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Delegate Luke Clippinger
Chair, Maryland House Judiciary Committee

Remarks of
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**Support of: HB0646 - Child Abuse and Neglect - Memorandum of Understanding With
Military Family Advocacy Program**

Testimony

Mr. Chairman and honorable members of the House Judiciary Committee, the Department of Defense is grateful for the opportunity to support the policies reflected in HB0646, an act relating to child abuse and neglect, and hopes that Maryland will join the 27 other states that have passed similar legislation on this issue. Even one child's life is worth this effort.

My name is Christopher Arnold. I am the northeast region liaison at the DoD-State Liaison Office, operating under the direction of Under Secretary of Defense for Personnel and Readiness.

We represent the Department and establish relationships with state leaders across the country who are concerned for troops and their families' welfare by harmonizing state and federal law and regulation on policy problems of national significance. These are identified by the Office of the Secretary of Defense, the Military Departments, and the National Guard Bureau as areas where states can play a crucial role.

The DoD relies on working in collaboration with state and local governments to fulfill its statutory obligation to address child abuse and neglect.¹²

The bottom line up front, particularly for those that do not know the military way of life, is that unlike civilian employers, the military services have the obligation to know what is happening with our soldiers and families 24/7. It is part of how we do business. Being a soldier is not a nine to five job. Information sharing between DoD and local authorities must be accomplished at the start of an abuse/neglect investigation – not after adjudication. Unfortunately, due to the lack of a consistent, statewide statutory framework, this has not always been the case in Maryland.

¹ 10 U.S.C. 1787 directs the Secretary of Defense to request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

² Public Law 103-337, Section 534(d)(2) establishes victim advocacy services for victims of family violence through the family advocacy programs of the military departments.

HB0646 allows the reporting of child abuse to the appropriate military installation when the child is a military family member. This law ensures efforts to determine the military status of parents subject to abuse or neglect allegation, assists families as they seek medical and counseling services through the military installation, and sets forth minimum requirements for information sharing between DoD and state and local authorities.

Under DoD policy required by federal law, each military installation and/or unit (such as the Baltimore Recruiting Battalion) with 500 or more personnel must establish a family advocacy program and enter into a memorandum of understanding with the local child welfare agency for reporting cases, providing services, and defining responsibilities when responding to child abuse and neglect, domestic abuse, and problematic sexual behavior in children and youth. To meet this statutory obligation, DoD, in accordance with Section 1787 of Title 10 of the United States Code, established the Family Advocacy Program, or “FAP”, to address prevention of and response to child abuse and neglect involving children in military families.³

The military’s FAP is formally created by Department of Defense Instruction (DoDI) 6400.01, wherein section 3, the FAP incorporates prevention, education, and training efforts to make all personnel aware of the scope of child abuse and neglect, domestic abuse, and problematic sexual behavior in children and youth, as well as to facilitate collaborative and cooperative efforts. The federal Child Abuse Prevention and Treatment Act, or “CAPTA”, and its attendant regulations (80 FR 11777) delineate the FAP as a federal entity subject to the requirement to protect children from abuse and neglect.

CAPTA further requires that a state such as Maryland has in effect, and is enforcing a State law, or has in effect and is operating a statewide program relating to child abuse and neglect that includes “*provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from child abuse and neglect*”⁴, and “*the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse and neglect.*”⁵

To effectuate these state-federal information sharing mandates, DoDI 6400.01 directs the military services to establish memoranda of understanding with state and local child welfare services to collaborate on the oversight of cases involving military families.

Currently in Maryland, the present framework relies on individualized, local MOUs to guarantee communication between the county Department of Social Services/Child Protective Services (DSS) and the military community.

³ See *supra* at 1.

“*The Secretary of Defense shall request each state to provide for the reporting to the Secretary of any report the state receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).*” (10 U.S.C. § 1787)

⁴ 42 U.S.C. § 5101, 106(b)(2)(B)(ix)

⁵ *Id.* § (xi)

There are, at present, nine active-duty installations with 500 or more personnel which have established Family Advocacy Programs in Maryland.⁶ Eight of these installations have executed an MOU, while one, NSA Bethesda (including Walter Reed Army Medical Center Forest Glen and Glen Haven) has not.

Some of these MOUs, such as the one in place at Joint Base Andrews, are considered to be effective and a model for other facilities and local governments.

