

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 369
Judiciary

(Delegate Dumais)

Foster Parents, Preadoptive Parents, and Caregivers - Right to Intervene

This bill establishes the right for foster parents, preadoptive parents, caregivers, or attorneys to intervene as a party in any proceeding involving the welfare or placement of the child. The bill also requires the circuit court to provide specified notice regarding such proceedings to a child's foster parent, preadoptive parent, or caregiver and provides additional rights to foster parents and kinship parents.

Fiscal Summary

State Effect: Potential minimal notification costs for the Judiciary, as discussed below. Revenues are not affected.

Local Effect: Potential minimal notification costs for the circuit courts, as discussed below. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under current law, before any proceeding concerning a child, the local department of social services must give at least 10 days' notice in writing to the child's foster parent, preadoptive parent, or caregiver of the date, time, and place of the proceeding and the right to be heard at the proceeding. Pursuant to the bill, these individuals must also be provided notice regarding the right to intervene as a party in the proceedings. The bill also adds that the circuit court (in addition to the local department) must provide the required notice to these individuals.

Under current law, a “party” does not include a foster parent. The bill specifies that a party does not include a foster parent unless that foster parent has exercised the right to intervene.

Under current law, foster parents are afforded numerous rights, including:

- the right to obtain full information from the caseworker, subject to exceptions regarding privileged or confidential matters, on the physical, social, emotional, educational, and mental history of a child which would possibly affect the care provided by a foster parent;
- with regard to local department case planning, the right to be informed of decisions made by the courts or a child welfare agency concerning a child and the right to provide input, among other rights; and
- the right to be given reasonable written notice of plans to terminate the placement of a child with a foster parent, subject to specified exceptions.

The bill extends these rights to kinship parents and also adds that foster parents and kinship parents have the right to intervene in a proceeding involving the welfare or placement of a child. Furthermore, a foster parent or kinship parent must have the right to obtain all nonprivileged information in documents pertaining to the placement of a child. A party who asserts that information in a document is privileged, must identify the privilege and prove its applicability and produce the document with the information for which the privilege is claimed redacted.

A kinship parent is an individual who is related by blood or marriage within five degrees of consanguinity or affinity to a child who is in the care, custody, or guardianship of a local department and with whom the child may be placed for temporary or long-term care other than adoption.

State/Local Fiscal Effect: General fund expenditures for the Judiciary and the circuit courts may increase minimally to provide written notice of proceedings as required by the bill. Although unable to quantify a precise fiscal estimate, the Judiciary notes that foster parents and caregivers change frequently in child in need of assistance cases, and making the circuit courts jointly responsible for meeting the notice requirement places an additional burden on the courts.

The Department of Human Services did not respond to a request to provide an estimate for the fiscal impact of this bill. Accordingly, the Department of Legislative Services assumes that local departments of social services can use existing resources to facilitate any additional requests from foster parents and kinship parents for nonprivileged information pertaining to the child and to accommodate the extension of the current rights of foster parents to kinship parents. The extent to which the authorization for additional individuals to intervene in proceedings may impact decisions regarding a child’s welfare or placement

(and associated State funding related to such services) cannot be reliably predicted beforehand, and is therefore not accounted for in this fiscal and policy note.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 586 (Senator Waldstreicher, *et al.*) - Judicial Proceedings.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mr/lgc

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