
DATE: February 6, 2020

BILL NUMBER: HB 369

COMMITTEE: Judiciary

BILL TITLE: Foster Parents, Preadoptive Parents, and Caregivers - Right to Intervene

DHS POSITION: Letter of Concern

The Department of Human Services (the Department) respectfully submits this letter of concern regarding House Bill 369. House Bill 369 would provide foster parents the right to intervene in a child welfare court proceeding, and become party to the case. We are extraordinarily grateful for the families who are willing to open their hearts and homes for vulnerable children in the Department's care. It takes a very special person to be a foster parent, and the Department is committed to supporting foster parents however we can. However, we believe this bill is duplicative, insofar as foster parents currently have all the rights that are outlined in the bill, without the need to have legal standing in a child welfare case. We are also concerned that by allowing foster parents to be party to a child welfare proceeding, we are inadvertently moving our focus away from what is in the best interest of the child.

Under current law, a foster parent retains the right to be heard at the child welfare proceedings, and may request to be named as a party. The Local Department of Social Services (LDSS) is required to provide notice of the date of the hearing to foster parents. The right to be notified of the proceeding and to petition the court to be heard in a case has been in effect since The Adoption Assistance and Child Welfare Act of 1980. Under current Maryland law, the court may exercise judicial discretion to allow foster parents to intervene. Currently, foster parents may offer testimony to the court, and they have access to all pertinent information regarding the child's needs, case history, and placement. House Bill 369 would remove the court's discretion to determine whether it is appropriate for a foster parent to intervene in these proceedings, while offering nothing additional in terms of the rights offered to foster parents under current law.

The Department is concerned that this bill may inadvertently create more complexity in already complex cases. Allowing foster parents to become party to a child welfare proceeding, may create a conflict in reunification cases, or delay termination of parental rights cases (TPR). Ultimately, this results in an overall delay for permanency placement, which is harmful to the child. By allowing foster parents to have standing in child welfare proceedings, they would also be entitled to appeal an adverse decision. This too, could create harmful delays in permanency.

The Department believes the child's best interest is the single most important consideration in a child welfare proceeding, and they should be encouraged to advocate for themselves. Often, the child is permitted to provide input as to how content and comfortable they are in their current foster care placement. It is critical that the child feels they can speak freely about their current placement, or express the desire for a new placement. Allowing the foster parent to be party to the case could deter the child from being forthright about their foster family.

For these reasons, the Maryland Department of Human Services has concerns about this bill, given that foster parents may currently exercise the right to petition the court to be heard in child welfare and placement proceedings. Allowing foster parents a right to intervene also shifts focus away from what it in the best interest of the child. The Department respectfully requests that the Committee consider these concerns during deliberations.

