

**HB 937 - MSAA Favorable.pdf**

Uploaded by: Patrick Gilbert

Position: FAV



## Maryland State's Attorneys' Association

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Rich Gibson  
President

Steven I. Kroll  
Coordinator

**DATE:** February 22, 2024

**BILL NUMBER:** HB 937

**POSITION:** Support

The Maryland State's Attorneys' Association (MSAA) supports HB 937.

HB 937 is drafted to bring MD. CODE ANN., HUM. SERVS. § 1-203 into compliance with the federal Child Abuse Prevention and Treatment Act ("CAPTA"), and strikes the appropriate balance between transparency in matters that are of significant importance to Marylanders with the need of the State to afford an accused a fair trial by an impartial jury of their peers in the jurisdiction where the offense is alleged to have occurred.

The language in HB 937 requires the release of certain information related to incidents resulting in the death or near death of children in the custody of the State or in the care of a foster parent, and provides for notice to the local State's Attorney's Office prior to the release of such information. The State's Attorney's Office is afforded the opportunity to review the information prior to its release and to redact portions that would, if made public, "seriously hinder the ability of the State's Attorney's Office to prosecute a criminal case arising from the incident."

These types of cases – cases in which a child in the custody of the State or the care of a foster parent has died or has almost died – already attract a great deal of attention from the community and from the press. This is precisely why HB 937 is needed, and one of the reasons why CAPTA was enacted in the first place: to increase transparency into these significant and tragic incidents. Some of the information HB 937 requires to be disclosed, though – like the findings of the Department of Social Services' investigation into the incident and the number of times the alleged perpetrator has been referred for professional services – has the potential to prejudice potential jurors, and could preclude the trial of the offense in the jurisdiction where it is alleged to have occurred. As ministers of justice, prosecutors have an ethical obligation to scrupulously observe the due process rights of an accused, and communities have an interest in observing and participating in the trial of such important cases.

MSAA expresses its gratitude to the sponsors of this legislation for including the necessary language to ensure prosecutors can protect the integrity of their cases and afford the accused a fair trial, and urges this Committee to report favorably on HB 937.

**Amendment HB 937.pdf**

Uploaded by: Darlyn McLaughlin

Position: INFO

# AMENDMENT REQUEST FORM

Date Submitted

## REQUESTER INFORMATION

Name

Delegate McComas

Phone

410-841-3272

E-mail

susan.mccomas@house.state.md.us

## REQUEST INFORMATION

Bill No. HB937

Bill Title Child Abuse and Neglect - Reports and Records - Disclosure

Amendment Sponsor Delegate Susan K. McComas

Hearing Date 02/22/2024

Date Needed 02/09/2024

Name(s) and contact information of individual(s) the drafter is authorized to contact

Darlyn R. McLaughlin dmclaughlin@house.state.md.us

To Be Offered

## Description and Comments

HB937 is to comport SB 89 as it is a cross file. HB937 has multiple formatting and notation errors that need to be corrected as soon as possible. The formatting error begins on age 2, line 25, which jogs the numbering and lettering of the following paragraphs within the bill.

Please call with questions. I am also available by cell at 443.896.6543.

Darlyn R. McLaughlin

**\*\*PLEASE ATTACH ANY ADDITIONAL COMMENTS AND SUPPORTING DOCUMENTS TO THE EMAIL WITH THIS FORM.\*\***

Please click the SUBMIT button to create an email to send this form.

**SUBMIT**

Updated: 1/31/2022

# Reprint 937.pdf

Uploaded by: Darlyn McLaughlin

Position: INFO

UNOFFICIAL COPY OF HOUSE BILL 937

HOUSE BILL 937

D4, O4  
SB 631/23 - JPR

4lr1982

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By: Delegates McComas, Buckel, Chisholm, Ciliberti, Ghrist, Grammer,  
Hornberger, Mangione, Miller, Rose, and Schmidt  
Introduced and read first time: February 2, 2024  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect - Reports and Records - Disclosure**

3 FOR the purpose of requiring a local director of a local department of social services or the  
4 Secretary of Human Services to disclose certain reports and records of child abuse  
5 and neglect within a certain period of time if certain conditions are met; requiring  
6 the Secretary to notify the State's Attorney's office of a request to disclose certain  
7 reports and records of child abuse and neglect; requiring the State's Attorney's office  
8 to be given a certain period of time during which the office is authorized to redact  
9 certain portions of the reports and records under certain circumstances; requiring  
10 the State's Attorney's office, if the office redacts certain information, to notify the  
11 local director or the Secretary within a certain period of time after the conclusion of  
12 the related investigation or prosecution; and generally relating to the disclosure of  
13 reports and records of child abuse and neglect.

