

# **HB644 written testimony.pdf**

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Position: FAV



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

**House Bill 644**

**Family Law-Caretaker Bill of Rights**

In the House Judiciary Committee, Hearing on February 15, 2024

**Position: FAVORABLE**

*Maryland Legal Aid (MLA) submits its written and oral testimony on HB 644 at the request of Delegate Crutchfield.*

Thank you for the opportunity to present testimony in support of HB 644, a bill that will provide notice to a child's parent or caretaker of their basic rights and protect them from invasive warrantless searches during an investigation of suspected child abuse or neglect. Maryland Legal Aid (MLA) is Maryland's largest non-profit law firm, with 12 offices serving each of Maryland's 24 jurisdictions, providing free civil legal services to the state's low-income and vulnerable residents. Our advocates represent parents and caretakers who are faced with suspected child abuse and neglect investigations and who are not aware of their basic rights during these investigations. As an organization that also represents children in CINA cases, we understand the impact and importance of CPS investigations, and believe this bill strikes an appropriate balance between the state's important role in protecting children, while respecting the fundamental privacy rights of all Marylanders. As the only organization in the state with this 360-degree perspective of the system, MLA strongly supports this bill's requirement that parents and caretakers be informed of their rights, including the right to consult an attorney. Therefore, we ask this committee to grant House Bill 644 a favorable report and urge its ultimate passage.

HB 644 requires Department of Social Services (DSS) agents to provide a child's parent or caretaker with oral and written notice of their basic rights during a child abuse or neglect investigation, in a language that they understand. MLA's clients are often subjected to unwarranted government intrusion into their homes, including by DSS. The bill will require DSS to inform a child's parent or caretaker of the allegations against them. DSS workers will also be required, at initial contact, to inform parents and caretakers of their rights, including their right to consult with a lawyer prior to or during the investigation, and except when ordered by a court, to refuse entry into their home, to deny requests to interview or physically examine their children, and to refuse to submit to substance abuse or mental health screens.

Currently, DSS often enters our clients' homes without their consent and without informed notice of the allegations against them. Our clients often do not have time to consult a lawyer before DSS enters – and are unaware of their right to do so. This bill would only allow DSS to enter and search a home only if they receive informed consent from the parent or caretaker, receive a court order, or obtain a warrant based on probable cause. Maryland law currently allows a DSS representative to enter a home without consent if they are accompanied by law enforcement and have probable cause to believe that a child is in serious, immediate danger, and this bill does nothing to change that. Therefore, this bill effectively balances the

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rights of parents and caretakers to feel secure in their homes and persons, and the government's interest in legitimate, constitutionally compliant investigations.

HB644 does not sacrifice children's safety. This bill does not eliminate DSS's access to homes, it gives parents or caretakers notice of their due process rights – rights that already exist under the law but are often not invoked because of the intimidating nature of the investigations and the understandable desire of anxious parents to seem compliant. This bill prevents further vulnerability for already vulnerable families.

DSS investigations can fundamentally alter family relationships and trust.<sup>1</sup> Worse yet, most DSS investigations result in a finding that the allegations of abuse or neglect are unsubstantiated. In 2021, DSS investigated over 21,000 allegations of child maltreatment and in 71% of those cases, allegations of abuse were found to be *unsubstantiated or ruled out entirely*.<sup>2</sup> This makes it all the more important to require these state actors to follow the rules.

By passing this bill, Maryland will join other states around the country who have passed similar bills in recognition of the invasive nature of CPS investigations. In May 2023, Texas passed HB 730, which is substantially similar to the language of the instant bill and requires the department to give a parent notice of their rights during a CPS investigation, including the right to refuse entry to the home, consult with an attorney, and be apprised of the allegations against them. That law went into effect in September 2023, as did SB 1186 in Arizona which also enshrines a parent's rights during an investigation into Arizona law. In October of 2023, New York City launched a pilot program, identifying certain neighborhoods where notice similar to that required by HB 644, will be given to parents and caretakers at the onset of an investigation.

Lastly, just like HB 730 out of Texas, HB 644 requires the exclusion of any evidence obtained during these investigations if proper notice is not given. This assures compliance with these provisions and prevents further violations of a child's parent and caretaker's rights.

