

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 369
Foster Parents, Preadoptive Parents, and Caregivers – Right to Intervene
DATE: January 29, 2020
(2/6)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 369. This bill would amend § 3-801 of the Courts and Judicial Proceedings Article to create the right of certain individuals to intervene as a party. Specifically, the bill grants foster parents, preadoptive parents, and caregivers (or their attorneys) the right to intervene as a party in any proceeding involving the welfare or placement of a child. The bill also changes the existing notification provisions found in § 3-816.3, which currently require the local department to give at least 10 days' notice in writing to the child's foster parents, preadoptive parents, or caregiver of the date, time, and place of the proceeding, and their right to be heard. House Bill 369 would amend this provision to require the local department *and the circuit court* to provide the notice.

While the Judiciary supports getting input from the foster parents, preadoptive parents, and caregivers, mechanisms presently exist to allow such input. Foster parents and caregivers are already able to intervene pursuant to Maryland Rule 11-122. The Judiciary has concerns about the implementation of this bill, as it amends Courts and Judicial Proceedings § 3-816.3 to make it a joint obligation of the department and the circuit court to notify the child's foster parent, preadoptive parent, or caregiver of their right to intervene as a party. Currently, the statute requires the local department to make that notification. The child's caregivers may change frequently, and the court does not maintain those addresses or contact information. It would not be feasible for the court to provide written notice to every caregiver for every hearing.

In addition, this bill creates an automatic right to intervene rather than at the court's discretion as is customary under Maryland Rule 11-122. This is concerning, as a foster parent who had the child for only a month or two would have an automatic right to intervene in sensitive proceedings involving parental rights. Other mechanisms already

exist to provide input from the foster parent, either through the Department of Social Services, a parent, or child's counsel.

Finally, child welfare files are not generally accessible to the public, in deference to privacy concerns for children and other parties to the proceedings. The Judiciary has concerns that conferring party status on a potentially broad class of individuals then authorizes those individuals to access confidential and sensitive materials contained in court files that pertain not only to the child, but also to parents, guardians and other family members.

cc. Hon. Kathleen Dumais
Judicial Council
Legislative Committee
Kelley O'Connor