



The Honorable Mitch McConnell  
Majority Leader  
United States Senate

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives

The Honorable Chuck Schumer  
Minority Leader  
United States Senate

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives

May 14, 2020

Honorable Majority Leader McConnell, Speaker Pelosi, Minority Leader Schumer, and Minority Leader McCarthy:

In times of crisis, leaders are forced to make difficult decisions at a rapid pace. COVID-19 has exposed critical issues in many sectors of society, some of which can be temporarily addressed with an influx of cash. But when it comes to protecting the most vulnerable of society – our children – pumping more money into a broken system will only compound the tragic flaws that already exist. We ask that Congress take this opportunity to address those issues first *before* increasing the funding levels of CAPTA.

In addition to my role as President of ParentalRights.org, I am also the vice-president of litigation for the Home School Legal Defense Association (HSDLA). Since 1983, HSLDA has been advocating for policies that protect innocent families from unnecessary government intrusion while ensuring that children who need help are able to get it. We've been involved in every part of a CPS investigation, from the moment a family receives the initial knock on the door to the day when a case reaches the courtroom.

Through both organizations, I am far too acquainted with how the current system fails both at-risk children in need and families who have done nothing wrong.

COVID-19 has highlighted just how badly the child welfare system, like many other programs, needs reforms.

The recent case of a homeschooling family in Kentucky particularly highlights how easily innocent families can get caught in the crosshairs of a child abuse investigation.

The father had recently taken a new job in Kentucky, but his wife and kids had moved to the state several months before him while he wrapped up his responsibilities in New York. He still had his NY driver's license while his wife now had a KY permit. Recently, while he was visiting his family in Kentucky, the family took a trip to the bank to open a new joint account.

Because both parents had to be present to sign documents, they brought their five kids into the bank with them. The bank teller, however, criticized them for bringing so many people into the bank despite COVID-19 social distancing guidelines.

The result? When the family returned home, they were greeted by a CPS investigator and law enforcement officer who demanded to interview and strip-search their children to check for bruises. An anonymous report had been filed that the children had been seen with bruises on their arms and in the company of a man who was not their father (presumably due to the out-of-state driver's license).

Unfortunately, cases like these are only increasing and will continue to do so unless Congress acts. Before the government pours millions more dollars into this flawed system, several reforms should first be put into place.

### **1. Eliminate anonymous reports**

- 3.5 million children are involved in child abuse investigations every year. Yet only 17% of those cases are found to be substantiated. As terrible as that is, *when the call is anonymous the proportion of substantiated cases drops to an abysmal 4%*. The practice of anonymous reporting has contributed to overwhelming the system with reports that don't warrant an investigation. Too many false cases mean authorities have less time to locate and rescue children who are actually in need.
- CPS hotlines are easily weaponized. We see this repeatedly in divorce and child custody cases and disputes between neighbors. As seen in the Kentucky case, COVID-19 could lead to an increase in panicked false reports that result in an unnecessary investigation of an innocent family.
- This practice should be replaced with confidential reporting. Reporters should be required to leave verifiable identifying information that will remain confidential unless the report is determined to be intentionally false or malicious.

### **2. Ban open-ended investigations**

- If an investigator finds that there is no basis for a report, an investigation should end there. Unfortunately, hotline tips often lead to "fishing expeditions." It is understood by CPS investigators around the country that once they begin an investigation, they must complete it even after they discover the tip was false.
- When the investigator arrived on the Kentucky family's doorstep and found that none of the allegations made by the reporter were true or credible, that should have been the end of it. Instead, common investigation practices ensued - private interviews with the children, "body checks"—i.e., "strip searches"— medical records checks, search of the home, and more.

### **3. Include a removal standard in CAPTA**

- Currently, programs funded by CAPTA rely on the removal standard found in the Social Security Act, which says that children can be removed from their home in instances that are "contrary to the welfare of the child." This standard is notorious for being interpreted to comport with whatever a state official believes is best for a child.

- CPS Investigators do not believe that they are subject to the Fourth Amendment, which protects families from unreasonable searches and seizures. They frequently use coercion and CVAs (Custody and Visitation Agreements) to remove children from their homes, even when they are not in immediate danger.

Millions more dollars will not improve the broken child welfare system, especially in the midst of a crisis. Until these reforms are made, more innocent children will be traumatized by investigations while more at-risk children are being missed because the system is overwhelmed. In order for CAPTA to be more than just another well-intentioned federal program, it is vital that these reforms be made prior to any funding increase.

Sincerely,

A handwritten signature in black ink that reads "James R. Mason". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish at the end.

James R. Mason  
President  
ParentalRights.org