While we applaud the goals of HB 644 and urge its passage, we hope that in the near future, Maryland will consider going even further. It is, unfortunately, not uncommon for the person alleged to have caused harm to a child to be a minor themselves, often a family member or neighbor. Currently, Maryland law does not recognize, nor protect, the rights of minors or their parents being investigated for alleged misconduct.

In sum, this bill codifies and protects the fundamental due process rights of parents and caretakers. It also prevents overreach by and creates accountability for government overreach into our families—an issue that should unite Marylanders across the political spectrum. Thank you for considering this written testimony. **For the reasons stated above, MLA urges a favorable report on HB 644.** If you have any questions, please contact me at:

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<sup>1</sup> Shanta Trivedi, *The Harm of Child Removal*, 43 NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE 523 (2019).  
[https://scholarworks.law.ubalt.edu/all\\_fac/1085](https://scholarworks.law.ubalt.edu/all_fac/1085)

<sup>2</sup> Children's Bureau An Office of the Administration for Children & Families  
<https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/maryland.html#footnote1>

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# **Del Charlotte Crutchfield Testimony for HB 644 Fam**

Uploaded by: Charlotte Crutchfield

Position: FAV

CHARLOTTE A. CRUTCHFIELD, ESQ.  
*Legislative District 19*  
Montgomery County

DEPUTY MAJORITY WHIP

Judiciary Committee

*Subcommittees*

Chair, Family and Juvenile Law

Public Safety



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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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> Statistically it is

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

<sup>2</sup> [NY Times](#)

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

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

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

<sup>6</sup> *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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> Texas has also followed suit and they passed their own “Miranda Rights” for parents Bill just last year.<sup>10</sup> 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.<sup>11</sup>

**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

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

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

<sup>9</sup> *Id.*

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

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



# **OPD Testimony HB 644 Family Law - Caretaker Bill o**

Uploaded by: Maria Nenutzka Villamar

Position: FAV



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

### 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.

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

Authored by: Nena C. Villamar, Chief of Parental Defense Division,  
[nenavillamar@maryland.gov](mailto:nenavillamar@maryland.gov), 410-458-8857.

# **HB644 Testimony.pdf**

Uploaded by: Natasha Khalfani

Position: FAV



**NATASHA DARTIGUE**  
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CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 0644 Family Law- Caretaker Bill of Rights**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 02/13/2024**

**The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 0644.**

House Bill 0644 will require a Child Protective Service (CPS) Worker who is investigating a parent or guardian for allegations of abuse or neglect to advise parents of their rights upon their first contact with the parent and prior to initiating the investigation.

House Bill 644 is an important bill. The purpose of this bill is to protect parents and children from the unrestricted powers of Child Protective Services (CPS). When allegations of abuse or neglect are called into the CPS hotline, case workers are sent out to the child's home to investigate those claims. However, unlike police officers with warrants and court orders, case workers have nothing in hand to give them the authority to enter, or limit the reach of their power once they enter a family's home. These workers are given free range by the government to enter and search peoples' homes, disrupt their lives and examine alleged victim children's bodies before determining whether there is any credible evidence that the allegations are true or that the abuse or neglect has occurred. Social workers, or often case workers (workers who are not licensed social work professionals), frequently fail to inform parents why they are being investigated before attempting to force their way into parents' homes. And if parents refuse entry, the police are often called, and parents are threatened that they must consent to the search or face removal of their children. During this process parents are asked to take drug tests, provide personal information and documentation and sign agreements regarding the care of their children without being advised of their rights or being able to speak with an attorney.

This bill derives from the Miranda Rights warning required in criminal matters as a result of *Miranda v. Arizona*<sup>1</sup> (Miranda). Miranda requires that any person taken into police custody and interrogated by the police has to be informed of their rights to remain silent and their right to counsel. The Supreme Court found it necessary for Miranda Rights to be put in place as a procedural safeguard to protect against self- incrimination and compulsion. The law requires people to be informed that they do not have to speak to police and that they have a right to counsel to protect against in custody interrogations that may result in compulsory confessions. While parents face the same threats of self- incrimination and compulsion while being investigated by CPS, the requirement that a parent be informed of their rights prior to any form of questioning has never been codified.

