuse or neglect occurred), or the conclusion that you are responsible for the abuse or neglect, you may request a hearing at the Maryland Office of Administrative Hearing.

If you disagree with a finding of "unsubstantiated" some evidence that a child was abused or neglected, you will be offered a conference with a local department supervisor to discuss the finding and provide any additional information.

If you are dissatisfied with the outcome of the conference, you may request a hearing at the Maryland Office of Administrative Hearings.

The local department will provide you with the necessary forms and information to request a hearing and pay the appropriate fees at the Maryland Office of Administrative Hearings.

Hearings at the Maryland Office of Administrative Hearings provide you with a fair process to present evidence to contest a finding of "indicated" or "unsubstantiated" child abuse or neglect. The goal of these hearings is to safeguard the rights of all parties involved.

HOW IS MY CONFIDENTIALLY PROTECTED?

CPS records in Maryland are kept confidential to protect the privacy and safety of the children and families involved. CPS ensures the confidentiality of CPS records in several ways:

Limited access:

- CPS limits who may access a CPS record to authorized personnel directly involved in a case, such as a caseworker, a supervisor, or another professional working on your child's behalf.

Legal protections:

- State laws and regulations have specific provisions to maintain the confidentiality of CPS records; the unauthorized disclosure of CPS records may have legal consequences.

Redaction and de-identification:

- Before sharing records with individuals who may have legal access to CPS records, CPS may redact, or take out, personal identifiers and sensitive information.

Secure storage:

- CPS records are typically stored in secure databases or physical locations that prevent unauthorized access.

Limited sharing:

- CPS may legally refuse to share CPS records with persons who are permitted by law to see CPS records, such as law enforcement, courts, or service providers, unless CPS finds that they have a legitimate need to view a particular record.

In certain specific situations, CPS may be ordered to disclose records to certain persons if the law requires it or a court mandates it. In these situations, disclosure has been found to be necessary for the safety and well-being of a child. Nonetheless, confidentiality remains a paramount concern in child welfare cases in Maryland and across the United States.

CONTACT INFORMATION

If you have any questions or concerns about CPS or a related matter, please reach out to your CPS worker who is trained to help you.

Your worker's name : _____

Your worker's phone number and email address:

Your worker's supervisor :

Your worker's supervisor's phone number and email address: _____

CASE TYPE

- Investigation
- Alternative Response
- Other _____

Parent's Guide for Child Protective Services

Investigations and Alternative Response



WHAT IS CHILD PROTECTIVE SERVICES?

Child Protective Services (CPS) is a specialized unit in your local department of social services whose job is to ensure the safety and well-being of your children while providing you with support and guidance. CPS staff respond to reports of possible child abuse or neglect and are trained to assess these situations with care and understanding.

WHO REPORTS ABUSE/NEGLECT?

Maryland law identifies certain professionals as “mandatory” reporters, meaning that they are required by law to report suspected child abuse or neglect. Mandatory reporters include doctors, nurses, police officers, educators, and human services workers. Local departments of social services also accept reports from community members who have concerns about child abuse or neglect.

IS THE NAME OF THE PERSON WHO REPORTED ABUSE OR NEGLECT PUBLIC INFORMATION?

No. By law, the identity of a person who reports suspected child abuse or neglect is confidential unless a court specifically orders its release. Most reports are made by people genuinely concerned about a child’s well-being and a family’s welfare; sharing a reporter’s identity could discourage reporting.

WHAT HAPPENS IN AN INVESTIGATION?

A CPS investigation is not a criminal investigation. An investigation focuses on whether your child has been abused or neglected, who may be responsible, whether your child is safe, and what services are appropriate. CPS staff may work with local law enforcement if the severity of the situation or concern for worker safety calls for it. Only the police, and not child protective services, can make arrests and pursue a criminal case. A CPS investigation by law, should be closed after 60 days.

WHAT IS AN ALTERNATIVE RESPONSE?

