



POSITION ON PROPOSED LEGISLATION

BILL: SB 585 – Children in Out-of-Home Placements - Mandatory
Concurrent Planning
POSITION: OPPOSE
DATE: March 11, 2020

This bill proposes to modify Family Law Article § 525(e)(3) to require reasonable efforts to concurrently plan for adoption or legal guardianship rather than allow the local Department to exercise appropriate discretion to concurrently plan. This proposal would require Departmental case workers to simultaneously work towards fundamentally conflicting goals: reunifying a child with their parents, and permanently removing that child from their parents' care.

REUNIFICATION IS THE PREFERRED PERMANENCY PLAN BECAUSE, WHEN POSSIBLE, REUNIFICATION IS IN THE *BEST INTEREST OF THE CHILD*

- The vast majority of removals in Maryland are due to poverty-based neglect as opposed to child abuse;
- Research is well-established that removal and continued removal of children from their families is harmful to children;
- Federal Law, the Family Law Article and COMAR all prioritize reunification over placement for adoption or custody and guardianship;
- Adoption legally severs all ties that a child has with their biological family, including ties to biological siblings, grandparents, and other relatives;
- Custody and guardianship with non-relatives often in practice severs ties between parents, siblings, and other relatives;
- Many foster parents are not willing to adopt or obtain custody and guardianship and are instead interested in serving only as a resource parent to help while the parent works toward reunification. If this bill were to pass, all of these foster parents would be effectively eliminated because they would be unable to serve as a concurrent planning resources. Maryland is already in need of many more foster parents without further depleting the list of foster parents that are already available.

REUNIFICATION AND ADOPTION ARE DIAMETRICALLY INCONSISTENT WITH ONE ANOTHER

- The Maryland Court of Appeals, as well as the Supreme Court of the United States, have long recognized that a parent has a constitutionally protected fundamental right to raise his or her children; requiring concurrent reasonable efforts would require case workers to maintain the emotional and physical bonds between family members while concurrently working to legally sever those bonds *in every single case*, even if it's *not in the child's best interest*;
- Because concurrent planning is not always in the best interest of the child, this bill forces DSS and Courts to ignore the best interests of children. Such a change contravenes the purpose of the CINA statutory scheme.

MANDATORY AS OPPOSED TO DISCRETIONARY CONCURRENT PLANNING WILL HAVE A DETRIMENTAL EFFECT ON THE DEPARTMENT'S RESOURCES

- The proposed requirement would put a catastrophic strain on DSS resources, due to the fact that case workers would be forced to provide services towards reunification (examples include assistance with housing, mental health referrals, and transportation to and from visits), as well as finding pre-adoptive resources (which often include assistance with housing, foster care classes, and other financial burdens). Since the goals are in opposition, this would lead to an increase in litigation on reasonable efforts, thus delaying the ultimate goal of permanency.
- DSS case workers are overworked, underpaid, and have overwhelming numbers of turnover. In many respects, they struggle considerably to meet their already-existing obligations. Doubling their case work obligations is practically impossible without increasing DSS's staffing budget by a substantial amount.
- Passing SB 585 would mean that exactly one-half of whatever the Department works towards, in every case, will be for naught.

For all of the foregoing reasons, we respectfully request an unfavorable report on SB 585.