The court in *Miranda v. Arizona* recognized that this type of protection was necessary where the threat of losing custody of one's child is at play. The court's opinion recognized the duress a parent is placed under to comply with the demands of a state agency in its discussion of *Lynum v. State of Illinois*. In that case, a mother, who was being interrogated regarding a criminal matter, was compelled to cooperate with police after police threatened to call social services and have her children removed from her care if she did not. This is the exact threat that parents face when DSS comes to their door. And yet, in the state of Maryland, CPS never gets permission from the court or advises parents of their rights before starting their investigation.

This bill would not impede on the ability of a CPS worker or the Department of Social Services from keeping a child safe from immediate harm or danger. The bill gives exception to Family Law § 5-709 that allows workers and law enforcement to enter a home and remove a child who is in serious, immediate danger. Outside of emergency situations, CPS has twenty-four hours to initiate an investigation regarding physical and sexual abuse and five days to investigate cases of neglect and mental injury. It is in the context of these types of cases where there is no perceived immediate and serious risk of harm that caretakers would be advised of their rights prior to the start of an investigation. Even in this context, this bill would be extremely impactful given that 71% of CPS investigations were ruled out in 2022. Among the investigations that were substantiated for some level of maltreatment, the vast majority (60%) stemmed from an issue of neglect. This shows that most investigations involve circumstances that are not emergent and families could be advised of

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<sup>1</sup> *Mirand v. Arizona*, 348 U.S. 436 (1966)

their rights and properly informed before a CPS investigation is conducted. If after being advised of their rights, a parent refuses to cooperate, CPS can petition for a court order.

One of the benefits of providing Miranda Rights for parents is the prevention of what is known as hidden foster care. This is when parents are told they must send their children to live with friends or relatives to avoid their child being placed in foster care. In these instances, children are separated from their families without a court determination that it is in the best interest of the child to be removed from their home. Children are placed out of the home with no court supervision to ensure they are being provided the proper care and attention, without time frames of how long the child must remain out of the home, and with no measures or provisions for the parents to get their children back. This practice results in children being separated for unlimited amounts of time with no due process and no means for reunification.

This bill undoubtedly will have a positive racial impact as Black children are disproportionately represented at every phase of the CPS process with their families having little understanding about the process. In Maryland, Black children constitute 30.6% of the population and 54.5% of the foster care population.<sup>2</sup> Nationally, Black children are more likely to be reported by doctors, educators, and law enforcement than white children for conditions that are similar and even less severe than their white counterparts.<sup>3</sup> Relating to CPS investigations in particular, Black children are more likely to be investigated than any other group. Fifty- three percent of all Black children will be investigated by CPS before their 18th birthday.<sup>4</sup> Parents of Black marginalized children need to be advised of their rights.

Allowing parents to be informed of their rights ensures the safety of children and their families. CPS investigations are traumatizing to the entire family. When families know what can and cannot be done during an investigation, they are able to make decisions in the best interest of their children. The Office of the Public Defender has begun the work of advising parents of their rights through our pre-petition program, [Better Together](#). Funded exclusively with grants and federal matching

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<sup>2</sup> <https://cwoutcomes.acf.hhs.gov/cwodatase/pdf/maryland.html>

<sup>3</sup>

[https://med.stanford.edu/news/all-news/2023/02/child-abuse-report-race.html?utm\\_source=Stanford+ALL&utm\\_campaign=5fe1ef2d62-int\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_c042b4aad7-5fe1ef2d62-55004962](https://med.stanford.edu/news/all-news/2023/02/child-abuse-report-race.html?utm_source=Stanford+ALL&utm_campaign=5fe1ef2d62-int_COPY_01&utm_medium=email&utm_term=0_c042b4aad7-5fe1ef2d62-55004962)

<sup>4</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>



funds, the pilot program gives parents access to an attorney and other services at the outset of an investigation, before any petition has been filed in court. Participating parents are typically unaware of their rights and the attorney advises of their rights and options. Often, this results in parents being more cooperative with DSS as they better understand the process and how to best protect their family.. Through this program, we have been able to assist parents in safely maintaining their children in their homes while at the same time avoiding the overreach of CPS. Advising parents of their rights keeps parents and communities safe.

