

Written Testimony - SB708EdwardsLuce-FINAL.pdf

Uploaded by: Aubrey Edwards-Luce

Position: FAV

Favorable- SB708

Family Law- Kinship Care

Testimony of Aubrey Edwards-Luce, Esq., MSW

Tuesday, February 21, 2024

Senate Judicial Proceedings Committee

Chair Smith, Vice-Chair Waldstreicher and Members of the Committee:

I am a resident of Prince George’s County, Maryland and the Executive Director of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC) at the University of Baltimore School of Law. CFCC envisions communities where children and families thrive without unnecessary legal system involvement. We strive to engage communities in all that we do as we work towards transforming systems that create barriers to family well-being. **We urge you to support SB708.**

At CFCC, we believe in the restorative power of family relationships. We’re convinced that, when properly supported, kin can empower children placed in their care with the connections children need to transform their families’ stories and help their communities flourish. “Research and observations indicate that children placed with kin tend to have better academic, behavioral, and mental health outcomes—as well as an increased sense of family connectedness and belonging—compared to children who are placed in traditional [foster care].”¹ Some research shows that placing children with kin helps them reunify more quickly and exit the foster care system more expeditiously.² Aunts, uncles, older sisters, godparents, and grandparents can help children restore their relationships with their parents and become trailblazers for their families.

Despite the well-researched benefit that kinship care provides for children and youth, less than half of the children in Maryland Department of Human Services (DHS) custody are in kinship care.³ While CFCC is working to reduce the total number of children in DHS custody, we also support efforts to shift the number of children in stranger foster care to kinship care. SB708 is aligned with recommendations proposed by experts to accomplish this goal.⁴ Notably, if passed the bill will clarify the types of efforts that local departments will have to make to identify

¹ Tyreasa Washington & Brittany P. Mihalec-Adkins, *Kinship Care Supports the Academic Performance of Children*, *Child Welfare*, CHILD TRENDS, (Sep. 27 2023) available at <https://www.childtrends.org/publications/kinship-care-supports-the-academic-performance-of-children> (citing, Tyreasa Washington, et. Al, *Psychosocial factors and behavioral health outcomes among children in Foster and Kinship care: A systematic review*, (2018) 90 CHILDREN AND YOUTH SERVICES REVIEW 118, available at <https://www.sciencedirect.com/science/article/abs/pii/S0190740917307430>, Winokur M, Holtan A, Valentine D. *Kinship care for the safety, permanency, and well-being of children removed from the home for maltreatment*. COCHRANE DATABASE SYST REV. (Jan 2009) Update in: Cochrane Database Syst Rev. 2014, available at <https://pubmed.ncbi.nlm.nih.gov/19160287/>, Hassall, A., et al. *Does Kinship vs. Foster Care Better Promote Connectedness? A Systematic Review and Meta-Analysis*. CLIN CHILD FAM PSYCHOL REV **24**, 813–832 (2021). Available at <https://link.springer.com/article/10.1007/s10567-021-00352-6>

² Sakai C, Lin H, Flores G. *Health Outcomes and Family Services in Kinship Care: Analysis of a National Sample of Children in the Child Welfare System*. (2011), 165 ARCH PEDIATR ADOLESC MED.2 159–165 available at <https://jamanetwork.com/journals/jamapediatrics/fullarticle/384260>.

³ Child Trends, *State-level Data Trends for Understanding Child Welfare in the United States: Companion Guide* (2022), available at https://www.childtrends.org/wp-content/uploads/2022/02/ChildWelfareDataCompanionGuide_ChildTrends_March2022.pdf.

⁴ Joshua Gupta-Kagan, *Creating a Strong Legal Preference for Kinship Care*, 1(4) FAM. INTEGRITY & JUST. Q. 18 (2022). Available at: https://scholarship.law.columbia.edu/faculty_scholarship/3903.

potential kinship caregivers for the initial placement. We recommend that proactive, thorough, and timely efforts to identify a kinship caregiver be required for subsequent placements as well.

We applaud the way that SB708 combines a kin-first orientation with a child-centered approach to child placement decisions. SB708 requires an analysis of the child's best interest while also ensuring that kin are the prioritized placement for children who must be separated from their families of origin due to safety concerns. We also support the consideration that the bill affords to kinship caregivers who are named by the child's parents, as this is aligned with the respect due to parent's constitutional rights to direct the care, custody, and control of their children.

Historically, kinship caregivers have experienced discrimination when they have sought approval to care for their child relatives. If passed SB708, will eliminate possible discrimination points by simplifying and standardizing the requirements for approval. The bill will also advance equity and the social and cultural wellbeing of children by codifying the factors that local departments must consider when placing children in stranger foster care at the initial placement. We recommend that this requirement apply in subsequent placements as well.

