



Memorandum in Support

February 9, 2024

A1980
S901

By: M. of A. Walker
By: Senator Brisport
Senate Committee: Children and Families
Assembly Committee: Codes
Effective Date: Immediately

AN ACT to amend the social services law, in relation to requiring child protective services to disclose certain information to parents and caretakers who are the subject of a child protective services investigation.

THE NEW YORK STATE BAR ASSOCIATION SUPPORTS THIS LEGISLATION

According to the U.S. Department of Health and Human Services' Children's Bureau, more than 189,000 children in New York State were the subject of child maltreatment investigations in 2021.² Currently, the child protective services (CPS) caseworker conducting the investigation, has no obligation to notify the child's parent or caretaker of their rights – including the right to consult with an attorney, the right to refuse to disclose personal information about the family, and the right to refuse to allow the caseworker to conduct a search of their home before a court order has been obtained. As a result, too many parents and caregivers – a disproportionate number of whom are Black and Brown³ - believe they have no choice but to grant the worker access to their private spaces, medical records, and children, or face the threat of their child's removal. The New York State Bar Association's Report and Recommendations of the Committee on Families and the Law Racial Justice and Child Welfare, adopted by the Association's House of Delegates in 2022, laid out a number of recommendations for ways to improve the Child Welfare System, one of which was to require that CPS caseworkers immediately inform parents and children of their rights.¹

The decision in the hallmark United States Supreme Court case of *Miranda v. Arizona* requires police officers to inform people of their fundamental rights while placing them under arrest. That case was important to ensure that citizens are informed of their ability to assert their rights when in contact with authority, and made law enforcement accountable for their actions during arrests. This legislation attempts to make a similar impact to help protect parents' fundamental rights with regard to their children.

¹Susanti Sarkar, *New York City's Child Welfare Agency to Better Inform Parents Under Investigation*, The Imprint 9/26/2023, <https://imprintnews.org/top-stories/new-york-citys-child-welfare-agency-to-better-inform-parents-under-investigation/244900>

²Arya Sundaram, *NYC Parents Facing Child Welfare Investigations Set to Get Rights Notices*, Gothamist, 1/22/2024, <https://gothamist.com/news/nyc-parents-facing-child-welfare-investigations-set-to-get-rights-notices>

³[Committee-on-Families-and-the-Law-April-2022-approved.pdf](https://www.nysba.org/Committee-on-Families-and-the-Law-April-2022-approved.pdf) (nysba.org)

This legislation aims to address this issue by mandating CPS to inform parents of their rights at the start of an investigation, without limiting CPS's legal authority. It seeks to safeguard the rights of parents, but does not curtail the ability of CPS to conduct a thorough investigation into child welfare concerns. This legislation does not afford parents with new rights, instead it aims to ensure transparency and protections for families' existing rights while still allowing CPS to use their legal mechanisms to protect children.

Notably, New York City recently began a pilot project of providing all parents/caregivers of their rights at the start of a child protective investigation.¹ As a result of that pilot, New York City saw no significant impact in the City's ability to protect children from harm, and, the pilot is being expanded to cover all child protective investigations in New York City.

Accordingly, it is recommended that the legislation be enacted to ensure that the rights of the families undergoing investigation throughout New York State are upheld and reinforced by government officials.

Based on the foregoing and the attached report, NYSBA **SUPPORTS** this legislation.