According to the Constitution, all citizens are granted certain basic rights. Among those are the right to privacy, the right that no person should be compelled to be a witness against themselves, and that any accused should have the right to assistance of counsel. These rights are important to protect citizens from unlawful intrusion into their lives of all government entities including the Department of Social Services (DSS). By requiring DSS and its agents to inform parents of their rights, we ensure that all citizens, even the most vulnerable among us, have not only the above rights respected but most importantly their right to family.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 0644.**

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

**Authored by: Natasha Khalfani, [natasha.khalfani@maryland.gov](mailto:natasha.khalfani@maryland.gov); 301-580-3786.**



**HB 644\_ACLUMD\_FAV.pdf**

Uploaded by: Olivia Spaccasi

Position: FAV



## Testimony for the House Judiciary Committee

February 15, 2024

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

#### FAVORABLE

OLIVIA SPACCASI  
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DANA VICKERS SHELLEY  
EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

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.>

# Written Testimony - HB644-Trivedi.pdf

Uploaded by: Shanta Trivedi

Position: FAV

## 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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

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<sup>1</sup> 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>

<sup>2</sup> See e.g. HINA NAVEED, HUMAN RIGHTS WATCH, IF I WASN’T POOR, I WOULD’N’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.”)

<sup>3</sup> *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](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.**



# **HB644 Testimony 02.12.24.pdf**

Uploaded by: Stephanie Glaberson

Position: FAV

## 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.<sup>1</sup> Notably, fewer than 30% of the children investigated by Maryland authorities were ultimately deemed "victims" in 2021.<sup>2</sup> 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%.<sup>3</sup> 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."<sup>4</sup> 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.<sup>5</sup>

**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.<sup>6</sup> 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.<sup>7</sup> 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.**

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

<sup>2</sup> *Compare id.* at 30 with *id.* at 34.

<sup>3</sup> 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>.

<sup>4</sup> 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);

<sup>5</sup> 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)).

<sup>6</sup> 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>.

<sup>7</sup> *Id.*

**HB0644 CPMC UNFAV.pdf**

Uploaded by: Diana Philip

Position: UNF

# THE COALITION TO PROTECT MARYLAND'S CHILDREN

*Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.*

Testimony before the House Judiciary Committee  
House Bill 644 Family Law – Caretaker Bill of Rights  
February 15, 2024  
**\*\*OPPOSE\*\***

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform. CPMC **opposes** passage of House Bill 644.<sup>1</sup>

This bill would require the local department of social services or a law enforcement agency to provide certain notice to a parent or caretaker of a child at a certain time during an investigation of suspected child abuse or neglect and exclude evidence obtained in violation of this Act from being used in certain judicial or administrative proceedings.

### **Child's Safety is Paramount**

While a parent's right to the "care, custody, and control" of their children is constitutionally protected, this right can be infringed upon if necessary for the protection of a child.<sup>2</sup> Child protection laws were enacted to ensure the safety of children, and "[t]he State of Maryland has a *parens patriae* 'interest in caring for those, such as minors, who cannot care for themselves' and 'the child's welfare is a consideration that is of transcendent importance when the child might . . . be in jeopardy.'"<sup>3</sup> Hence, when balancing the competing constitutional interests of the parent with the interests of the child, **the best interest of the child takes precedence.**<sup>4</sup>

### **Delayed Investigatory Processes and Implementing Criminal Standards for Investigations Place Children in Danger**

This bill undermines the best interests of the child by providing cumbersome, unreasonable and delayed investigatory processes to protect children who may be in danger. Family Law Article §5-709 of the Annotated Code of Maryland is sufficient to ensure that children are protected when there is suspicion of maltreatment. Expanding the current law to include the recommendations of the proposed bill will undermine the State's ability to protect children. Moreover, local departments provide notice to parents and caregivers when investigating allegations of abuse and neglect. Additionally, the proposed bill seeks to institute standards analogous to criminal protections, such as excluding any evidence in a judicial or administrative proceeding that is obtained during an investigation that fails to meet the requirements of the proposed bill. Passing this bill will place children in a vulnerable position and undermine the purpose for the implementation of child protection laws. **For these reasons, we urge this Committee to issue an unfavorable report.**

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<sup>1</sup> Members of CMPC who oppose this bill include Child Justice, Center for Hope, The Franklin Law Group, P.C., National Association of Social Workers - MD, Timothy Briceland-Betts, and Diana Philip.

