

Marsha L. Williams, Esq.
Kathleen M. McClernan, Esq.
Alycia E. Stack, Esq.

Tiffany Young, Esq. Associate



Williams | McClernan | Stack
ATTORNEYS AT LAW

22715 Washington Street, Suite 201
P.O. Box 188
Leonardtown, MD 20650

240.309.4179
wmslawyers.com

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Maryland General Assembly
House of Delegates
Judiciary Committee

Re: HB0223 UNFAVORABLE

Dear Committee Members,

We, the attorneys of Williams, McClernan, and Stack LLC (WMS), are writing to share our opposition to HB0223. This bill will endanger children, leading to more children in Maryland suffering abuse and serious neglect.

WMS is made up of four attorneys- Marsha Williams, Kathleen McClernan, Alycia Stack, and Tiffany Young. Collectively we have over 50 years of experience representing children in Maryland's child welfare courts, both as staff attorneys for Maryland Legal Aid (Marsha, Alycia, and Tiffany) and as a private law firm. Kathleen McClernan has represented criminal defendants in Maryland both as a public defender and as a private attorney.

We know that our system works best when everyone involved understands their rights. Our concern with HB0223, however, is that it does not say that government investigations should *always* inform people of their rights. HB0223 *only* applies when the suspected victim is a child. This bill takes the Miranda warning, which presently only applies to criminal investigations, and applies it to civil matters. Not only that, but it applies this warning to every interaction of the Department of Social Services when it investigates child abuse and neglect. This creates a burden that is not required in any other civil government investigation- not in environmental violations, elder abuse, animal abuse, housing code violations, employment discrimination, or workplace violations. The government would be required to provide these warnings at the initial stage only if the victim is a child. Effectively, this singles children out for diminished protection. This diminished protection endangers children and should not be approved.

As drafted, this new legislation includes an "exclusionary clause" which greatly heightens the danger that it poses to children. The exclusionary clause, or any form of it, would enable child abuse and neglect to continue based on a technicality. The

exclusionary clause would prevent the Department and Courts from protecting children just because a worker made a paperwork mistake. This bill simultaneously creates copious new notification requirements while allowing the results of an investigation to be repressed for any violation of them. It sets the Department up to fail. A Court could be forced to return a child to a clearly abusive or dangerous situation because of a mistake regarding the notifications. There is no doubt that this will lead to serious harm and injury to some children. It may very well lead to child deaths.

This bill also states that parents can refuse to allow a worker to interview children, even where there is a report of abuse or serious neglect. Child Protective Services must be able to interview children in private to investigate abuse and serious neglect. The investigator must be able to hear from the child, in private, to be able to ascertain the child's safety. This bill would hinder this essential aspect of the investigator's work.

The proposed bill will lead to excessive removal of children in some cases. A CPS investigator who might otherwise have been able to develop a safety plan with the family may be forced to remove a child when the investigator is unable to speak with the parent or the child. Conversely, in other cases it will lead to situations where an investigator will simply quit when faced with an uncooperative parent, even if there are children living with abuse or serious neglect. This bill will lead to both over- and under-removals, harming children in both cases.

Deaths of children from abuse and neglect are rising in Maryland. This bill will exacerbate this problem. We implore you to give this bill an unfavorable report.

Sincerely,

<i>Marsha L. Williams</i>	<i>Kathleen M. McClerman</i>	<i>Alycia E. Stack</i>	<i>Tiffany Young</i>
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