Passing SB708 will make Maryland a premiere "kin first" state with provisions that advances the best interests of children while also respecting parental rights. For the above-mentioned reasons, **CFCC urges you to support SB708.**

SB 708- Family Law - Kinship Care- LOS.pdf

Uploaded by: Jane Krienke

Position: FAV



Maryland
Hospital Association

February 20, 2024

To: The Honorable William C. Smith Jr., Chair, Senate Judicial Proceedings Committee

Re: Letter of Support- Senate Bill 708- Family Law- Kinship Care

Dear Chair Smith:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment in support of Senate Bill 708.

In 2022, MHA conducted a three-month study and found on any given day, there are an average of 48 youth in Maryland hospitals who are in an overstay status—meaning they are either in a hospital emergency department longer than 24 hours or an inpatient unit beyond medical necessity.

The top reasons for the overstays were:

1. Accepted but waiting for behavioral health bed to become available
2. No available placement
3. Aggressive behaviors
4. Diagnosed development disabilities and/or autism

Over the course of the study, 70% of the youth were between 13 and 17 years old, and 30% were involved with the Department of Social Services. Half of the youth were from Baltimore County, Baltimore City, or Montgomery County.

Although not a silver bullet, Maryland hospitals appreciate the Department's proactive, upstream steps to expand the state's kinship care program. SB 708 would add a definition of kinship caregiver to replace "kinship parent," which offers a broader group of trusted adults in a youth's life who can provide a positive, safe, and caring home. Research has shown kinship to be effective in reducing the impact of trauma, improving mental health outcomes, reducing occurrence of behavioral problems, improving social and educational outcomes, and achieving greater placement stability and permanency.^{1,2}

Proactive solutions, like SB 708, are needed to address the growing number of youth who become "stuck" in Maryland hospitals waiting for the next level of care, a return back to a group home, placement in foster care, etc. It's time to stop the wait and engage in forward thinking actions that truly put the needs of Maryland's youth first. SB 708 does this by allowing youth to stay with a caring adult and prioritizing important factors such as proximity of

¹ [Benefits of Kinship Placement \(americanbar.org\)](https://americanbar.org)

² [Needs of Kinship Care Families and Pediatric Practice | Pediatrics | American Academy of Pediatrics \(aap.org\)](https://www.aap.org)

the placement to the child's home of origin, extended family and siblings, in addition to ensuring continuity of any specific cultural or linguistic needs.

More work needs to be done to improve the situation for Maryland's youth, but legislation like SB 708 will move the state in the right direction.

For these reasons, we request a *favorable* report on SB 708.

For more information, please contact:
Jane Krienke, Senior Legislative Analyst, Government Affairs
Jkrienke@mhaonline.org

SB 708 - Family Law - Kinship Care - FLG Written T

Uploaded by: Stephanie Franklin

Position: FAV



Stephanie S. Franklin

Cheryl J. Smith
Denise A. Blake
Danielle N. Price
Aysia M. Stockton
Lauren C. Knowlden

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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Stephanie S. Franklin

Cheryl J. Smith
Denise A. Blake
Danielle N. Price
Aysia M. Stockton
Lauren C. Knowlden

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).

SB708

Uploaded by: Rachel Sledge Government Affairs

Position: FWA

February 20, 2024

The Honorable Will Smith, Chair
Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, Maryland 21401

RE: TESTIMONY ON SB 708 - Family Law - Kinship Care - POSITION: FAVORABLE WITH AMENDMENTS

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the consideration of Senate Bill 708 (SB 708). With offices in every one of Maryland's jurisdictions, we empower Marylanders to reach their full potential by providing preventative and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. The Social Service Administration within DHS implements the Out of Home Care program which is affected by SB 708.

SB 708 would support and advance our "Kin First" approach to out-of-home care by prioritizing important adult-child bonds, including those found by blood or marriage, when considering the best interests of children who require an out-of-home placement. SB 708 would clarify the definition of kinship caregiver by including relations through blood, marriage, tribal law or custom, or cultural custom or practice. It would also provide a preference for kinship caregiver placements which evidence demonstrates result in better outcomes for children. The changes would establish the evidence-based framework for our "kin first" approach to foster care.