<sup>2</sup> *Troxel v. Granville*, 530 U.S. 57, 66 (2000); *In re Adoption/Guardianship of C.E.*, 464 Md. 26 (2019).

<sup>3</sup> *In re Mark M.*, 365 Md. 687, 705-06 (2001).

<sup>4</sup> *Boswell v. Boswell*, 352 Md. at 219 (1998).

## **late testimony**

Uploaded by: Judith Schagrin

Position: UNF

February 25, 2024

HB644, Family Law – Caretaker Bill of Rights will pose a risk to the safety of vulnerable children. The bill would require the local department of social services or a law enforcement agency to provide notice to a parent or caretaker of a child at a certain time during an investigation of suspected child maltreatment, and exclude evidence obtained in violation of this Act from being used in certain judicial or administrative hearings. The bill does not grant new rights for caretakers, but requires Child Protective Services investigators to frame existing rights in a manner resembling a criminal investigation.

The history of child protection in the United States shows children were once considered possessions of their parents rather than human beings deserving of protection in their own right. Until child protection laws were enacted in the 1960's, the social norm that "what happened in the family stayed in the family" took precedence over children's safety. Measures that can delay investigations as well as imposing criminal standards on child protective services investigations would set child protection back years and imperil children.

The witnesses at the hearing grossly misrepresented how a child protective services investigation is conducted; the description was more reminiscent of a made for TV Lifetime Channel movie than what happens in real life. While it's true that anybody can make a child protective services report, local departments use a screening tool to determine whether a report meets the standard for investigation. Once accepted, current Maryland law stipulates that the "local department or appropriate law enforcement...shall see the child... (and) decide on the safety of the child, and of other children in the household" within 24 hours when abuse is alleged, and 5 days for neglect or mental injury. Neglect is easy to minimize, although data shows that children die more often of neglect than abuse. Delays of days or weeks can make the difference between life and death.

The bill indicates that exercising the rights prescribed by the bill may result in the investigator filing a petition to remove a child from the home. However, separating a child from their family should **never** be threatened as the consequence for failing to cooperate unless there's a

provable safety risk to the child. But without being able to conduct the investigation, the risk to the child can't be assessed. Removals for lack of cooperation will be about erring on the safe side, not based on a risk and safety assessment nor failed efforts to preserve the family. That damages children.

Moreover, neither "parent" nor "caretaker" are defined in the bill. Which parent? The parent who answers the door? Or both parents? The parent about whom allegations are made, or the other parent? What will CPS's responsibility be to find missing parents?

Caretaker? Does that include daycare providers, teachers, coaches and babysitters when maltreatment by an alternative caretaker is reported? Who will be required to sign the document? The child's parent or the alleged maltreater? How will that decision be made and enforced? Will the investigation of a child living with kin require parental signature or only the caretaker relative when both will be interviewed?

Finally, HB644 proposes evidence about a child's maltreatment be excluded if the "investigator fails to comply with any provision of this subsection," the equivalent of turning a blind eye to damaged children. In truth an investigator's failure to comply is entirely unrelated to whether a child is at risk of harm. Compromising children's safety because the investigator made a mistake is tantamount to punishing the child, not the investigator.

To summarize, HB644 is a bill that expands no new rights to parents, but imposes a criminal-like standard for investigating child maltreatment reminiscent of a time when children were merely chattel of their parents, not separate humans deserving of safety and protection in their own right. Delays will cause harm.

