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POSITION ON PROPOSED LEGISLATION

BILL: HB 644 Family Law – Caretaker Bill of Rights

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/13/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 644, which requires the State to inform parents and other legal caregivers, of the rights they have when they are being investigated for alleged abuse or neglect by the Department of Social Services (DSS) or law enforcement agency. This bill harms no one; instead it benefits every parent, guardian, or custodian, and, by extension, their children.

I have been an Assistant Public Defender for 24 years, and presently am the Chief of the Parental Defense Division (PDD). The PDD represents parents and guardians who have had, or are at risk of having, their children taken away by the State. I personally have represented approximately 500 parents and guardians in these situations.

When parents are investigated by DSS, a caseworker knocks on their door and announces that someone has reported their children have been abused or neglected. The report may or may not be true. The identity of the reporter remains anonymous. The family that is being investigated is subject to a search of not only their house, but their dresser drawers, refrigerator, medicine cabinets, closets, beds, and just about every personal space a person can have in their home. DSS can ask about the family's medical history, mental

health status and treatment, medication, and living habits. Parents are asked about their past and present sexual partners and romantic partners. Their children are taken into another room and questioned and visually inspected. For the average citizen, it would be highly intrusive for a visiting relative to perform these actions; imagine how shocking to the conscience it is to have a complete stranger doing these things.

It is frightening to have a stranger who is armed with the authority of the government to intrude in a family's home in this manner. Parents almost always feel powerless, and even more so when they are told that the stranger has the authority to take their children away – even newborn babies – and place them with strangers in foster care. Under these extremely stressful circumstances, parents may do whatever it takes to make sure DSS doesn't take their children, so they allow state agents into their house, disclose confidential medical information, share intimate details of their lives, or sign an agreement to give custody of their children to someone else. Parents allow these things because they do not know they have the right not to allow a stranger into their house or that they have the right to consult with an attorney before signing any binding agreements.

House Bill 644 does not dilute the power and authority of the State in any way. DSS caseworkers and law enforcement officers can still do everything they can do now. The only difference is that at the moment of first contact, the caseworker or law enforcement officer has to advise parents, custodians, and guardians of their rights. It need not be a long or complicated process, and the OPD can help write a short advice of rights that DSS can provide to parents. If the child is in serious imminent harm, DSS and the police can enter the home to get the child out. This advice of rights will improve relations between

citizens and DSS because parents will not feel railroaded by DSS. Parents will act not out of fear and ignorance of the law, but with a better understanding of how they can provide better care for their children. It does no good to have rights to protect citizens if the citizens are not informed of those rights. HB 644 will help to create a better-informed community.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 644.

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

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