SB 708 is an example of implementing the Moore-Miller value of being data-driven and heart-led. Research demonstrates that out-of-home kinship care minimizes trauma; increases the likelihood children remain with siblings; increases permanency by providing stability with fewer placement disruptions; improves children's behavioral and mental health outcomes; reduces the risk that children in out-of-home care are trafficked; and maintains family, community, and cultural ties that function as protective factors for children. Research is also demonstrating what we know intuitively: the whole psychosocial environment matters to a child's psychological health. The psychosocial environment includes the entire context in which a child grows up, including parents, caregivers, teachers, their school, whether they practice a religion, and their community and culture.

Maryland has the second lowest entry rate into foster care in the nation. In contrast, we have not been as successful in achieving permanency when children require out-of-home placements, with only 26% achieving permanent placement in the first 12 months. Historically, Maryland and federal regulations required kinship caregivers to meet the same criteria as foster families to care for the children they love. Recognizing the benefits of kinship placements to children, the Children's Bureau within the U.S. Department of Health & Human Services issued new rules



authorizing separate licensing for kinship caregivers and encouraged state agencies to define kinship in a way that is inclusive of tribal custom and fictive kin.

As of January 2024, only 23% of children in foster care in Maryland were placed with a kinship caregiver. In Maryland, teens are 40% less likely to reunify with family than teens nationwide. In Fiscal Year 2021 of all children exiting care, 64% of older youth aged out of Maryland foster care. Compared to national data, Maryland has twice as many youth aging out of foster care. Our data is increasingly revealing that Maryland is strategically missing out on the opportunities kinship care provides, ensuring children maintain critical, permanent connections to family and community when youth require out-of-home placements.

Upon additional review of SB 708, we identified differing terms in other existing statutory provisions which are likely to cause confusion. Specifically, the definition of "relative" in Court and Judicial Proceedings Article §3-801, and as applied in § 3-823 (e) and (g) may be read in conflict with the definition of "kinship caregiver" in SB 708. "Relative" for the purposes of placement in Court and Judicial Proceedings Article §3-801(x) must be amended to conform with the Family Law amendments in SB 708. Therefore, we recommend adding to SB 708 the following changes to Court and Judicial Proceedings Articles 3-801(x):

(x) "Relative" means ~~an individual who is:~~ **IS A KINSHIP CAREGIVER AS DEFINED IN FAMILY LAW § 5-534**

~~(1) Related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law; and~~

~~(2) (i) At least 21 years old; or~~

~~(ii) 1. At least 18 years old; and~~

~~2. Lives with a spouse who is at least 21 years old.~~

SB 708 is part of our plan to update our current practices to promote kinship placements which in turn promotes lifelong well-being and connection for children and youth in foster care. A kin-first approach to out-of-home placements reduces delays in placement as well as frequent and disruptive placement changes. Importantly, it also prevents severing children's connections to family, community, and culture. Passing SB 708 is one of several steps Maryland is taking to remove barriers for kinship caregivers to receive the benefits that non-relative foster parents currently receive.

Research demonstrates, and DHS believes, a 'kin first' approach is right for children in out-of-home placements in Maryland. We respectfully request a favorable report from the Committee. If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at rachel.sledge@maryland.gov.

In service,



Rafael López
Secretary

UNF SB0708 (JPR) vmcavoy.pdf

Uploaded by: vince mcavoy

Position: UNF

UNFAVORABLE on SB0708

Family Law - Kinship Care

vmcavoy baltimore maryland

Dear Senators of JPR,

There have been innumerable times when domestic violence crowds and family law attorneys and members of the Bar have told you that “each family law case is reviewed individually”. They told you that child custody cases are not cookie-cutter outcomes. That should be the case.

When a parent is out of the picture, this must absolutely be the case.

Maryland is still having trouble getting grandparent visitation out of 2 chambers.

Fatherhood has been denigrated in this state for decades.

“De facto” friends of the family have crept in where other parents have legal rights.

Maryland ignores the law to promote aberrant familial structures.

These cases must and do get worked in family law courts and “CiNA” courts.

This bill will move Maryland judges and various, ideological agencies to harm children by not serving their family bonds, the families’ legal rights and the tradition of the children and their family.

While it is possible that the Chair and I see this in the same vein, there are currently processes in Maryland – when attended to – which ensure that the children are taken care of in such a manner that fit biological parents again uphold their responsibility to their children and society. I have seen far, far too many instances where a parental absence for a small period of time becomes a forever assault against family cohesion.

So it is worth stating yet again – children rights never trump parental rights but in parens patriae cases. Individuals who step in for a missing parent should step out when the biological parent or parents provide fit parenting. This truism is rife in Maryland court rulings, appellate rulings and SCOTUS rulings.

I urge an UNFavorable for this inhuman approach of SB0708.

humbly offered

~vince