**HB0644\_DHS\_INFO.pdf**

Uploaded by: Rachel Sledge Government Affairs

Position: INFO



February 15, 2024

The Honorable Luke Clippinger  
Chair, Judiciary Committee  
House Office Building, Room 101  
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB 644 - Family Law - Caretaker Bill of Rights - POSITION:  
INFORMATIONAL ONLY**

Dear Chair Clippinger and Members of the Judiciary Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide a letter of information on House Bill 644 (HB 644). With offices in every one of Maryland's jurisdictions, we empower Marylanders to reach their full potential by providing preventative and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. Social Services Administration (SSA) within DHS implements the Child Protective Services (CPS) program, the operations of which are directly impacted by HB 644.

HB 644 proposes to require the Department to provide notice to the parent or caregiver upon initial contact during an investigation of specific rights, closely resembling the *Miranda* rights read to suspects who are interrogated while in police custody. The legislation requires us to inform the parent or caregiver with a series of the statements including: the parent is not required to speak to the investigator or sign documents without consulting an attorney; parents are informed of the allegations; statements made by the parent may be used against them in court; the investigator is not an attorney; and exercising these rights may result in the Department filing a petition for to remove children. House Bill 644 would also prohibit the Department from using any information received from an investigation should they violate any of these requirements in any judicial or administrative proceeding.

We recognize the importance of parents and caregivers understanding their rights and responsibilities during a child welfare response. In 2019, we implemented the Integrated Practice Model (IPM), which is a family centered, outcomes driven, and strengths-based approach to working with families. The IPM promotes collaboration with families, and treats families as the experts on themselves. In furtherance of those goals, we revised SSA's Parent's Guide in 2023 to incorporate much of the information HB 644 would require. The Parent's Guide is distributed to families at the initiation of a child welfare response in alignment with COMAR 07.02.04.04(E). We have included the Parent's Guide for Child Protective Services Investigations and Alternative Response with this testimony.



Our apprehension regarding HB 644 is not due to the bill's spirit of transparency, which we share. We are concerned about how the requirements would be implemented because it would compel us to mirror law enforcement's language, could create a more contentious engagement, and the required statements create ambiguities. Our family centered practice requires us to use trauma-informed language with our clients. Requiring the Department to use the framework of *Miranda*, such as "the right to remain silent" and "the right to an attorney," positions the Department as an adversary rather than a partner. As written, the ambiguities and contradictions in HB 644 will likely cause confusion for families and the courts, impeding us from engaging with families to connect them with services and plans for safety, which are the Department's best tools to support families in need and prevent family separation.

We have not been presented with data supporting the need for a notice of rights in addition to what is currently provided. Maryland has the second lowest foster care entry rate in the nation at 1.1 per thousand children<sup>1</sup> and the second lowest rate of disproportionality at 1.9 per thousand of Black or African American children entering foster care.<sup>2</sup> Few states pass legislation resembling HB 644. The states with laws similar to HB 644 do not outperform Maryland on these key metrics. Maryland's family centered practice model is working for families by engaging collaboratively with parents and caregivers in planning for their children's safety.

We appreciate the opportunity to provide the aforementioned information to the Committee for consideration during your deliberations. We look forward to the decision of the Committee and welcome continued collaboration on HB 644.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at [rachel.sledge@maryland.gov](mailto:rachel.sledge@maryland.gov).

In service,



Rafael López  
Secretary

<sup>1</sup> [The Children's Bureau Child Welfare Outcomes Data By State](#)

<sup>2</sup> [The Children's Bureau, State-Specific Foster Care Data 2021](#)



## HOW ARE COMPLAINTS HANDLED?

If you have any complaints or encounter an issue with CPS, have an open discussion with your CPS worker. Often, having this conversation can resolve your issues. If you have a complaint about any other aspect of your interaction with CPS staff, you may ask to speak to your worker's supervisor or contact the Constituent Services Office of the Maryland Department of Human Services.

## CAN I APPEAL A LOCAL DEPARTMENT'S FINDING?

Yes. At the conclusion of a CPS investigation, the local department will provide you with a written notice that the report of abuse, neglect, or mental injury was "ruled out," "unsubstantiated," or "indicated." If you disagree with a finding of "indicated" (more likely or not that abuse or neglect occurred), or the conclusion that you are responsible for the abuse or neglect, you may request a hearing at the Maryland Office of Administrative Hearing.