14 BY repealing and reenacting, with amendments,  
15 Article - Human Services  
16 Section 1-203  
17 Annotated Code of Maryland  
18 (2019 Replacement Volume and 2023 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
20 That the Laws of Maryland read as follows:

21 **Article - Human Services**

22 1-203.

23 (a) (1) In this section the following words have the meanings indicated.

## UNOFFICIAL COPY OF HOUSE BILL 937

2  
1 (2) "Local department" means the department of social services that has  
2 jurisdiction in the county:

3 (i) where the allegedly abused or neglected child lives; or

4 (ii) if different, where the abuse or neglect is alleged to have taken  
5 place.

6 (3) "Local director" means the director of the local department.

7 (4) "Medical report" means a psychological, psychiatric, therapeutic,  
8 clinical, or medical report or evaluation related to the allegedly abused or neglected child,  
9 a sibling of the child, or another child in the household, family, or care of the alleged abuser  
10 or neglector.

11 (5) "Secretary" means the Secretary of Human Services.

12 (b) (1) Notwithstanding any other provision of law, the local director or the  
13 Secretary shall, [on] **WITHIN 30 DAYS AFTER RECEIVING A** request, disclose information  
14 concerning child abuse or neglect in accordance with subsection (c) of this section if **THE**  
15 **CHILD:**

16 ⇔ [the information is limited to actions or omissions of the local  
17 department, the Department of Human Services, or an agent of the Department of Human  
18 Services;

19 (ii) the child named in a report of abuse or neglect has suffered a  
20 fatality or near fatality; and

21 (iii) 1. the local director or the Secretary has consulted the State's  
22 Attorney's office; and

23 2. the State's Attorney's office has advised the local director  
24 or the Secretary that disclosure of the information would not jeopardize or prejudice a  
25 related investigation or prosecution] **(I) WAS IN THE CUSTODY OF A LOCAL OR**  
**STATE**

26 **DEPARTMENT OR AGENCY, OR IN THE CARE OF A FOSTER PARENT;**

27 **(II) IS THE SUBJECT OF AN INVESTIGATION, A REPORT, A**  
28 **REFERRAL, OR A COMPLAINT RECEIVED BY A LOCAL OR STATE DEPARTMENT OR**  
29 **AGENCY; AND**

30 **(III) SUFFERED A FATALITY OR NEAR FATALITY.**

31 **(2) (1) ON RECEIVING A REQUEST TO DISCLOSE INFORMATION IN**  
32 **ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY**  
33 **PROMPTLY SHALL NOTIFY THE STATE'S ATTORNEY'S OFFICE OF THE REQUEST.**

3

## UNOFFICIAL COPY OF HOUSE BILL 937

1           **(II) THE STATE'S ATTORNEY'S OFFICE SHALL BE ALLOWED 30**  
 2 **DAYS FROM RECEIPT OF THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS**  
 3 **PARAGRAPH TO REDACT FROM THE RECORD ANY PORTION OF THE RECORD THAT,**  
 4 **IF MADE PUBLIC, WOULD SERIOUSLY HINDER THE ABILITY OF THE STATE'S**  
 5 **ATTORNEY'S OFFICE TO PROSECUTE A CRIMINAL CASE ARISING FROM THE**  
 6 **INCIDENT.**

7           **[(2)] (3)** (i) If the [local director or the Secretary does not disclose  
 8 information under paragraph (1) of this subsection because the State's Attorney has  
 9 advised that disclosure of the information would jeopardize or prejudice a related  
 10 investigation or prosecution] **STATE'S ATTORNEY'S OFFICE REDACTS INFORMATION IN**  
 11 **ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION**, the State's Attorney  
 12 shall notify the local director or the Secretary within 10 days after the conclusion of the  
 13 related investigation or prosecution.

14           (ii) Within 30 days after notification from the State's Attorney under  
 15 subparagraph (i) of this paragraph, the local director or the Secretary shall disclose  
 16 information in accordance with this section.

17           (c) [ Before disclosing the information:

18           (1) the local director or the Secretary shall consult the State's Attorney's  
 19 office; and

20           (2) the local director and the Secretary shall consult each other.

