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DEPUTY MAJORITY WHIP

Judiciary Committee

Subcommittees

Chair, Family and Juvenile Law

Public Safety



The Maryland House of Delegates
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 15, 2024

The House Judiciary Committee
The Honorable Luke Clippinger
6 Bladen Street,
House Office Building, Room 101
Annapolis, MD 21401

Re: House Bill 644: Family Law-Caretaker Bill of Rights

Dear Chairman Clippinger and Members of the Committee:

For decades now, “Miranda Rights” have laid the foundation for protecting someone’s Constitutional rights during a criminal investigation. However, these protections are nonexistent for parents or guardians who are involved in child welfare investigations, even though there are many similarities between the intrusive nature of a criminal investigation and a child welfare investigation.

HB644 will require that the department of social services or law enforcement provide to parents or guardians notice of their rights prior to the commencement of a non-emergency child welfare investigation resulting from alleged abuse or neglect. Also, known as “Miranda Rights” for parents. Miranda Rights will be given to parents or guardians both orally and in writing to explain the details of the proceedings; including rules; and their rights to cooperate or decline any requests during an investigation.

Caseworkers are permitted to do broad, sweeping searches of parent’s homes in the name of child safety. However, the invasiveness of these searches generates more trauma and long-term consequences for the children and family unit. Especially since most of these investigations do not find any evidence of child maltreatment. By requiring that caseworkers provide parents under investigation with clearly delineated rights, we are taking the first step in a direction towards mitigating institutional harm.

Child welfare investigations are often initiated with a much lower standard of suspicion than criminal investigations, and the majority of them yield no findings of child abuse or neglect.¹ Yet, homes and even bodies are being searched unfettered, day in and day out, in blatant violation of both parents' and children's constitutionally protected right to privacy and family integrity.

Caseworkers doing investigations not only have the authority to search far outside of the scope of the allegations being investigated, they are also permitted to "strip search children" during their scrutiny into someone's private life under the threat of separating children from their families if parents and caretakers do not cooperate.² In Maryland in 2021, 21,367 children were the subjects of child welfare investigations, of those children investigated, approximately 15,000 (71%) of the children investigated had their cases closed with no evidence of abuse or neglect. Of the approximately 6,000 children who had allegations substantiated 60% (approximately 3,718) were found to have experienced some form of neglect. Of which the majority would remain in the home and families would receive services through alternative response.³ This means that most families that were investigated were unnecessarily subjected to invasive searches without being informed of their rights beforehand. The harms of this kind of intrusive investigation by case workers outweigh the purported goals of keeping children safe.

Further, a child welfare investigation often directly involves police. Caseworkers enlist the help of law enforcement to both enter the home and conduct the investigation, especially when parents refuse entrance into their homes.⁴ While police officers are not able to enter and search the home of a criminal suspect without a warrant in a criminal matter, these same police can enter the home, assist the worker in searching the home, question parents and use force to remove a child without a warrant and without advising the parent of their rights while on a call for an investigation.

Absent proper Miranda warnings and advisement, parents' rights are further violated in that any evidence collected during a child welfare investigation is automatically forwarded to the State's Attorney's Office under COMAR. Anything that caseworkers find during these investigations may be used to leverage criminal prosecution against the adults in the home.

Requiring caseworkers to inform parents of their rights holds the workers accountable to their actions and creates a means by which individuals can protect themselves against broad, warrantless, and unnecessary searches.⁵ It protects children from the trauma that comes from the threat of being removed from a loving home and allows parents to make informed decisions to keep their children and families safe. Additionally, because these systems disproportionately impact black and brown families and their children, it is even more important to enact legislation that protects the marginalized and vulnerable members of our community.⁶ Statistically it is

¹ <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

² [NY Times](#)

³ <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html>

⁴ <https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>

⁵ [Family Court Justice: Miranda Rights for Families | NYU Wagner](#)

⁶ *Id.*

projected that by the age of 18, 53% of all black children nationwide will be subject to a child welfare investigation.

Those who are against implementing “Miranda Rights” for parents claim that it will prevent workers from being able to do necessary searches and will jeopardize the safety of children.⁷ However, In a Pro Publica article published earlier this year, Connecticut, one of the first states in the country to experiment with this issue, has proven that providing parents with “Miranda Rights” actually helps investigations go more smoothly.⁸ According to the deputy commissioner of operations at the Connecticut Department of Children and Families, “there has been no negative impact on child safety” and the “greater transparency... [brings] down the anxiety of the interaction” during the initial investigation.⁹ Texas has also followed suit and they passed their own “Miranda Rights” for parents Bill just last year.¹⁰ In 2023, a similar Bill, Senate Bill S901, was introduced in New York and passed just weeks ago. And Delaware has also introduced similar legislation.¹¹

I respectfully request a favorable report for House Bill 644 with the amendment.

Sincerely,

A handwritten signature in black ink that reads "Charlotte Crutchfield". The signature is written in a cursive, flowing style.

Delegate Charlotte Crutchfield

⁷ <https://hrlr.law.columbia.edu/files/2023/03/Newport-Finalized-5.23.23.pdf>

⁸ <https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>

⁹ *Id.*

¹⁰ <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00730F.pdf#navpanes=0>

¹¹ <https://gothamist.com/news/nyc-parents-facing-child-welfare-investigations-set-to-get-rights-notice>