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POSITION ON PROPOSED LEGISLATION

BILL: House Bill 890- Know Before They Knock
FROM: Maryland Office of the Public Defender
POSITION: Favorable
DATE: 2/19/26

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on **House Bill 890, 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 separated from their parents by an arm of the government. Our multidisciplinary legal team—composed 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 (CINA) and Termination of Parental Rights (TPR) cases.

House Bill 890 is simple: It requires DSS to inform parents of their already-existing rights, including:

- The right to be informed of the allegations against the parents
- The right to refuse DSS’s entry into the home without a court order
- The right to consult with an attorney

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 adversarial relationship already exists. Families are distrustful of DSS because of the power that the agency wields to investigate families and ultimately take children away from their parents. Our clients do not experience DSS visits as supportive events.

Because of the *imbalance of power that already exists* in the current system, this bill is necessary to restore some power to families without creating risk for children. No matter how nice, well-trained, or well-educated the caseworker¹ or a social worker from DSS is, the fact remains that this stranger has the power to take children away from the families 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 will 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 misled or misinformed.²

When DSS investigates a family, the DSS caseworker announces that someone has reported an allegation 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 being investigated is subject to a highly invasive search. The stranger from DSS can inspect not only the family's house, but they can also look inside dresser drawers, refrigerator, medicine cabinets, closets, under beds, and every personal space in their home. These investigations can occur any time of the day, including in the middle of the night when children are roused from their beds. DSS asks about the family's medical history, mental health status and treatment, medication, and living habits. Parents and some family members are asked about their past and present romantic partners. Their children are taken into another room and questioned and visually inspected, sometimes undressed. Nearly all of us can agree that it is highly intrusive for a stranger to instantly have this degree of access to this much personal information. These investigations are frightening not just to parents; without a doubt, children are also frightened by this intrusion from a stranger and fear being taken away from their families and communities. It is terrifying when a stranger, wielding the authority of the government, intrudes into 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, with the investigator while wielding the power to remove their newborn baby right from the hospital.

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>

Ensuring Child Safety While Empowering Parents

This bill does not change the law that allows DSS and law enforcement to take a child from the home in cases of a genuine emergency, where a child’s safety is in immediate jeopardy.

Family Law Article § 5-709 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.” To be clear: House Bill 890 does not alter § 5-709 and only applies to **non-emergency** situations, which are the vast majority of cases. House Bill 890 does not prevent DSS caseworkers and law enforcement officers from entering a home and removing children when there is an imminent safety concern.

Right now, DSS enters homes even in non-emergency cases. The overwhelming majority of DSS investigations, as evidenced by recent data from Federal Fiscal Year 2023 (FFY23), involve cases where no immediate danger is present.³ In FFY23, 20,647 Maryland children were subjected to investigations due to allegations of child maltreatment. Out of those investigations, 6,074 of the children were the subject of an “indicated” finding, which means DSS found enough evidence to determine that the child had been abused or neglected. Therefore, the State subjected 14,573 children to an investigation where there was no abuse or neglect. Out of the 6,074 children who had an indicated case, almost 4,000 of those children were indicated for neglect, NOT abuse, and 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 FFY 2023, more than 19,000 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 a child is in serious imminent harm, DSS and the police retain the authority under existing law to enter the home to remove the child – nothing in House Bill 890 changes that. Maryland DHS’s “better safe than sorry” approach has led to governmental investigations of thousands of families whose children were not actually being harmed. This approach does not create safety; rather it results in needless investigations and family separation which causes significant and lifelong harm to children.⁴ House Bill 890 does not prevent DSS from conducting its investigation of families whose children are alleged to be neglected. 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>.

any judicial oversight.⁵ This practice can separate children from their families indefinitely and without clear criteria for reunification. By ensuring that parents are informed of their rights from the outset, HB 890 helps prevent situations where families feel compelled to make hasty decisions, such as signing away custody out of panic when they are told the alternative would be foster care. At OPD, we know from experience that parents facing desperate circumstances often are willing to do anything to prevent having their children go into foster care, even if it means compromising their own rights and quickly signing contracts without understanding the long-term implications of what they are signing.

A Step Toward Racial Equity

It is also important to recognize that Maryland’s DSS system disproportionately affects Black families. Black children constitute 29% of the state’s population but account for 55.5% 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 890 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 890 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 not out of fear, misinformation, or coercion, but out of consideration for what is 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 890, recognizing that informed parents are key to keeping our children safe and communities strong.

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

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⁵ Also known as “kinship diversion” or “kinship care”, this common practice is used to keep children out of foster care. While this practice may be intended to protect family unity, without proper safeguards and oversight, kinship diversion policies often fail to ensure children’s safety, to protect parents’ legal rights and to provide kinship caregivers with sufficient resources to care for the children entrusted to them.

<https://www.aecf.org/resources/new-insights-on-state-kinship-diversion-policies>.

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