If you disagree with a finding of "unsubstantiated" some evidence that a child was abused or neglected, you will be offered a conference with a local department supervisor to discuss the finding and provide any additional information.

If you are dissatisfied with the outcome of the conference, you may request a hearing at the Maryland Office of Administrative Hearings.

The local department will provide you with the necessary forms and information to request a hearing and pay the appropriate fees at the Maryland Office of Administrative Hearings.

Hearings at the Maryland Office of Administrative Hearings provide you with a fair process to present evidence to contest a finding of "indicated" or "unsubstantiated" child abuse or neglect. The goal of these hearings is to safeguard the rights of all parties involved.

## HOW IS MY CONFIDENTIALLY PROTECTED?

CPS records in Maryland are kept confidential to protect the privacy and safety of the children and families involved. CPS ensures the confidentiality of CPS records in several ways:

### *Limited access:*

- CPS limits who may access a CPS record to authorized personnel directly involved in a case, such as a caseworker, a supervisor, or another professional working on your child's behalf.

### *Legal protections:*

- State laws and regulations have specific provisions to maintain the confidentiality of CPS records; the unauthorized disclosure of CPS records may have legal consequences.

### *Redaction and de-identification:*

- Before sharing records with individuals who may have legal access to CPS records, CPS may redact, or take out, personal identifiers and sensitive information.

### *Secure storage:*

- CPS records are typically stored in secure databases or physical locations that prevent unauthorized access.

### *Limited sharing:*

- CPS may legally refuse to share CPS records with persons who are permitted by law to see CPS records, such as law enforcement, courts, or service providers, unless CPS finds that they have a legitimate need to view a particular record.

In certain specific situations, CPS may be ordered to disclose records to certain persons if the law requires it or a court mandates it. In these situations, disclosure has been found to be necessary for the safety and well-being of a child. Nonetheless, confidentiality remains a paramount concern in child welfare cases in Maryland and across the United States.

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## CONTACT INFORMATION

If you have any questions or concerns about CPS or a related matter, please reach out to your CPS worker who is trained to help you.

Your worker's name : \_\_\_\_\_

Your worker's phone number and email address:  
\_\_\_\_\_  
\_\_\_\_\_

Your worker's supervisor :  
\_\_\_\_\_

Your worker's supervisor's phone number and email address: \_\_\_\_\_  
\_\_\_\_\_

## CASE TYPE

- Investigation
- Alternative Response
- Other \_\_\_\_\_

# Parent's Guide for Child Protective Services

## Investigations and Alternative Response



## WHAT IS CHILD PROTECTIVE SERVICES?

Child Protective Services (CPS) is a specialized unit in your local department of social services whose job is to ensure the safety and well-being of your children while providing you with support and guidance. CPS staff respond to reports of possible child abuse or neglect and are trained to assess these situations with care and understanding.

## WHO REPORTS ABUSE/NEGLECT?

Maryland law identifies certain professionals as “mandatory” reporters, meaning that they are required by law to report suspected child abuse or neglect. Mandatory reporters include doctors, nurses, police officers, educators, and human services workers. Local departments of social services also accept reports from community members who have concerns about child abuse or neglect.

## IS THE NAME OF THE PERSON WHO REPORTED ABUSE OR NEGLECT PUBLIC INFORMATION?

No. By law, the identity of a person who reports suspected child abuse or neglect is confidential unless a court specifically orders its release. Most reports are made by people genuinely concerned about a child’s well-being and a family’s welfare; sharing a reporter’s identity could discourage reporting.

## WHAT HAPPENS IN AN INVESTIGATION?

A CPS investigation is not a criminal investigation. An investigation focuses on whether your child has been abused or neglected, who may be responsible, whether your child is safe, and what services are appropriate. CPS staff may work with local law enforcement if the severity of the situation or concern for worker safety calls for it. Only the police, and not child protective services, can make arrests and pursue a criminal case. A CPS investigation by law, should be closed after 60 days.

