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Testimony before the Senate Judicial Proceedings Committee

Senate Bill 708

Family Law – Kinship Care

February 20, 2024

****SUPPORT****

The Franklin Law Group, P.C. (FLG) is a child advocacy law firm that provides legal representation to children in abuse and neglect proceedings since 2007.ⁱ We support Senate Bill 708.

This bill seeks to expand the definition of a kinship parent to include “an individual who through blood or marriage, adoption, tribal law or custom, or cultural custom or practice, and an [unrelated individual who] has a strong familial or other significant bond with the child, or is a person identified by the child’s parent.”

Preservation of Family and Cultural Ties Is in the Best Interest of Children

Research has consistently maintained that the preservation of family ties is in the best interest of children.ⁱⁱ This notion has been codified in §3-802(a)(3) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, underscoring the importance of strengthening family ties for children. Because the juvenile courts, under the *parens patriae* doctrine, have a duty to protect children, the courts are mandated to make decisions that are in the best interest of the child.ⁱⁱⁱ The best interest of the child is determined by a totality of circumstances that include physical safety, as well as the well-being of a child which includes emotional and developmental concerns.^{iv} Cultural ties are a cornerstone that is often overlooked and underdiscussed in child welfare spaces that are integral in a best interest analysis. Cultural alignment anchors a child in positive self-identity and maturation which strengthens the child's well-being.

Parents’ Should Have a Right to Identify Potential Caregivers for their Children

It is well established that parents have a constitutionally protected interest in caring for their

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children and can only be interrupted when necessary for the child’s protection.^v While children can be removed from their parents’ care for allegations of maltreatment, the parents’ rights are maintained until it has been determined that maintaining their rights is contrary to the best interest of the child.^{vi} The Maryland Child in Need of Assistance (CINA) statutory scheme, Courts and Judicial Proceeding Title 3, Subtitle 8, of the Annotated Code of Maryland, enshrines in its purpose “[conserving and strengthening] the child’s family ties...”^{vii} Most parents are in the best position to identify potential caregivers who would be viable and appropriate caregivers for their children. Therefore, maintaining ties to family and others identified by the parent would serve as a resource for the family and support the maintenance of familial contact that would ultimately serve the best interest of the child.

For these reasons, we urge this Committee to issue a favorable report.

ⁱ We advocate for children and youth’s human right to safety, development, and well-being in five (5) jurisdictions across the State of Maryland – Baltimore City, Anne Arundel, Baltimore, Frederick, and Howard Counties.

ⁱⁱ Child Welfare Information Gateway. (2020). *Determining the best interests of the child*. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. Last accessed February 19, 2024. (<https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/best-interest/>).

ⁱⁱⁱ *In re Mark M.*, 365 Md. 687, 705-06 (2001) and *Boswell v. Boswell*, 352 Md. at 219 (1998).

^{iv} **See** Fam. Law Article §5-525 (f)(1), Annotated Code of Maryland.

^v *Troxel v. Granville*, 530 U.S. 57, 66 (2000); *In re Adoption/Guardianship of C.E.*, 464 Md. 26 (2019).

^{vi} **See** Fam. Law, §5-525.1(a), Annotated Code of Maryland.

^{vii} **See** Cts. Jud. Proc. §3-802(a)(3).