21           (d) ] Subject to subsection ~~(e)~~ **(D)** of this section, the local director or the  
 22 Secretary shall disclose:

23           (1) the name of the allegedly abused or neglected child who has suffered a  
 24 fatality;

25           (2) the date of the report of the alleged child abuse or neglect and of any  
 26 prior or subsequent reports;

27           (3) the findings made by the local department at the conclusion of its  
 28 investigation and the disposition made by the local department based on its findings;

29           (4) any services provided to the alleged abuser or neglecter, the allegedly  
 30 abused or neglected child, and the household or family members;

31           (5) the number of referrals for professional services for the alleged abuser  
 32 or neglecter, the allegedly abused or neglected child, and the household or family members;



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## UNOFFICIAL COPY OF HOUSE BILL 937

1 (II) THE STATE'S ATTORNEY'S OFFICE SHALL BE ALLOWED 30  
 2 DAYS FROM RECEIPT OF THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS  
 3 PARAGRAPH TO REDACT FROM THE RECORD ANY PORTION OF THE RECORD THAT,  
 4 IF MADE PUBLIC, WOULD SERIOUSLY HINDER THE ABILITY OF THE STATE'S  
 5 ATTORNEY'S OFFICE TO PROSECUTE A CRIMINAL CASE ARISING FROM THE  
 6 INCIDENT.

7 [(2)] (3) (i) If the [local director or the Secretary does not disclose  
 8 information under paragraph (1) of this subsection because the State's Attorney has  
 9 advised that disclosure of the information would jeopardize or prejudice a related  
 10 investigation or prosecution] STATE'S ATTORNEY'S OFFICE REDACTS INFORMATION IN  
 11 ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION, the State's Attorney  
 12 shall notify the local director or the Secretary within 10 days after the conclusion of the  
 13 related investigation or prosecution.

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 15 subparagraph (i) of this paragraph, the local director or the Secretary shall disclose  
 16 information in accordance with this section.

17 (c) [ Before disclosing the information:

18 (1) the local director or the Secretary shall consult the State's Attorney's  
 19 office; and

20 (2) the local director and the Secretary shall consult each other.

21 (d) [ Subject to subsection ~~(e)~~ (D) of this section, the local director or the  
 22 Secretary shall  
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23 (1) the name of the allegedly abused or neglected child who has suffered a  
 24 fatality;

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 26 prior or subsequent reports;

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 28 investigation and the disposition made by the local department based on its findings;

29 (4) any services provided to the alleged abuser or neglecter, the allegedly  
 30 abused or neglected child, and the household or family members;

31 (5) the number of referrals for professional services for the alleged abuser  
 32 or neglecter, the allegedly abused or neglected child, and the household or family members;

# Support for HB937.pdf

Uploaded by: Darlyn McLaughlin

Position: INFO

SUSAN K. McCOMAS  
*Legislative District 34B*  
Harford County

Judiciary Committee

*Subcommittees*

Family Law

Public Safety

Rules and Executive  
Nominations Committee

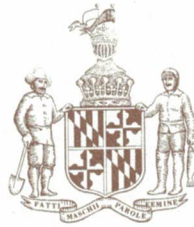
*Joint Committees*

Administrative, Executive,  
and Legislative Review

Legislative Ethics

*Past President*

Women Legislators of Maryland



## *The Maryland House of Delegates*

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### **Support for HB 937 – Child Abuse and Neglect – Reports and Records - Disclosure**

HB 937 provides transparency when there is a fatality or near fatality of a child in the control and care of the local department of social services or the Secretary of Human Services; the transparency, upon request, requires the disclosure within thirty days, information concerning child abuse or neglect if the child was: (1) under the custody of a local or State department or agency, or in the care of a foster parent; (2) is the subject of an investigation, report, referral, or a complaint received by a local/State department or agency; and (3) has suffered a fatality or near fatality.

After the request for disclosure, the Secretary of Human Services must promptly notify the State's Attorney's Office. The State's Attorney's Office has thirty days to redact from public disclosure any information that would seriously hinder the State's Attorney's office to prosecute a criminal case. Indeed, the State's Attorney's office is concerned about providing and protecting the integrity of their cases. Importantly, this bill has the support of the Maryland State's Attorneys' Association.

A member of my panel consists of a child welfare law attorney of nearly 25 years, a practitioner and former director of the Georgia Division of Family and Children Services. He has important points as to why this bill needs to be in Maryland Statute. Currently our Human Services Article fails to comply with federal statute. His knowledge, training and experience is invaluable in working toward accountability in the care and protection of our children.

