



House Bill 223
Family Law - Child Abuse and Neglect Investigations
("Know Before They Knock" Family Right to Notice Act)
In the House Judiciary Committee
Hearing on February 13, 2025
Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on HB 223 at the request of Delegate Crutchfield.

Maryland Legal Aid submits this testimony in support of HB 223, a bill that provides notice to a child's parent or caretaker of their basic rights and protects them from invasive warrantless searches during an investigation of suspected child abuse or neglect. Maryland Legal Aid (MLA) is Maryland's largest non-profit law firm, with 12 offices serving each of Maryland's 24 jurisdictions, providing free civil legal services to the state's low-income and vulnerable residents. Our advocates represent parents and caretakers who are faced with suspected child abuse and neglect investigations and who are not aware of their basic rights during these investigations. As an organization that also represents children in CINA cases, we understand the impact and importance of CPS investigations, and we believe this bill strikes an appropriate balance between the state's important role in protecting children, while respecting the fundamental privacy rights of all Marylanders. As the only organization in the state with this 360-degree perspective of the system, MLA strongly supports this bill's requirement that caretakers be informed of their rights, including the right to consult an attorney, when the government knocks at their door. Therefore, we ask this committee to grant House Bill 223 a favorable report and urge its ultimate passage.

The low-income clients MLA serve are commonly subjected to unwarranted government intrusion into their homes, including by the Department of Social Services (DSS). Currently, DSS often enters our clients' homes without their consent and without providing them notice of the allegations against them. In these traumatic and confusing moments, our clients report not fully understanding their legal options. HB 223 requires DSS agents to provide a child's parent or caretaker with oral and written notice of their basic rights during a child abuse or neglect investigation. Among other things, this bill will require DSS to

- Notify a child's parent or caretaker of the allegations against them;
- Explain their right to consult with a lawyer prior to or during the investigation; and
- Inform them that, *unless ordered by a court*, they may refuse entry into their home, refuse requests to interview or physically examine their children, and refuse to submit to substance abuse or mental health screens.

Thus, HB 223 simply give parents and caretakers notice of their due process rights – rights that already exist under the law but are often not understood or invoked because of the intimidating nature of the investigations and the understandable desire of anxious parents to seem compliant.

HB 223 does *not* sacrifice children’s safety, because it does *not* block DSS’ ability to investigate child abuse. If parents or caretakers do not provide informed consent for DSS to enter their homes, DSS can still proceed with their investigation after obtaining a court order or a warrant based on probable cause. Further, Maryland law currently allows a DSS representative to enter a home without consent if they are accompanied by law enforcement and have probable cause to believe that a child is in serious, immediate danger, and this bill does *nothing* to change that. Therefore, this bill effectively balances the rights of parents and caretakers to feel secure in their homes and persons, and the government’s interest in legitimate, constitutionally compliant investigations.

Most DSS investigations result in a finding that the allegations of abuse or neglect are unsubstantiated. In 2022, DSS investigated over 23,000 allegations of child maltreatment and in only 28% of those referrals did DSS identify a substantiated or indicated allegation.¹ Unfounded DSS investigations can fundamentally alter family relationships and trust.² Negative experiences with DSS can also rock a parent’s faith in government systems, potentially making them wary of seeking help in the future.

By passing this bill, Maryland will join other states around the country who have passed similar bills in recognition of the invasive nature of CPS investigations. In September 2023, Texas Family Code § 261.307 went into effect, requiring the department to give a parent notice of their rights during a CPS investigation, including the right to refuse entry to the home, consult with an attorney, and be apprised of the allegations against them. Around that time, Arizona Revised Statute § 8-809.01 also went into effect, similarly enshrining a parent’s rights during an investigation into allegations of child abuse. In October of 2023, New York City launched a pilot program, identifying certain neighborhoods where notice similar to that required by HB 223 must be given to parents and caretakers at the onset of an investigation.

HB 223 codifies and protects the fundamental due process rights of parents and caretakers, while leaving intact the ability of DSS to conduct investigations of child abuse and neglect. It

¹ Children’s Bureau, Administration for Children & Families, Maryland Child Welfare Data: <https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/maryland#footnote5>

² Shanta Trivedi, The Harm of Child Removal, 43 NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE 523 (2019) https://scholarworks.law.ubalt.edu/all_fac/1085

creates accountability and prevents government overreach into our families—an issue that should unite Marylanders across the political spectrum. For the reasons stated above, MLA urges a favorable report on and passage of HB 223. If you have any questions, please contact me at: bgolfin@mdlab.org.