

February 20, 2025

Maryland General Assembly
Judiciary Committee

RE: Support for HB 1209

Dear Members of the Committee,

I am pleased to present this written testimony in support of SB 89, which I believe is an important step to ensuring transparency and accountability in Maryland's child protection system.

I write based on almost 25 years' experience working in every aspect of child welfare: as a juvenile court judge, Georgia's independent child protection ombudsman, policy advocate, board-certified child welfare law attorney, and former director of the Georgia Division of Family and Children Services. I write a regular newsletter on child welfare issues, <https://tomrawlings.substack.com>, in which I cover national issues in child protection.

What I have seen in my years is that when the system fails to protect a child, state agencies often hide behind "confidentiality." The problem is that confidentiality prevents the public and the policymaker from understanding *what* happened and how the system might be improved to better protect children. Most child welfare tragedies do not involve a single failure by a single caseworker but rather result from systemic issues that can best be addressed by a comprehensive review.

Fortunately, federal law allows – even requires – that state child welfare agencies provide greater public transparency in cases involving deaths of and severe injuries to children who have current or previous contact with the child protection system. The Child Abuse Prevention and Treatment Act, 42 USC § 5106a, requires each state to have "provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality."

Highlighting the mandatory nature of the CAPTA requirements, I would specifically like to draw the committee's attention to the federal government's guidance on this issue reflected in its Child Welfare Policy Manual:¹

Question 2.

The requirement for public disclosure states that "findings or information" about a case must be disclosed. Does this mean that States have the option to disclose either the

¹
https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=68#:~:text=A%20%22near%20fatality%22%20is%20defined,%22near%20fatality%22%20under%20CAPTA

findings of the case, or information which may be general in nature and address such things as practice issues rather than provide case-specific information?

Answer

No. The intent of this provision was to assure that the public is informed about cases of child abuse or neglect which result in the death or near death of a child. As with the use of the other "or's" in this provision ("child abuse or neglect" and "child fatality or near fatality"), we understand the language to be inclusive and not limiting. Specifically, the reference to "findings or information" requires the disclosure of information about such a case even if there are no findings, in accordance with section 2.1A.4, Q/A #8 of the CWPM. Thus, when child abuse or neglect results in the death or near death of a child, the State must provide for the disclosure of the information required by section 2.1A.4, Q/A #8 of the CWPM. However, nothing in this provision should be interpreted to require disclosure of information which would fall within the specific exceptions that states are allowed to establish under section 2.1A.4, Q/A #8 of the CWPM.

We adopted a law allowing such transparency in Georgia 15 years ago, and in my opinion it has worked well to give the public and our state leaders better insight into the challenges child protection agencies face. Face it: when you tell a journalist or a state legislator that you can't share information about a child death that was just publicized on the news due to "confidentiality," the natural human tendency is to think you're hiding something. Creating greater transparency leads to greater public confidence in the child protection system, increased understanding of the difficult job child protection workers have, and increased ability to diagnose and fix the system when it fails.

In enacting this legislation, Maryland is joining other states that are moving to create this needed window into how child protection agencies work. Kansas, West Virginia, New Mexico, and other states are making progress in these areas.

This particular bill properly balances the need for public disclosure against the desire to ensure that some details of a family's struggle remain private or that a criminal investigation not be hindered. I commend the committee and the sponsor on this valuable legislation.

Kind regards,

A handwritten signature in blue ink, appearing to read "Tom C. Rawlings".

Tom C. Rawlings