



## Testimony for the House Judiciary Committee

February 15, 2024

### HB 644 - Family Law - Caretaker Bill of Rights

#### FAVORABLE

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The American Civil Liberties of Maryland urges a favorable report on HB 644, which would require that parents and guardians are informed of their rights during a child welfare investigation.

The rights outlined in HB 644 already exist. However, many people do not know what their legal rights are during a child welfare investigation. Moreover, many people do not know that if they choose to exercise these rights, there may be serious consequences, including the potential removal of the child from the home. This bill ensures that parents and legal guardians faced with a child welfare investigation can move through the process as informed as possible. The bill also includes an exclusionary rule which bars evidence found in violation of the statute from being used in judicial and administrative proceedings that could arise from the investigation.

#### **The Child Welfare System Disparately Impacts Historically Underserved Communities**

The child welfare system in the United States disproportionately investigates and removes Black and Indigenous children and those living in poverty.<sup>1</sup> Nationally, Black families experience disproportionate involvement in the child welfare system, with higher rates of investigation, removal from their parents, and termination of parental rights compared to white children.<sup>2</sup> One study estimates that over 50% of Black children will experience a child protective services investigation by the time they are 18.<sup>3</sup> Indigenous parents are up to four times more likely to have their children taken than their non-

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<sup>1</sup> Alan J. Dettlaff and Reiko Boyd, "Racial Disproportionality and Disparities in the Child Welfare System: Why Do They Exist, and What Can Be Done to Address Them?", *The ANNALS of the American Academy of Political and Social Science*, vol. 692, no. 1 (2020): accessed October 24, 2022, doi:10.1177/0002716220980329

<sup>2</sup> <https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/racial-discrimination-child-welfare-human-rights-violation-lets-talk-about-it-way/#:~:text=Over%2050%20percent%20of%20Black,the%20rate%20of%20white%20children>

<sup>3</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5227926/>

Indigenous counterparts.<sup>4</sup> Additionally, 4.9% of white children will experience foster care placement before their eighteenth birthday, compared to 15.4% of Native American children and 11% of Black children.<sup>5</sup> Both of these groups are historically underserved and experience disproportionately high rates of poverty. Conditions of poverty are often deemed indicators of neglect and are the main reason for child welfare agency involvement and removal in the majority of cases nationwide. In Maryland, Department of Human Services listed indicators of neglect include many symptoms of poverty.<sup>6</sup> Additionally, COMAR definitions of neglect are extremely vague.<sup>7</sup>

While Child Protective Services may be well intentioned, there is a high degree of subjectivity in these investigations. Additionally, because the welfare of a child is in question, the stakes are incredibly high for both investigators and families. Parents, in the spirit of being cooperative, may not know that they have certain rights during the process and may be too fearful to ask. While cooperation is encouraged and non-cooperation can have serious impacts, this should not preclude parents from being advised of their rights.

For the foregoing reasons, we urge a favorable report on HB 644.

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<sup>4</sup> <https://www.hrw.org/news/2022/11/17/us-child-welfare-system-harms-families>

<sup>5</sup> <https://cssp.org/wp-content/uploads/2018/11/CSSP-Entangled-Roots.pdf>

<sup>6</sup> <https://dhs.maryland.gov/child-protective-services/reporting-suspected-child-abuse-or-neglect/signs-neglect-abuse/>

<sup>7</sup> <https://dhs.maryland.gov/child-protective-services/reporting-suspected-child-abuse-or-neglect/what-is-child-abuse-and-neglect/#:~:text=The%20failure%20to%20give%20proper,injuries%20are%20sustained%20or%20not.>