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## **POSITION ON PROPOSED LEGISLATION**

**BILL:** Senate Bill 195 Family Law – Child Support

**FROM:** Maryland Office of the Public Defender

**POSITION:** Favorable with Amendments

**DATE:** January 14, 2025

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The Maryland Office of the Public Defender respectfully requests the Committee issue a favorable report with amendments on SB 195 as outlined below.

Senate Bill 195 as written would create Family Law Article 5-525.3 which gives the Child Support Administration of the Department of Human Services (“DHS”) the exclusive authority to decide whether to seek child support from parents of children who are in foster care, and to determine whether to take action to seek to terminate existing child support orders for children in foster care. Moreover, the bill gives the Secretary of the Child Support Administration alone the power to adopt rules and regulations to implement this section.

The impact of collecting child support from parents of children in foster care is adverse. This bill will continue the already disparate application of pursuing child support actions against parents whose children are in foster care across the State. The practice is costly and does not result in a fiscal benefit to the State. In fact, collecting child support from poor parents is a wasteful practice as it has shown to cost more money to litigate child support than the funds that the State will ever actually

obtain.<sup>1</sup> The federal government, by way of the Bureau of Children and Family, has recommended that child support not be sought from parents whose children are in foster care.<sup>2</sup>

The Parental Defense Division of the Office of the Public Defender (OPD) represents approximately 95% of parents of children who are in foster care. To be eligible for the services of the OPD the parents must be poor. Indeed, part of the reason the children come to the attention of the Department of Social Services (DSS) is that the family is often experiencing poverty-related issues, such as homelessness, lack of food, lack of daycare, and other issues, the root cause of which is lack of money. By permitting DHS to seek child support from already poverty-stricken parents to pay for the care of children who are in the care of the State (which already receives substantial federal funding for the care of the children) will only exacerbate the problems that led to the breakdown and separation of the family, and further prevent the reunification of children to parents who are capable but for monetary limitations.

While this bill proposes to limit the instances in which the Child Support Administration can pursue child support from parents whose children are in foster care, it does not offer any guidance to what would be deemed appropriate circumstances for which child support should be sought. The reality is for parents of children in foster care, child support only creates an additional barrier that parents have to overcome to reunify with their children.

OPD recommends that the language of SB195 section 5-525.3 (A) be amended to: *“The Administration is prohibited from taking action to pursue an assignment of child support for a child who is in foster care.”* Alternatively, if the administration insist on a mechanism to pursue child support, we propose the language should read, *“Only in circumstances where a parent has not been deemed indigent or living in*

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<sup>1</sup> Carol Chellew, Jennifer L. Noyes, and Rebekah Selekman, “Child Support Referrals for Out-of-Home Placements: A Review of Policy and Practice,” Institute for Research on Poverty, October 2012, [https://www.irp.wisc.edu/wp/wp-content/uploads/2018/06/Task6\\_CS\\_2011-12\\_CSPII.pdf](https://www.irp.wisc.edu/wp/wp-content/uploads/2018/06/Task6_CS_2011-12_CSPII.pdf); Washington State Department of Social and Health Services, Division of Child Support, “Washington’s Cost Effectiveness for Foster Care Child Support Cases,” June 7, 2019, <https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/Cost%20Effectiveness%20FC%20collections%20FINAL.pdf>; Orange County Department of Child Support Services, “Child Support and Foster Care,” July 2020, <https://www.css.ocgov.com/sites/css/files/import/data/files/116568.pdf>.

<sup>2</sup> Aysha E. Schomburg and Tanguler Gray, “Joint Letter Regarding Assignment of Rights of Child Support for Children in Foster Care,” Administration for Children & Families, U.S. Department of Health and Human Services, July 29, 2022, [https://www.acf.hhs.gov/sites/default/files/documents/cb/letter\\_regarding\\_assignment\\_rights\\_child\\_support\\_for\\_children\\_foster\\_care.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/letter_regarding_assignment_rights_child_support_for_children_foster_care.pdf).

*poverty, and the permanency plan is not reunification, the Administration may take action to secure an assignment of child support where it is shown such action is in the best interest of the child.”*

Additionally, to ensure that parents and children are given the best opportunity possible to reunify, we suggest the following amendments and modifications to improve the bill so that the bill achieves the anticipated benefits. The bill should repeal Courts and Judicial Proceedings Section 3-819(l) which states, “After giving the parent a reasonable opportunity to be heard, and determining the income of the parent, the court may order either parent or both parents to pay a sum in the amount the court directs to cover wholly or partly the support of the child under this subtitle.” Repealing this provision would prevent local agencies and courts from evading the intent of SB195 and imposing onerous and counter-productive child support obligations on indigent parents. Finally, should the Administration pursue a child support action, the bill should give guidance to the Administrator that public benefits such as Social Security Disability and SSI should not be considered as part of a child support calculation.

These amendments would ensure that parents who have lost custody of their children are not unduly burdened with paying child support for their children while simultaneously working to improve their economic status to reunify with their children. This would also save the state money in pursuing actions that do not yield any significant benefit because parents are unable to pay.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report with amendments on SB 195.**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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