The Baltimore Recruiting Battalion, other facilities with less than 500 personnel and installations with 500 or more personnel that are subordinate commands, including, but not limited to, the Adelphi Laboratory Center, Blossom Point Research Facility, Camp David/NSF Thurmont, the Naval Academy's North Severn complex, the Suitland National Maritime Intelligence-Integration Office, and Naval Surface Warfare Command Indian Head, utilize the Family Advocacy Program of a parent or regional partner installation.

While of course we remain optimistic that NSA Bethesda will execute an MOU, an exhaustive review of the other existing MOUs throughout the state indicate they are inconsistent, and of further concern, in some instances, reveal they fail to meet the requirements of federal law and policy and are therefore nonfunctional.

Fort Meade reports that they have experienced problems getting CPS to report child abuse cases that occur when a family lives off post. They describe their MOU as “hit or miss.” Fort Detrick was only able to expand the scope of their agreement after the Office of Attorney General became involved, which helped get Frederick and Washington counties to agree to changes.

The legislation before the honorable delegates today was last considered in 2017, when it was held before this committee, apparently because every installation other than Aberdeen Proving Ground, or “APG”, had an executed MOU in place, whose agreement was soon to be finalized at that time. We know now that information was not entirely accurate, as NSA Bethesda still does not have an agreement in place. Ultimately, the situation at APG became most instructive as to why a statewide solution is needed. Merely having an MOU is not a guarantee that it has operationalized communication and cooperation.

APG’s MOU with Harford County DSS, or “HCDSS”, was signed in November 2017. While the MOU addresses reporting for child abuse/neglect cases occurring off post, it does not allow mandatory reporting to FAP personnel of child abuse/neglect cases involving soldiers and their families. Per the discretion of HCDSS, if a child abuse/neglect case occurs off post by a Soldier or family member APG FAP personnel may not be notified.

Cases referred to APG FAP receive immediate investigation, support and resources for the Soldier and families in accordance with Army regulation. Cases which are not referred to APG FAP are not afforded the opportunity to receive immediate resources, treatment and support.

⁶ These include, for the Department of the Air Force, (1) Joint Base Andrews; for the Department of the Army, (2) Aberdeen Proving Ground, (3) Fort Detrick, and (4) Fort Meade; and for the Department of the Navy; (5) the Fort Meade Naval Contingent, (6) Naval Air Station Patuxent River, (7) Naval Support Activity Annapolis, (8) Naval Support Activity Bethesda, and (9) Naval Support Activity South Potomac.

Accountability cannot be enforced if child abuse/neglect cases are not reported to APG FAP. Non-reporting of child abuse/neglect cases from HCDSS prevents statistical reporting data for the Army.

This troublesome scenario would be avoided with the enactment of HB0646. Specific state level guidance that directs information sharing with the military will provide consistency among all branches of service and state and local agencies when there is an allegation of abuse or neglect involving a military family. The policy in HB0646, which draws upon the best practice approach identified by DoD, will provide this consistency and support the MOU process.

Were HB0646 to become law, a revised MOU with HCDSS and the APG FAP would allow resources, treatment and support to be available immediately. Such collaboration provides a united effort to support Soldiers and families who have obtained child abuse/neglect cases off post.

DoD respectfully submits Maryland can assist the DoD mission to protect military children and other youth from abuse and neglect by enacting the policies set forth in HB0646, which will require (1) child welfare case workers to ask clients if they are associated with the military, and (2) provide them the authority to share this information with the appropriate military authorities, which facilitates a more consistent and authoritative approach to collaborative oversight.

Seventy percent of military families live off a military installation and in our communities, and so are likely to fall under the jurisdiction of state and local agencies. The military services have investigative, intervention, and rehabilitative support resources that can assist the county child welfare system in addressing allegations and provide follow-up family counseling when they have knowledge of an allegation. DSS needs the full cooperation of military personnel to enable it to effectively perform its professional and statutory responsibilities.

The Family Advocacy Program may have information regarding incidents of allegations that occurred in other states where the Service member was stationed that the DSS would not otherwise have access to during their investigation.⁷ Because military families move frequently across state lines, not sharing information could result in a family falling through the cracks. The military can also assist DSS in access to families that live on installations. The FAP personnel and DSS can share information and planning on the management of child abuse or neglect cases involving military families.⁸

⁷ 5 U.S.C. 552a; Privacy Act establishes the regulation of records maintained on individuals by any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government.

