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POSITION ON PROPOSED LEGISLATION

BILL: House Bill 0324 - Family Law- Child Support- Assignment of Rights/ SB

FROM: Maryland Office of the Public Defender

POSITION: Favorable with Amendments

DATE: 02/05/2026

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a **favorable report with amendments for House Bill 0324, the Family Law- Child Support- Assignment of Rights Bill**. House Bill 0324 seeks to limit the Department of Social Services' (DSS) ability to pursue child support actions against parents whose children are placed in foster care.

This testimony is provided by OPD's Parental Defense Division (PDD) which represents parents from all 24 counties in Maryland who are involved in the various stages of Child In Need of Assistance (CINA) cases. Our multidisciplinary legal team, including dedicated attorneys, licensed social workers, and parent advocates with lived-experience in the DSS system, ensures that families receive high quality legal representation during their Child in Need of Assistance and Termination of Parental Rights cases.

The Problem

Currently, DSS has the discretion to file for child support against parents whose children are placed in foster care. In many of Maryland's jurisdictions, DSS exercises that discretion by filing for child support against impoverished parents. OPD represents approximately 95% of parents in CINA proceedings, which means that almost all parents who have a CINA case fall within federal poverty guidelines.

While many of our clients are employed when their children enter the foster system, maintaining that employment is often incompatible with court-ordered mandates. Required rehabilitative services, including parenting classes, psychotherapy, job readiness training, and supervised visitations, typically occur during standard business hours. This **forces parents into an impossible choice: maintain the income necessary to support their children or comply with the court orders necessary to regain custody of their children**. Mandating child support for foster care placements that parents often fought against, and that arise from their inability to

meet financial needs, is both illogical and counterproductive, imposing a substantial obstacle to family reunification.

In Maryland, the most recent statistics show that 63.2% of indicated child maltreatment findings¹ were due to neglect.² These cases are almost always driven, directly or indirectly, by poverty. Poverty directly impacts parents' abilities to provide adequate housing, utilities, food, supervision, and medical care. Indirectly, poverty impacts issues of education,³ substance abuse and mental health issues that are often correlated to the trauma experienced by people living in under-resourced, high crime areas as well as the intergenerational cycles of harm and trauma that could be present when families have endured generations of poverty.

Economic instability is almost always one of the barriers parents have to overcome in order to reunify with their children. Parents who are without the resources to adequately provide for their children are not in a position to pay child support. In addition to fulfilling whatever court order services they are required to complete, parents are often tasked with securing income and housing sufficient enough to support their children. DSS rarely assists in this area.⁴ When parents are then required to pay child support in addition to these other requirements, it delays reunification and puts families in even more dire economic circumstances than when they started. Then, when parents cannot pay their child support, they go into arrearages which can eventually total in the thousands of dollars.

The Solution

Maryland should follow the recommendation of the federal government and strictly limit DSS' ability to seek child support. While the federal government has never required States to pursue child support, they did grant states the discretion to do so. However, on July 29, 2022, the federal government issued a guidance letter discouraging states from this practice when it would "disrupt the reunification process," acknowledging this practice, "can negatively impact a family that is trying to develop and maintain familial and economic stability to reunify with their child."⁵ The letter goes on to say "[i]t is not in the best interest of any family to be pursued

¹In Maryland, an "indicated" finding means the local department determined there is credible evidence that abuse or neglect occurred.

²<https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/maryland>

³ For example, issues of truancy are often due to housing insecurity, lack of transportation, or lack of clean clothing due to an inability for a parent to wash clothes.

⁴ The only economic support that DSS provides in most cases are at best, in the form of what are called "flex funds." These funds are very limited, and accessible only after a substantial effort to cut through bureaucracy, if at all. DSS's only housing support is to cover either first month rent, or security deposit. Any financial assistance to families is helpful but it almost never solves the underlying financial concern.

⁵ The federal guidance letter is attached to this testimony and can be accessed at:

https://acf.gov/sites/default/files/documents/cb/letter_regarding_assignment_rights_child_support_for_children_foster_care.pdf

for child support when they have already been whipsawed by economic insecurity, family instability, and separation.”

The letter further explains that *states actually lose money* when they attempt to collect child support from CINA families **proving that this practice is wasteful**. Given the fact that the State spends more money prosecuting these cases than collecting money; the natural conclusion is that it is meant to simply punish parents.

Several states have followed the federal government’s guidance. Colorado, California, Montana, Washington, Michigan, Georgia, New York and New Jersey have enacted laws to limit the government from pursuing child support. Some states have also enacted policy to cancel or reduce arrearages from previous orders.⁶

Amendments

OPD is in agreement with HB 324 but requests that the bill be amended to contain stronger language in limiting the Department’s ability to pursue child support, as well as providing specific language to clarify under what circumstances pursuing child support would be appropriate. DSS is already in a position to use its discretion, and this discretion has resulted in the filing for child support contrary to the best interests of children and families. **It is important for the statute to give very clear guidance on the limits to child support filings.** Language that clearly states that “the Department of Social Services shall not file for the assignment of child support against a parent who is living in poverty pursuant to the federal poverty guidelines,” and “the Department of Social Services shall not file for the assignment of child support in cases in which the burden of child support would disrupt the reunification process.” Such language would establish clear limits on when it would be appropriate for DSS to file or not seek child support.

