



Maryland State's Attorneys' Association

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BILL NUMBER: HB 1209

POSITION: Favorable

The Maryland State's Attorney's Association (MSAA) supports House Bill 1209, and urges this committee to issue a favorable report.

HB 1209 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 1209 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 1209 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 1209 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 issue a favorable report on HB 1209.