## WHAT IS AN ALTERNATIVE RESPONSE?

An Alternative Response is different from an investigation. An Alternative response is an option CPS staff have for handling a low-risk report of child abuse or neglect where your family has had little to no previous CPS history. In an Alternative Response, CPS staff do not formally determine whether your child was abused or neglected. Instead, staff focus on what is needed to keep your child safe.

The first step of an Alternative Response is a conversation with your family about safety concerns raised in the report. Then, CPS will recommend strategies that you can use in the home

to ensure your children’s safety and well-being. Staff will also make referrals to any community resources that can support your family after the Alternative Response is complete.

If during the Alternative Response, staff identify safety concerns that cannot be addressed through safety planning and community referrals, a traditional investigation may be necessary.

Information from an Alternative Response DOES NOT have any effect on a CPS background clearance. Furthermore, any records related to an Alternative Response are expunged three years after the report. This period may only be extended if CPS receives another report concerning the same person named in the prior report.

## WHAT RIGHT DOES CPS HAVE TO GO TO MY HOME?

CPS staff are required by law to promptly and thoroughly address allegations of child abuse, neglect, or mental injury. Staff visits the home to assess the situation, evaluate family functioning, and ensure a child’s safety and well-being.

## WHAT RIGHT DOES CPS HAVE TO REQUIRE A MEDICAL EXAMINATION?

If your child’s health requires immediate medical attention, CPS staff or law enforcement are permitted by law to take your child to a doctor, hospital, or clinic for examination and treatment without your consent.

## WHAT HAPPENS IF, DURING AN INVESTIGATION, CPS STAFF FIND NO ABUSE, NEGLECT, OR MENTAL INJURY?

If CPS staff conduct a thorough investigation and find no evidence of abuse, neglect, or mental injury, they will close the case. Any information gathered during the investigation will be automatically discarded after two years, and CPS will have no further involvement unless they receive a new report. If an assessment or investigation suggests that your family could benefit from services to promote your child’s safety and well-being, staff may recommend supportive services.

If CPS staff find evidence during their investigation that your child was abused, neglected, or has a mental injury, their primary responsibility is the safety and well-being of your child. CPS will determine what action to take depending on the severity of the situation and your willingness to accept services. Steps taken to protect your child and support your family may include:

## Supportive Services:

■ CPS may offer or connect you with various support services, such as counseling, parenting skill building, substance abuse treatment programs, or other assistance programs. These services are intended to address your circumstances and provide your family with the necessary resources to care for your child.

## Written Safety Plan:

■ You and the CPS worker will collaborate to create a safety plan. This plan outlines steps you agree to take to ensure your child’s safety and prevent further harm. One step may be to have you identify a relative or neighbor who is willing to temporarily care for your child. However, this plan can only be put in place with your agreement and does not affect who has legal custody of your child.

## Legal Intervention:

■ If necessary, CPS may involve a court to obtain legal orders to protect your child. A court may order supervision of your family or removal of your child from an unsafe environment. If the court removes your child, you will have the ability to obtain a lawyer to represent you for free or at a reduced rate through the public defender’s office. A lawyer, not affiliated with DSS will be appointed to represent your child’s interests. The local department of social services will have its own lawyer.

## Ongoing Support:

■ After CPS addresses immediate concerns, staff may refer you to an agency-based service to ensure that, after the investigation is complete, your family has support to sustain a safe and nurturing environment for your child.

CPS’s ultimate goal is not to punish you or your family but to promote the safety and well-being of your children. Staff work diligently to address underlying issues and assist you in becoming safer caregivers so that your child grows up in a safe and loving environment.

If you or your child is a member of a federally recognized tribe, you may have additional rights under the Indian Child Welfare Act. You may reach out to your tribe or to CPS for more information.

## WHAT HAPPENS IF I DISAGREE THAT CPS NEEDS TO BE INVOLVED?

If your family and CPS staff disagree about whether CPS needs to intervene, the local department may refer the matter to a court for resolution. In such cases, a judge will decide whether an intervention is appropriate and may order your family to cooperate with CPS to address specific concerns.