



J. CHARLES SMITH, III
STATE'S ATTORNEY

KIRSTEN N. BROWN
DEPUTY STATE'S ATTORNEY

STATE'S ATTORNEY'S OFFICE

County Courthouse
100 West Patrick Street
Frederick, Maryland 21701

www.statesattorney.us

CIRCUIT COURT DIVISION
301-600-1523

DISTRICT COURT DIVISION
301-600-2573

CHILD SUPPORT DIVISION
301-600-1538

JUVENILE DIVISION
301-600-2980

DATE: February 11, 2025

BILL NUMBER: HB 223

POSITION: Unfavorable

The Maryland State's Attorney's Association and the Frederick County State's Attorney's Office oppose HB 223.

HB 223 mandates rights to individuals who are not necessarily the subject of a criminal investigation, that are far beyond the constitutional rights even afforded to individuals who are the subject of a criminal investigation, while putting the safety and well-being of children at significant risk.

The cases that are referred to the Department of Social Services and Child Protective Services (CPS) inherently involve offenders who are parents, caregivers, family members, and household members. CPS's mission is to protect children from abuse and/or neglect by those who are entrusted with their care and well-being. Moreover, CPS investigations are not necessarily criminal investigations. Instead, under current law, a joint investigation with law enforcement is only required if the report involves sexual abuse of a child. Many CPS investigations involving physical abuse or neglect of a child are never investigated by law enforcement.

Under this proposed legislation the CPS worker would be required to notify the parent or caretaker of all of the allegations being investigated at the outset of the investigation even if the parent or caretaker is the maltreater. This puts the child victim at significant risk and jeopardizes the integrity of the investigation. This notification is not even required for individuals who are the subject of a criminal investigation.

Under the legislation as proposed, the scenario I envision is that a child reports at school that they are being abused by a parent or caretaker. Within 24 hours CPS responds to the home to do an initial assessment. Upon making contact with the parent/maltreater, the CPS worker notifies the parent/maltreater of their rights pursuant to the proposed legislation as well as all of the allegations being investigated. The parent/maltreater determines that (1) they will not allow the worker into the home to assess the safety of the victim or any other child, (2) they will not allow the worker to interview the victim or any other child, (3) they will not sign or verbally agree to a safety plan, (4) they want an opportunity to consult with an attorney regarding the investigation, (5) they will not agree to sign the notice of rights form without consultation with an attorney, and (6) they will not allow the non-offending parent/caregiver to speak with the CPS investigator. What can the CPS investigator do at that time to be able to assess the safety/well-being of the child? What will happen to the child(ren) inside the home with the maltreater once the CPS worker leaves the residence? What has occurred to the child(ren) during the time it takes the CPS worker to get a court order to authorize entry into the home? What has happened to any potential evidence that may have existed within the home? Has there been witness tampering in the time between

the CPS worker notifying the maltreater of all of the allegations against them and the CPS worker having an opportunity to interview the child after obtaining a court order? Have the injuries on the child dissipated in the time it takes to obtain a court order for medical evaluation of the child? Has the child's health and safety been threatened by the delay?

The practical effects of this legislation will have wide-sweeping detrimental impacts to protecting the safety and well-being of children in Maryland. In addition to delaying the assessment of a child's well-being, this legislation will lead to more removals of children from homes which will increase the trauma experienced by those children who have already suffered abuse or neglect. Furthermore, this legislation will have an impact on the ability of investigators to determine what actually happened, potentially leaving a child in a dangerous situation without access to justice or safety.

For these reasons, the Maryland State's Attorney's Association and the Frederick County State's Attorney's Office request an unfavorable report on HB 223.

A handwritten signature in black ink, appearing to read 'L. Carpenter', with a stylized, flowing script.

Lindsey M. Carpenter
Chief, Special Victims Unit
Frederick County State's Attorney's Office