An Alternative Response is different from an investigation. An Alternative response is an option CPS staff have for handling a low-risk report of child abuse or neglect where your family has had little to no previous CPS history. In an Alternative Response, CPS staff do not formally determine whether your child was abused or neglected. Instead, staff focus on what is needed to keep your child safe.

The first step of an Alternative Response is a conversation with your family about safety concerns raised in the report. Then, CPS will recommend strategies that you can use in the home

to ensure your children’s safety and well-being. Staff will also make referrals to any community resources that can support your family after the Alternative Response is complete.

If during the Alternative Response, staff identify safety concerns that cannot be addressed through safety planning and community referrals, a traditional investigation may be necessary.

Information from an Alternative Response DOES NOT have any effect on a CPS background clearance. Furthermore, any records related to an Alternative Response are expunged three years after the report. This period may only be extended if CPS receives another report concerning the same person named in the prior report.

WHAT RIGHT DOES CPS HAVE TO GO TO MY HOME?

CPS staff are required by law to promptly and thoroughly address allegations of child abuse, neglect, or mental injury. Staff visits the home to assess the situation, evaluate family functioning, and ensure a child’s safety and well-being.

WHAT RIGHT DOES CPS HAVE TO REQUIRE A MEDICAL EXAMINATION?

If your child’s health requires immediate medical attention, CPS staff or law enforcement are permitted by law to take your child to a doctor, hospital, or clinic for examination and treatment without your consent.

WHAT HAPPENS IF, DURING AN INVESTIGATION, CPS STAFF FIND NO ABUSE, NEGLECT, OR MENTAL INJURY?

If CPS staff conduct a thorough investigation and find no evidence of abuse, neglect, or mental injury, they will close the case. Any information gathered during the investigation will be automatically discarded after two years, and CPS will have no further involvement unless they receive a new report. If an assessment or investigation suggests that your family could benefit from services to promote your child’s safety and well-being, staff may recommend supportive services.

If CPS staff find evidence during their investigation that your child was abused, neglected, or has a mental injury, their primary responsibility is the safety and well-being of your child. CPS will determine what action to take depending on the severity of the situation and your willingness to accept services. Steps taken to protect your child and support your family may include:

Supportive Services:

■ CPS may offer or connect you with various support services, such as counseling, parenting skill building, substance abuse treatment programs, or other assistance programs. These services are intended to address your circumstances and provide your family with the necessary resources to care for your child.

Written Safety Plan:

■ You and the CPS worker will collaborate to create a safety plan. This plan outlines steps you agree to take to ensure your child’s safety and prevent further harm. One step may be to have you identify a relative or neighbor who is willing to temporarily care for your child. However, this plan can only be put in place with your agreement and does not affect who has legal custody of your child.

Legal Intervention:

■ If necessary, CPS may involve a court to obtain legal orders to protect your child. A court may order supervision of your family or removal of your child from an unsafe environment. If the court removes your child, you will have the ability to obtain a lawyer to represent you for free or at a reduced rate through the public defender’s office. A lawyer, not affiliated with DSS will be appointed to represent your child’s interests. The local department of social services will have its own lawyer.

Ongoing Support:

■ After CPS addresses immediate concerns, staff may refer you to an agency-based service to ensure that, after the investigation is complete, your family has support to sustain a safe and nurturing environment for your child.

CPS’s ultimate goal is not to punish you or your family but to promote the safety and well-being of your children. Staff work diligently to address underlying issues and assist you in becoming safer caregivers so that your child grows up in a safe and loving environment.

If you or your child is a member of a federally recognized tribe, you may have additional rights under the Indian Child Welfare Act. You may reach out to your tribe or to CPS for more information.

WHAT HAPPENS IF I DISAGREE THAT CPS NEEDS TO BE INVOLVED?

If your family and CPS staff disagree about whether CPS needs to intervene, the local department may refer the matter to a court for resolution. In such cases, a judge will decide whether an intervention is appropriate and may order your family to cooperate with CPS to address specific concerns.