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NCACDSS OPPOSITION AND CONCERNS REGARDING HB 918- AMEND ABUSE LAWS/EXPEDITE PERMANENCY

May 13, 2019

Pursuant to North Carolina General Statutes, County Departments of Social Services are mandated to assess reports of child abuse and neglect and to take appropriate action to protect children, including petition the courts for legal custody when necessary. In order to maintain important relationships and minimize trauma, the child's relatives and kin are considered in placement decisions and when not available, departments identify placement with foster families. Departments are federally mandated to work with parents toward reunification whenever possible and the limitations placed by HB 918 could create barriers toward departments reunifying families and acting in the best interests of children. It is for these reasons that we must oppose HB 918 in the current form.

Primary Concerns and Opposition to the proposed legislation: Parental rights are protected by the United States Constitution. Child welfare work requires balancing these parental rights with child safety and permanence. To the extent this proposed bill increases permanence for very young children beyond the federal requirement and at the expense of parents' rights; it may be vulnerable to constitutional attack in our appellate courts. A child under the age of three does not have a full understanding of permanence and adoption. More important to attachment for a child this age is the consistent placement in the same home. **This bill does not benefit the child; as much as it benefits the foster parent wishing to adopt the child. In fact, it could harm the child, as departments of social services may find themselves in a position of making decisions about moving a child prior to 9 months, when allowing the foster parent to obtain relative status and file a petition for termination of parental rights is clearly not in the child's best interest.**

Federal permanence standards are 12 months and are challenging to meet for a number of reasons including that successful treatment of substance use disorders often require longer treatment and a slower transition to ensure long term success and minimize recidivism for children in foster care. **With the increase in numbers of parents impacted by opioid use and other serious substance use disorders across NC, counties are concerned that this may ultimately lead to more parents losing parental rights who might otherwise have had success in treatment, given more time.**

The redefinition of kin/relative appears to emphasize the important attachments that foster parents form with children. **Kin and relative relationships are critical and should be identified whenever possible because they are already known to the children prior to custody, are more likely to be in the community with which the child is familiar and be able to more easily maintain important relationships in the child's life.** Foster parents (unless they are licensed kin or relative placements) will typically not meet these criteria initially and in some cases never meet these criteria. The law requires a best interest determination that already includes an evaluation of a child's attachments including attachments to foster parents, siblings, and other important adults. **There are case examples where, after nine months, it is not in a child's best interests to remain with a foster family and this law would redefine the relationship regardless of best interest.**

The filing of a petition to terminate parental rights is one of the most serious steps that can be taken by a party in the court system. Foster parents are a critical part of the team engaging with children and families involved in the foster care system; however, they are not directly engaged in the components of a parent's case plan. These petitions could be filed against the recommendation of a GAL and the DSS agency and could create additional court time and delays. The Guardian ad Litem is specifically charged with recommending what is in a child's best interests and is already included in the list of parties that can file a petition on a child's behalf should there be a conflict between the social services agency recommendations and those of the GAL program.

Foster parents are in a contractual relationship with the Department and they would be given the rights to file for termination of parental rights sooner than kin. The legislation circumvents all of the other processes in place that address reunification with the birth parents. What if birth parents are making progress? The proposed changes in the General Statute will create a contentious relationship between DSS and the foster parents instead of a working relationship.

Contacts:

John Metcalf
The Policy Group
john@policygroup.net
828-280-8082

Sharnese Ransome
Executive Director, NCACDSS
sransome@ncacdss.org
919-782-4111

NCDHHS Feedback

H918 AMEND ABUSE LAWS/EXPEDITE PERMANENCY

<https://www.ncleg.gov/BillLookUp/2019/H918>

NCDHHS agrees with the intent of H918, which seeks to minimize time in foster care and support permanent families for children birth to age three – recognizing that during a child's earliest years, critical brain architecture is forming that lays the foundation for all future learning and healthy development.

However, NCDHHS does not believe the bill will achieve its desired intent and opposes H918 for the following reasons:

- The bill is likely to be legally challenged for infringement of citizens' constitutional right to parent which may result in increased number of appeals and lawsuits.
- The bill raises some equal protection arguments under both the US and NC Constitution by treating one group of parents (with children under 3) potentially more harshly by providing less opportunity for the parent to be reunified.
- The bill is in direct conflict with Federal Fostering Connections and Increasing Adoptions Act of 2008 (P.L. 110-351, Sec. 103 (29)) which requires contact of relatives within 30 days as opposed to 60 days in this bill.
- There is potential for conflict of interest for foster parents, placing them in an adversarial position with the agency that supervises their licensure.
- The bill increases potential permanent separation of sibling groups.
- The inconsistent and inadequate availability of mental health and substance abuse treatment options across the state hinder parents from meeting the time lines of this bill.
- Many DSS Directors across the state have expressed significant concerns about the bill and its implications.

Instead, DHHS thinks the following types of actions are necessary to achieve the bill's intent, many of which are underway, including:

- Continue to leverage the focus on prevention and minimizing time in foster care by leveraging the goals and work for the Family First Prevention Services Act, North Carolina Early Childhood Action Plan and the five-year Child Welfare Strategic Plan. Specific initiatives include:
 - National evidence-based model which will be implemented this year – the Safe Babies Court Team Model Approach, which targets children 0 to 3 to expedite permanency;
 - Casey Family Permanency Roundtable Approach to identify creative solutions for children who have more complex needs;
 - District Court Permanency Convenings to increase the efficiencies of the court in efforts to facilitate timely permanence;

- Legislative study to implement child support tribunals to reallocate court time to child welfare;
- Implementing evidence-based practices, such as Triple P (Positive Parenting Program), and a practice model; and
- Maximizing federal revenues to support counties with a goal of providing increased visitation.

Fundamentally, we need to continue to identify ways to increase court time available for child welfare cases, increase county capacity to attract and retain well-qualified child welfare staff, improve access to primary and intensive family preservation services, and increase access to substance use disorder and mental health treatment services. The solution is not simple, but we can continue to make steady progress with the leadership and support of legislators like the bill sponsors.