

Support HB 644

Family Law – Caretaker Bill of Rights Testimony of Shanta Trivedi, Esq.
Tuesday, February 13, 2024
House Judiciary Committee

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

I am an Assistant Professor at the University of Baltimore School of Law where I teach courses on Family Law and the Child Welfare System and write on child welfare issues, particularly as it affects low-income and minority families. I have also represented parents in the child welfare system, who were trying to prevent the removal of their children or were fighting to reunify. In addition, I serve as the Faculty Director of the Sayra and Neil Meyerhoff Center for Families, Children, and the Courts (CFCC). CFCC envisions communities where children and families thrive without unnecessary involvement in the legal system. We engage communities in all that we do to work towards transforming systems that create barriers to family well-being. **We urge you to support HB644.**

HB644 clarifies that basic constitutional protections apply in child welfare investigations. It requires that child welfare and law enforcement agents advise parents of their rights upon commencement of an investigation, allowing them to make informed decisions throughout the investigation process. It also adds an enforcement mechanism when the state fails to respect these rights.

In 2021, 21,234 of Maryland’s children and their families were subjected to a child welfare investigation. After investigation, the Department of Social Services (DSS) concluded that there was maltreatment in only 27 percent of those cases.¹ Thus, almost 75 percent of those children were subjected to unnecessary intrusions into their lives. Investigations, even if they do not lead to a removal, can cause extreme harm to children. Children are awakened in the middle of the night by strangers, they are asked deeply intrusive questions about their parents and the intimate details of their lives, they are often asked about sex, sometimes hearing words related to sexual activity for the first time. They are asked to remove their clothing so that these strangers can inspect their naked bodies for marks and bruises, even when there are no allegations of physical harm. Child protective services CPS investigators pull children out of their classrooms to question them, alerting their peers and educators to the fact that they are part of a child welfare investigation causing deep humiliation.² And throughout all of this, these children understand that the threat of removal is ever-looming and at any moment, they could be taken from their parents.

These harms do not impact all children equally. The consequences of an investigation fall disproportionately on those most marginalized. Nationally, Black families are more likely to be reported to CPS, more likely to be investigated and more likely to ultimately be separated. Once removed, Black children spend longer times in foster care, are less likely to be reunified with their families and thus, are more likely to have their legal relationships with their parents terminated.³

Other provisions of law already allow DSS and law enforcement to enter a home and take a child into custody if they believe a child is in true danger. But in non-emergency situations, HB644 allows parents to understand

¹ State-Level Data for Understanding Child Welfare in the United States, Child Trends, <https://www.childtrends.org/publications/state-level-data-for-understanding-child-welfare-in-the-united-states>

² See e.g. HINA NAVEED, HUMAN RIGHTS WATCH, IF I WASN’T POOR, I WOULDN’T BE UNFIT: THE FAMILY SEPARATION CRISIS IN THE US CHILD WELFARE SYSTEM 63 (Nov. 17, 2022) available at <https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare> (“A caseworker visited the children’s school and pulled them from class to question them, came to the home unannounced, and randomly strip searched the children, ages 1, 4, 7, 9, and 10, to check their bodies for signs of abuse. Adaline said these visits were so frightening for her children that her youngest child began screaming every time she saw anyone with a badge.”)

³ *Child Welfare Practice to Address Racial Disproportionality and Disparity*, Child Welfare Gateway, https://cwig-prod-prod-drupal-s3fs-us-east1.s3.amazonaws.com/public/documents/racial_disproportionality.pdf?VersionId=7LTDL0gwLvXg1T1OYzJONN9hX_PfeL2D

their rights during a terrifying experience for everyone involved. It gives parents the power to protect their children from the harmful effects of an unnecessary investigation based on their assessment of the allegations against them. Importantly, it provides them the opportunity to consult with an attorney to determine the best course of action.

The goal of the child welfare system is to protect children. Because this bill is an important step in ensuring that Maryland's children do not experience unnecessary harm at the hands of the very institution charged with safeguarding their well-being, **I urge you to issue a favorable report on HB644.**