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HB1209 - Child Abuse and Neglect – Reports and Records

HB1209 is a very simple bill that clarifies Maryland's obligations under federal law to release to the public DHS records when a child who has history with the Department suffers a fatality or a serious, near-fatality injury. Under the federal Child Abuse Prevention and Treatment Act (CAPTA), every state is required to ensure that the public is informed about cases of child abuse or neglect that result in the death or near death of a child.¹ The state must make public the child's age and gender, the cause of the fatality or near fatality, information describing any prior reports of child abuse or neglect involving the family, information regarding investigations pertinent to the child abuse or neglect that led to the child's death or injury, and services provided and actions of the State on behalf of the child.

The problem with the current Maryland law is that while it provides for the release of this information, it has an exception that swallows the entire rule. Under current law, the State's Attorney of the jurisdiction can block the release of this required information merely by stating that release of the information would harm any related investigation or prosecution. Of course, there will always be an investigation into a child abuse-related fatality, and the presence of an investigation should not allow the agency to avoid its legal duty to the public.

¹ https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=68

DHS contends that releasing this information will infringe on the privacy of these families. Privacy must not be the determining factor when the very life of a child is at stake.

In 2011, the Federal Government Office of Accountability issued an extensive report to the Chairman of the Committee on Ways and Means of the House of Representatives. The title, "Child Mistreatment: Strengthening National Data on Child Fatalities Could Aid In Prevention," speak volumes. The report analyzed the deaths from maltreatment involving a failure on the part of the adults who were responsible for protecting them. Prevention is the key word here. Arizona has a website that provides the public with notice about the incident at the time of the initial report. The site is updated after the investigation with a subsequent report that provides the findings of the agency indicating the person(s) responsible. By making such preliminary reports, the public is on notice and alert to make subsequent reports should they observe further alarming evidence of abuse or neglect. Thus, the public becomes an active participant in the prevention of child fatalities in aid of the already caseload laden DHS.

While I have complete confidence in the work of the fatality review board, keeping these reports from the public only hurts the children, as the vigilant eyes and ears of the public are not utilized to protect our greatest legacy to the future. Federal law requires such disclosures, and failure to follow that law may result in the federal government withholding our State's CAPTA grant, while opening the door to future litigation.

The GAO Report on Child Mistreatment asserts a powerful conclusion. Without the collection and routine sharing of child maltreatment fatalities, opportunities are lost to develop prevention strategies and to learn the risk factors associated with such maltreatment. "As a society, we should be doing everything in our collective power to end child deaths and near deaths due to maltreatment. The collection and reporting of comprehensive data on these tragic situations is an important step toward that goal." Where is the "it takes a village mentality"? YOU Must read this powerful Conclusion.

PLEASE ENTER A FAVORABLE REPORT FOR HB1209.

Susan F. McGowan