⁸ The question has been asked about possible adverse impact on the Service member if cases are reported to the FAP and subsequently found to be inconclusive or unfounded. An excerpt from DoDM 6400.01 Vol. 3, Family Advocacy Program (FAP) Clinical Case Staffing Meeting (CCSM) and Incident Determination Committee (IDC), August 11, 2016, may be helpful:

“(a) A commander may not take administrative or disciplinary action against a Service member based solely upon an incident status determination (ISD) for an act of child abuse or domestic abuse allegedly committed by that Service member; however, commanders may take disciplinary or administrative action based on legal or other appropriate advice independent of the ISD.”

In August 2019, the Defense Health Board noted “that child abuse can be difficult to quantify because of underreporting, and some studies suggest a lower rate of incidents being reported to the FAP if the incidents are first identified at a civilian facility.” Therefore, it recommended, “**in the absence of state legislation** (emphasis added) that DOD ensure that all U.S. military installations have memorandums of agreement in place with state child welfare agencies for bilateral information sharing on child abuse cases.”⁹

At instant, Maryland has the opportunity for such state legislation. Statutory authority will support development of more consistent MOUs, allowing better coordination of local child welfare and military protective and rehabilitative services in support of military children and families.

FAP multidisciplinary personnel teams, military commanders, commanding officers and other military department leaders have an official need to know data germane to incidents of suspected child abuse or neglect in order to fulfill their respective duties and responsibilities to take actions regarding military personnel and their dependents on such matters as, but not limited to, child and family safety, continued access to classified information, installation security, eligibility for overseas assignments, and continued suitability for sensitive military assignments.¹⁰ Most all of these decisions have no civilian equivalents and may have to be made temporarily during an investigation in the interest of readiness and national security.

A February 2020 report to Congressional requestors from the United States Government Accountability Office, which included observation of incident determination processes at Joint Base Andrews, highlighted the importance of state statutes that require the collection and reporting of military affiliation to the appropriate military authorities as part of state child abuse cases.¹¹ The GAO found that the extent of collaboration between the military and other state and local authorities (such as child welfare agencies) varied among the installations in their review.¹²

⁹ Defense Health Board Report, *Healthy Military Family Systems: Examining Child Abuse and Neglect* (Aug. 6, 2019).

¹⁰ 10 U.S.C. 1794 directs the Secretary of Defense to maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

¹¹ GAO. *CHILD WELFARE: Increased Guidance and Collaboration Needed to Improve DOD’s Tracking and Response to Child Abuse*, GAO-20-110 (Washington, D.C.: February 10, 2020)

¹² *Id.* p. 56

“For example, child welfare agency officials in Virginia noted that state policies requiring that they notify the FAP about cases with a military affiliation have increased the amount of coordination between the state and the military. However, according to FAP officials at one installation we visited in North Carolina—where approximately 80 percent of dependent children live off the installation—it was rare to receive notification from some counties for child abuse cases with a military affiliation because, at the time of our visit, there was no state policy requiring it. DOD’s continued focus on improving collaboration with the states that have not yet established such a requirement should help to increase the department’s visibility over incidents occurring off the installation. It should also help to ensure that military families obtain the available FAP services for which they are eligible.”

The report stated that service officials do not always have visibility over these incidents since they may first be reported to the relevant civilian authorities instead of to the military. The GAO found that state legislation was needed “because prior efforts to establish memorandums of agreement were only focused on information sharing and did not specify procedures for state and local child welfare agencies to use in determining whether a family involved in an incident had a military connection...a statutory basis is important because otherwise state laws that limit who child welfare agencies can share information with about child abuse cases may take precedence.”¹³

Mr. Chairman, DoD appreciates your recognition of the important relationship between the state and local child protective services and the associated military FAP offices in responding and providing support and services to address child abuse in military families. The importance/benefit of establishing a reciprocal information sharing requirement through state statute serves to support the establishment and ongoing collaboration with local CPS offices on MOUs statewide.

This is not a military law enforcement matter. This is a victim advocacy measure to protect our most vulnerable.

In closing, let me say that we are grateful for the tremendous effort that Maryland has historically given in supporting our Service members and their families. On behalf of the Department of Defense, we respectfully pray for your favorable report of the policy changes expressed in HB0646 and thank Delegate Valentino-Smith for her sponsorship.

Yours etc.,

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¹³ *Ibid.*