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POSITION ON PROPOSED LEGISLATION

BILL: House Bill 223 - Know Before They Knock

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 13, 2025

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on **House Bill 223, which requires that parents be informed of their rights when being investigated by the Department of Social Services (DSS).**

This testimony is provided by OPD's Parental Defense Division (PDD) which represents parents and legal guardians from all 24 counties in Maryland who have experienced, or are at risk of, having their children removed by the State. Our multidisciplinary legal team—comprised of dedicated attorneys, experienced social workers, and parent advocates with lived-experience in the DSS system—ensures that families receive high quality legal representation during their Child in Need of Assistance and Termination of Parental Rights Cases.

House Bill 223 simply requires DSS to inform parents of their already-existing rights. The bill is rooted in a shared commitment to protect our children while ensuring that families are treated with fairness, dignity, and respect—values held dearly by all Marylanders across the political spectrum.

Protecting Families from Invasive Investigations and Government Overreach

Critics have suggested that this bill might create an adversarial dynamic between families and DSS. However, we must acknowledge that this relationship already exists. Families are distrustful of DSS because of the power that they wield to investigate them and ultimately separate them from their children. Our clients do not experience DSS visits as a supportive event.

Because of the *imbalance of power that already exists* in the current system, this bill is necessary to restore some power to families. No matter how nice, well-trained, or well-educated

the caseworker¹ or social worker is, reality cannot escape the fact that this stranger has the power to take the children away from the families that they are investigating. This imbalance of power is the reality that exists when DSS's Child Protective Services (CPS) comes knocking on their door. Requiring CPS to inform parents of their rights could actually improve relationships between the community and correct some of the power imbalance. If parents are informed of their rights and particularly if CPS is the one to provide the information, the relationship may be less adversarial because parents will not feel as though they are being tricked.²

When DSS investigates a family, the DSS caseworker announces that someone has reported that their children have been abused or neglected. The report may or may not be true. The identity of the reporter remains anonymous. The family that is being investigated is subject to a search of not only their house, but their dresser drawers, refrigerator, medicine cabinets, closets, beds, and every personal space a person can have in their home. DSS asks about the family's medical history, mental health status and treatment, medication, and living habits. They are asked about their past and present romantic partners. Their children are taken into another room and questioned and visually inspected with or without clothing. Many would agree that this would feel highly intrusive for a stranger to instantly have access to this deeply personal information. These investigations are not just frightening to parents but also to children who by and large are afraid of being removed from their families and communities. It is terrifying to have a stranger who is armed with the authority of the government intrude in a family's home.

In cases of newborns, DSS conducts assessments or investigations at the hospital almost immediately after a mother gives birth. Less than 48 hours after birth, DSS can come to a hospital room and ask these invasive questions to mothers recovering from childbirth while wielding the power to remove their newborn baby right from the hospital.

Ensuring Child Safety While Empowering Parents

In cases of genuine emergency, where a child's safety is in immediate jeopardy, DSS and law enforcement has the authority to act swiftly. This law would not change that. This bill does not alter Family Law Article 5-709 which allows DSS and/or the police to "access the children when there is probable cause to believe that a child is in serious immediate danger."

¹ In Baltimore City, the jurisdiction that handles the majority of cases in Maryland, most caseworkers do not have a social work license.

² Connecticut, one of the first states in the country to experiment with this issue, has proven that informing parents of their rights actually helps investigations go more smoothly. According to the deputy commissioner of operations at the Connecticut Department of Children and Families, "there has been no negative impact on child safety" and the "greater transparency... [brings] down the anxiety of the interaction" during the initial investigation.

<https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>

House Bill 223 applies to non-emergency situations, ensuring that before an investigation begins, parents know exactly what they are entitled to—without delaying urgent interventions when they are truly needed. House Bill 223 does not prevent DSS caseworkers and law enforcement officers from entering a home and removing children when there is an imminent safety concern. House Bill 223 applies to the majority of circumstances, when DSS workers are conducting non-emergency investigations.

It is a mistake to believe that DSS’s investigators are only entering homes in cases of emergencies. The overwhelming majority of DSS investigations, as evidenced by recent data from Federal Fiscal Year 2022 (FFY22), involve cases where no immediate danger is present.³ In these instances, informing parents of their rights is not only fair—it is a vital measure to ensure that families are not unnecessarily subjected to intrusive procedures that can cause lasting trauma. The majority of cases that DSS investigates involve no immediate emergency or danger. In FFY22, Maryland investigated over 17,000 children for allegations of child maltreatment. Out of those investigations, 4,900 of those children were “indicated,” which means DSS found enough evidence to determine the child had been abused or neglected. Therefore, in about 12,100 cases the State subjected families to CPS investigations where no abuse or neglect could be found. Out of the 4,900 children who had an indicated case, almost 3,000 of those children were indicated for neglect and not abuse. The majority of neglect cases are related to poverty. This is in no way meant to minimize the seriousness of child neglect; rather, it is to illustrate that in FY 2022, over 15,000 investigations were likely not emergencies.

Opponents of this bill suggest that investigation delays can be fatal to children, which is a dramatically overblown assertion. If the child is in serious imminent harm, as described, DSS and the police retain the authority under existing law to enter the home to remove the child. We all share the concern for child safety, however, we have swung so far into the direction of “better safe than sorry,” that we are investigating thousands of families whose children are not being harmed. This current approach fails to recognize that needless investigations and removals also cause significant and lifelong harm to children.⁴ In cases where children are alleged to be neglected, DSS is still going to be able to conduct their investigation. This bill simply informs parents as to what their rights are during the investigation and empowers families to make educated choices.

Preventing Hidden Foster Care and Protecting Family Unity

One particularly troubling consequence of current practices is the phenomenon of “hidden foster care,” where children are removed from their homes and placed with friends or relatives without

³ <https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/maryland>

⁴ <https://imprintnews.org/opinion/child-welfare-reckons-with-the-harm-of-investigations/258536>

proper judicial oversight. This practice can separate children from their families indefinitely and without clear criteria for reunification and no court process or oversight. By ensuring that parents are informed of their rights from the outset, HB 223 helps prevent situations where families feel compelled to make hasty decisions—such as relinquishing custody—to avoid the threat of state intervention. In doing so, the bill helps preserve the natural bonds between parents and children while safeguarding the well-being of our communities. Parents facing desperate circumstances often feel compelled to do whatever they can to prevent the removal of their children—even if it means compromising their own rights and quickly signing contracts without realizing their long-term implications.

A Step Toward Racial Equity

It is also important to recognize that Maryland’s DSS system disproportionately affects Black families. Black children constitute 30.6% of the state’s population but account for 54.5% of the foster care population. Nationally, children from marginalized communities are more likely to be reported and investigated than their white peers. By mandating that parents are informed of their rights, HB 223 not only protects individual families—it also contributes to addressing systemic inequities, ensuring that all parents, regardless of race or background, are given the same opportunity to understand and exercise their rights.

Conclusion

House Bill 223 is not about hampering the state’s ability to protect children in genuine emergencies. Rather, it is a measured step that provides families with the information they need to safeguard their rights while collaborating with state agencies to ensure child safety. When parents understand what is and isn’t permissible during an investigation, they are better positioned to make decisions in the best interest of their children. This bill strengthens family integrity, prevents unnecessary separations, and ultimately supports a more just and equitable system.

For these reasons we urge the Committee to issue a favorable report for HB 223, recognizing that informed parents are key to keeping our children safe and our communities strong. Thank you for your time and consideration.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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