

Support (FAV) HB644

Family Law - Caretaker Bill of Rights

Testimony of Stephanie K. Glaberson, JD, LLM, 500 1st St. NW, Washington, DC 20001

Tuesday, February 13, 2024

House Judiciary Committee

Dear Del. Clippinger and Members of the House Judiciary Committee:

I am a Maryland resident, voter, and parent. I am also a researcher on data, privacy, civil rights, and child welfare, among other issues, and I previously worked as an attorney with Brooklyn Defender Services' Family Defense Practice in New York, representing parents in New York's equivalent to Child in Need of Assistance (CINA) proceedings. As part of my work, I have studied Maryland's CINA legal scheme. **I submit this testimony in strong support of HB644.**

Child welfare investigations are incredibly common, but disproportionately impact families of color, poor families, and families with disabled members. Each year Maryland's Department of Human Services receives approximately 50,000 referrals, triggering investigations of between 20,000 and 30,000 children's families each year.¹ Notably, fewer than 30% of the children investigated by Maryland authorities were ultimately deemed "victims" in 2021.² While I could not locate Maryland-specific data on investigations broken out by race while preparing this testimony, nationally families of color, poor families, and families with disabled members are at starkly higher risk of experiencing an investigation than their peers. Studies consistently show that approximately half of all Black children will experience an investigation by the time they turn 18, with rates in some counties as high as 62.8%.³ Similarly, numerous studies have documented that parents with disabilities "have higher rates of child welfare involvement and worse outcomes than their non-disabled peers," and that this disparate impact starts with "initial referrals to child welfare."⁴ For example, a 2019 national survey found that "parents with psychiatric disabilities were eight times more likely to have contact" with the system than parents without a disability.⁵

Child welfare investigations are also invasive, destabilizing, traumatic, and often violate families' rights. Child welfare investigations often start with a knock on the door. Agents of the state enter families' homes, search through their refrigerators and cabinets, separate and interview parents and children, and often remove children's clothing to check for marks and bruises. This experience can be incredibly traumatic for those who experience it, and regardless of whether the investigation continues, can stick with parents and children long after. Child welfare investigations also are conducted in a manner that routinely violates families' Fourth Amendment rights. Authorities virtually never secure warrants to conduct the highly intrusive searches made in the course of their investigations. A recent ProPublica investigation found that New York City's Administration for Children's Services, for example, had obtained an equivalent Family Court order in only 0.2% of cases.⁶ In nearly 99.9% of investigations, these government actors relied on coerced "consent" to gain entry into families' homes, or claim various exceptions to the warrant requirement.⁷ However, there is compelling evidence to suggest that reliance is misplaced. The "consent" CPS agents secure to search homes and seize children frequently is given by parents who are unaware of their rights and fearful of the consequences of defying the CPS agents - sometimes accompanied by armed police - on their doorsteps.

HB644 is a necessary step toward protecting Maryland families' rights. Indeed, it is the bare minimum. HB644 does not create new rights, it merely places the burden of informing parents facing an investigation of the rights they already have on the investigating agency, where it should be. **I therefore urge you to issue a favorable report on HB644.**

¹ Children's Bureau, Child Maltreatment 2021 8 (2023) <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2021.pdf>

² *Compare id.* at 30 with *id.* at 34.

³ FRANK EDWARDS ET AL., CONTACT WITH CHILD PROTECTIVE SERVICES IS PERVASIVE BUT UNEQUALLY DISTRIBUTED BY RACE AND ETHNICITY IN LARGE US COUNTIES (2021), <https://www.pnas.org/doi/epdf/10.1073/pnas.2106272118>.

⁴ Sharyn DeZelar & Elizabeth Lightfoot, *Who refers parents with intellectual disabilities to the child welfare system? An analysis of referral sources and substantiation*, 119 *Child. & Youth Servs. Rev.* 105639 (2020);

⁵ Robyn Powell, *Achieving Justice for Disabled Parents and Their Children: An Abolitionist Approach*, 33 *Yale J. L. & Feminism* 37, 62 (2022) (citing Katy Kaplan et al., *Child Protective Service Disparities and Serious Mental Illnesses: Results from a National Survey*, 70 *Psychiatric Services* 202, 204 (2019)).

⁶ Eli Hager, *Police Need Warrants to Search Homes. Child Welfare Agents Almost Never Get One*, ProPublica (Oct. 13, 2022), <https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>.

⁷ *Id.*