Additionally, the statute should state that when child support is pursued, it should be heard as part of the CINA case. Currently, child support hearings are heard as a separate matter from the CINA proceeding. This means that in most jurisdictions, the matter is an additional hearing under a different case number, heard by a different judge or magistrate than the one presiding over the CINA case. Because it is not part of the CINA case, the parent is not entitled to be represented by counsel as the parent is in a CINA case. Having the CINA and child support cases heard in the same proceedings promotes fairness and judicial efficiency. It allows the court, which is already familiar with the family, the basis for the child being found to be a CINA in the first place, and the parents’ economic situation, to determine whether it is in the best interest of the child for the parent to pay child support. Additionally, in a CINA case children are

⁶ California, Ohio, Connecticut, the District of Columbia, Illinois, Minnesota, Washington, Oregon, and Wisconsin.

assigned an attorney to advocate for them. If the case is filed separately, the child has no voice in the proceedings.

The filing of child support against parents whose children are in foster care is not in the best interest of children because it creates an additional hurdle to reunification with their parents. It is a practice that is harmful to Maryland families and burdens an already beleaguered court system.

For these reasons we urge the Committee to issue a favorable report with amendments for House Bill 0324 and remove this barrier to family preservation.

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

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The Office of the Public Defender recommends the following language as amendments to SB319/ HB324. The amendments are indicated in red ink and entirely in capital letters for enhanced clarity.

FLA 5-525.4. 6

**(A) ONLY IN LIMITED CIRCUMSTANCES, WHERE THE ADMINISTRATION
7 FINDS IT APPROPRIATE, MAY ACTION BE TAKEN TO SECURE AN
ASSIGNMENT TO THE
8 STATE OF ANY RIGHTS TO SUPPORT ON BEHALF OF A CHILD RECEIVING
FOSTER
9 CARE MAINTENANCE PAYMENTS UNDER THIS PART III OF THIS SUBTITLE.
LIMITED CIRCUMSTANCES DOES NOT INCLUDE CASES WHERE A SUPPORT
ORDER WOULD NEGATIVELY IMPACT FAMILY REUNIFICATION OR WHERE
THE PARENT IS INDIGENT.**

**10 (B) THE ADMINISTRATION MAY TAKE ACTION, WHEN APPROPRIATE, TO
11 DISCONTINUE AN ASSIGNMENT OF RIGHTS TO SUPPORT AND TERMINATE
EXISTING
12 SUPPORT ORDERS FOR A CHILD RECEIVING FOSTER CARE MAINTENANCE
13 PAYMENTS. 14 (C) THE SECRETARY OF HUMAN SERVICES SHALL ADOPT
RULES AND 15 REGULATIONS TO IMPLEMENT THIS SECTION.**

Courts and Judicial Proceedings 3-803 - Jurisdiction of Court

(a) In addition to the jurisdiction specified in Subtitle 8A of this title, the court has exclusive original jurisdiction over:

- (1) Voluntary placement hearings;
- (2) Proceedings arising from a petition alleging that a child is a CINA;
- (3) Proceedings arising under the Interstate Compact on the Placement of Children;
- (4) SUPPORT OF A CHILD WHOM THE COURT FINDS TO BE A CINA**
- ~~(4)~~ (5) Proceedings to terminate parental rights after a CINA proceeding;
- ~~(5)~~ (6) Guardianship review proceedings after a TPR proceeding; and
- ~~(6)~~ (7) Adoption proceedings, if any, after a TPR proceeding.

(b) (1) The court has concurrent jurisdiction over:

- (i) Custody, visitation, **support**, and paternity of a child whom the court finds to be a CINA; and
- (ii) Custody of a child alleged to be a CINA under the circumstances described in § 3-819(d) of this subtitle.

§ 3-822. Identity and addresses of parents; findings used as evidence

(a)(1) At each CINA hearing, the court shall inquire into, and make findings of fact on the record as to, the identity and current address of each parent of each child before the court.

(2) In carrying out paragraph (1) of this subsection, the court shall:

(i) Inform all parties present of their continuing obligation to assist the court in identifying and locating each parent of each child;

(ii) Inform the parents present of their continuing obligation to keep the clerk of the court apprised of their current address;

(iii) Inform the parents present of available means to establish paternity, if not yet established; and

(iv) If appropriate, refer the parents to the appropriate support enforcement agency to establish paternity and support. **SUPPORT MAY NOT BE REQUESTED IF THE PARENT IS INDIGENT OR IF A SUPPORT ORDER WOULD INTERFERE WITH REUNIFICATION**

(b) Each parent of a child who is the subject of a CINA proceeding shall notify the court and the local department of all changes in the parent's address.

(c) The clerk of the court shall keep a listing of every address provided by a parent of a child who is the subject of a CINA proceeding.

(d) On request of a local department, the clerk's office shall disclose to the local department all addresses listed by a parent of a CINA within the preceding 270 days.

(e) The court may:

(1) Order a parent or putative parent to:

(i) Apply for child support services with the appropriate support enforcement agency; and

(ii) Cooperate with the appropriate support enforcement agency to establish paternity and child support; and

(2) Make a finding of paternity in accordance with Title 5, Subtitle 10, Part VI of the Family Law Article.

(f) Any court may consider evidence taken and findings made on the record in a CINA hearing and in a paternity, custody, child support, or guardianship proceeding regarding that child or a sibling of a child.