Ultimately HB 937 is a step toward promoting the transparency needed to inform the public and thus support accountability within the Maryland child protection system. I will leave you with what a young man in the system said in a juvenile hearing years

ago. In a very dejected and sad voice, "I am a ward of the system." In serious situations when the natural parents are unable to care for their children and the State undertakes that responsibility, it is important for the State to make sure the children are protected and cared for by the State's guardians. This bill at least provides some level of transparency and accountability by those entrusted to care for our most assets,

Please Issue a Favorable Report for HB 937

A handwritten signature in blue ink, reading "Susan H. McGowan". The signature is written in a cursive style with a large initial 'S' and a distinct 'H'.

**HB937 - INFO - DHS .pdf**

Uploaded by: Rachel Sledge Government Affairs

Position: INFO

February 22, 2024

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

**RE: TESTIMONY ON HB0937 - Child Abuse and Neglect - Reports and Records - Disclosure - 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 the following information for House Bill 937 (HB0937). With offices in every one of Maryland's jurisdictions, DHS helps Marylanders in economic need, provides preventive services, and protects children and adults. The Social Services Administration (SSA) within DHS implements the Child Protective Services program. The children and families we serve through child protective services are impacted by HB0937.

House Bill 937 would authorize anyone in the public, without limitation, to review Child Abuse and Neglect reports and records related to a fatality or near-fatality of a child in DHS care at the time of the critical incident. COMAR 07.02.07.21(A)(1) establishes that records and reports concerning child abuse or neglect are confidential, and section (A)(2) establishes that unauthorized disclosure is a criminal offense. In addition, COMAR 07.02.07.21(B) requires disclosure of records, reports, or information to authorized entities including the court; under an order of an administrative law judge; the State Council on Child Abuse and Neglect; the State Citizens' Review Board of Children or their designees; to a health care practitioner or agency, institution, or program treating or caring for an alleged victim if the information or record is relevant to the treatment or care of the child; to the State Medical Director for Children Receiving Child Welfare Services and all personnel under the direct supervision of State Medical Director; or to a child fatality review team, as necessary to carry out their official functions. COMAR 07.02.07.21(C) provides a process for releasing reports of child fatalities or near fatalities in response to a written request by authorized persons or entities. Current regulations carefully balance confidentiality with transparency. House Bill 937 would authorize all persons to review otherwise confidential reports and records related to a fatality or near-fatality of a child in DHS care at the time of the critical incident.



Our first concern is regarding the bill's requirement that the State Attorney's office notify either the local department of social services (LDSS) or the Secretary and is related to the statutory structure of executive authority, vested by statute in the Secretary. The bill would inadvertently diminish the authority of the Secretary to make decisions to disclose case-specific fatality or near fatality information appropriately; a prerogative flowing from the Governor, not the LDSS.<sup>1</sup> Thus all requests and information about fatalities and near fatalities must go through the Secretary's office or the Secretary's designee because it is the Secretary who is accountable for all decisions in these matters. The State's Attorney should not be authorized to bypass the Secretary to communicate only with the LDSS at the State Attorney's discretion.

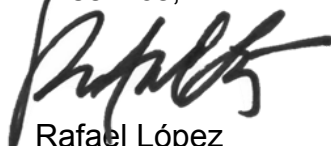
Similarly, HB0937 would require the LDSS and Secretary to consult each other as functional co-equals. The new requirement would disrupt existing and effective executive authority. The Secretary is the head of the Department and is accountable for carrying out specific duties, including those relating to the "orderly and efficient administration of the Department" (§ 2-203) and the authority to review, approve, disapprove, or revise plans, proposals, and projects of each unit in the Department (§ 2-211). The Secretary's existing statutory requirements and authorities are not currently, and should not be, subject to consultation with subordinate divisions of the Department of Human Services.

If the bill's sponsor intends, as in prior legislative sessions, to authorize elected officials to request access to redacted, confidential child welfare records when there is a fatality or near fatality, then the bill text could be more narrowly tailored to that purpose. As a matter of policy, it is crucial to limit the individuals authorized to request otherwise confidential information to those persons with treatment, investigatory, or other authorities to act on such information in the best interests of all Marylanders.

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 HB0937.

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> See, [MD Code. Human Services. § 2-202 \(a\)\(2\) and MD Code. Human Services. § 2-202 \(c\)\(1\)](#)