



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

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March 8, 2022

Luke H. Clippinger
Maryland Judiciary Committee
Taylor House Office Building, Room 101
6 Bladen St.
Annapolis, MD 21401

**RE: Maryland Legal Aid's Written Testimony in Opposition to HB 1155
Foster Parents, Kinship Parents, Pre-adoptive Parents, and Caregivers
– Right to Intervene**

Dear Chair Clippinger and Committee Members:

Thank you for the opportunity to present testimony in opposition to HB 1155, a bill that seeks to automatically grant the right to intervene to specifically identified caregivers of children in foster care. Maryland Legal Aid (MLA) is a private, non-profit law firm that provides free legal services to indigent Maryland residents. From 12 offices around the state, MLA helps individuals and families in every Maryland county with many civil legal issues, including housing, consumer, public benefits, and family law matters. MLA also represents thousands of abused and neglected children and provides legal assistance to senior citizens and nursing home residents. This correspondence serves as notice that Erica I. LeMon, Esq. will testify on behalf of Maryland Legal Aid at the requests of Chair Clippinger and Delegate Moon.

Children who are victims of abuse or neglect and are currently placed in foster care participate in numerous hearings in the juvenile court, where the courts make decisions guided by the child's best interests. The local department of social services ("department"), the children, and the parents are parties and are all entitled to legal representation. The Rules that govern these proceedings permit the court to allow a third party seeking custody of a child to intervene as a party in such a proceeding after the adjudication of the facts. Md. Rule 11-215. This Rule is discretionary and rightly allows "any person" for "the sole purpose of seeking custody or guardianship of a child" to apply for party status.

Allowing a Kinship Parent, Pre-adoptive Parent, or Caregiver to be designated *automatically* as a party when a child has been in the home for "at least 12 months" goes well beyond the permissive language of the current rule, establishing unprecedented rights for a person who does not have any

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constitutional or statutory relationship to a child. (Page 3, Lines 2-5). Neither the constitution nor the relevant statutes create any right for third parties that requires protection. It also creates a potential burden on the court system because each person, who has had a child in their care for at least 12 months, would then have the ability to hire counsel, advocate in court proceedings, and appeal court decisions. In one case, a child with multiple placements who has been in care for four years could potentially have 3-4 attorneys for various foster parents to attend the proceedings in addition to the four (4) parties designated by statute, the department, the child, and the parents. The proposed bill does not have any mechanism for a former foster parent to cease being a party, even when other foster parents may have a right to intervene. This expansion of parties will distract and shift the focus away from the immediate needs and future goals of the child in state care.

The proposed bill will create an untenable administrative burden on CINA proceedings in terms of scheduling hearings. CINA hearings must occur within specific statutory timeframes that are designed to ensure that the needs of a child are met and that the child is moving towards permanency promptly. Scheduling timely hearings is currently extremely difficult. Hearings must accommodate the Court and at least two but often four or more attorneys. Adding attorneys for foster parents will make the already difficult scheduling challenges essentially impossible, and the statutory timeframes will not be met, resulting in a loss of funding.

Maryland Legal Aid values foster parents. There are many cases where the relationship between the child and the foster parent is of essential importance to the child's welfare. However, in such cases, the child's attorney is in the position to advocate for the importance and preservation of the bond and the connection between the child and the foster parent when it is the preference and/or in the child's best interest. The foster parents also receives information from and shares information with the Department of Social Services caseworker and any assigned Court Appointed Special Advocate (CASA) in the case. In addition, the law already provides that foster parents shall have the right to be heard in court. The escalation of this to granting foster parents party status in the case, in every circumstance, is not necessary or appropriate. In addition, there are already multiple mechanisms in place for foster parents to receive the information that they need to care for the child.

The proposed bill would remove any discretion that the Juvenile Court has to protect private, sensitive information about the parents, the family, or the children. The presiding judicial officer is intimately familiar with the individual child's cases and is best positioned to determine whether an interested person should be a party. The proposed bill does not allow judicial officers to exercise discretion and make determinations based on the child's best interest at issue in each specific case. Taking away this discretion from the Juvenile Court, and changing the standard and focus away from the best interest of the child, is counterproductive and would have an adverse impact on the children.

MLA appreciates the opportunity to provide testimony and urges this committee to prevent third-party caregivers from having automatic party status based on the time a child has resided with the caregiver by issuing an unfavorable report on HB1155.

Best regards,
/s/ Erica LeMon
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