

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

HOUSE CHILDREN & YOUTH COMMITTEE HEARING

STATE CAPITOL  
RYAN OFFICE BUILDING  
ROOM 205  
HARRISBURG, PENNSYLVANIA

MONDAY, OCTOBER 4, 2021

IN RE: STATUTORY AND PROCEDURAL RIGHTS  
OF FOSTER PARENTS

BEFORE:

HONORABLE SHERYL DELOZIER, MAJORITY CHAIRWOMAN  
HONORABLE PAMELA DeLISSIO, MINORITY CHAIRWOMAN  
HONORABLE TIM BONNER  
HONORABLE ANN FLOOD  
HONORABLE BARBARA GLEIM  
HONORABLE MILOU MACKENZIE  
HONORABLE ABBY MAJOR  
HONORABLE LESLIE ROSSI  
HONORABLE JASON SILVIS  
HONORABLE BRIAN SMITH  
HONORABLE PERRY STAMBAUGH  
HONORABLE JAMES STRUZZI  
HONORABLE TARAH TOOIL

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**BEFORE (cont.'d):**

**HONORABLE ISABELLA FITZGERALD  
HONORABLE NANCY GUENST  
HONORABLE KRISTINE HOWARD  
HONORABLE NAPOLEON NELSON  
HONORABLE MELISSA SHUSTERMAN**

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1 P R O C E E D I N G S

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3 MAJORITY CHAIRWOMAN DELOZIER: Good morning,  
4 everyone.

5 Thank you all for being here today for this  
6 public hearing, the rights of foster parents here in  
7 Pennsylvania.

8 I call the meeting to order. And if you would  
9 please rise and say the Pledge of Allegiance to the flag.

10 (Pledge of Allegiance)

11 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
12 much.

13 At this point, I want to have those that are here  
14 to introduce themselves, our members.

15 Abby, do you want to start from your side?

16 REPRESENTATIVE MAJOR: Representative Abby Major,  
17 60th Legislative District, Armstrong, Butler, and Indiana  
18 Counties.

19 REPRESENTATIVE STAMBAUGH: Perry Stambaugh, 86th  
20 House District, Perry and Cumberland Counties.

21 REPRESENTATIVE SMITH: Brian Smith, 66th  
22 Legislative District, Jefferson County and Northern Indiana  
23 County.

24 REPRESENTATIVE TOOHL: Good morning. Tara  
25 Toohil, 116th Legislative District, Luzerne County.

1                   REPRESENTATIVE GLEIM: Good morning. Barb Gleim,  
2 199th District, parts of Cumberland County.

3                   ANNA KING: Anna King, Executive Director.

4                   MAJORITY CHAIRWOMAN DELOZIER: Sheryl Delozier.  
5 I represent Cumberland County.

6                   MINORITY CHAIRWOMAN DeLISSIO: Pam DeLissio, the  
7 194th, parts of Philadelphia and Montgomery Counties.

8                   LISA PARKENS: Lisa Parkens, Interim Executive  
9 Director.

10                  REPRESENTATIVE FITZGERALD: Good morning.  
11 Isabella Fitzgerald, representing the 203rd Legislative  
12 District, Philadelphia, West Oak Lane, East Oak Lane, and  
13 the lower Northeast.

14                  REPRESENTATIVE SHUSTERMAN: Good morning.  
15 Melissa Shusterman, Chester and Montgomery Counties, 157th.

16                  REPRESENTATIVE SILVIS: Good morning. Jason  
17 Silvis, 55th District, part of Westmoreland County,  
18 Armstrong County, and Indiana County.

19                  REPRESENTATIVE STRUZZI: Good morning. Jim  
20 Struzzi, 62nd Legislative District, Indiana County.

21                  REPRESENTATIVE FLOOD: Good morning. Ann Flood,  
22 138th District, Northampton County.

23                  REPRESENTATIVE ROSSI: Good morning. Leslie  
24 Rossi, 59th District, parts of Westmoreland and Somerset  
25 County.

1                   REPRESENTATIVE MACKENZIE: Good morning. Milou  
2 Mackenzie, 131st District, part of Northampton County, part  
3 of Lehigh County, and part of Montgomery County.

4                   REPRESENTATIVE BONNER: Tim Bonner, Mercer and  
5 Butler Counties.

6                   MAJORITY CHAIRWOMAN DELOZIER: Okay. Thank you  
7 very much.

8                   The reason that we have called a number of the  
9 hearings that we have here with the Children and Youth  
10 Committee is to find out more information. This is no  
11 different. The ability for us to understand our foster care  
12 system and understand that, as with anything in State  
13 Government, there are many different moving parts,  
14 especially when it comes to Children and Youth.

15                   The ability for us to understand those moving  
16 parts and understand that it's a very emotional situation in  
17 each and every one of these cases that deal with foster  
18 parents and certainly what is in the best interest of that  
19 child. Each and every situation -- and the one thing that  
20 I've learned certainly here with Children and Youth is the  
21 fact that each and every situation is different. Every  
22 child is different. Every family is different.

23                   And that also is a lot of responsibility for our  
24 court systems certainly to evaluate those situations and try  
25 to do what's in the best interest of that child. But we

1 also need to make sure that our system is balanced, not only  
2 for that child and for the family that may be going through  
3 a very bad time, but also the new family that wants to adopt  
4 a child and has been fostering a child.

5 So there are a lot of caring people in this  
6 system. And what we are here for today is to hear from a  
7 lot of those folks that do this on a day-to-day basis as  
8 well as those families that are impacted by the many, many  
9 children that really just need to be in a good place for  
10 themselves and feel that they are important, which I think  
11 is the priority.

12 So with that, I know that we are going to have  
13 four separate panels. And each panel, I think, will  
14 complement each other. We have some information from a  
15 family that's been through it, some of the folks from the  
16 judicial side of the system, as well as those that advocate  
17 for foster parents. We need more foster parents certainly  
18 in our system. We need to have a balance so that those  
19 foster parents feel that they have a voice in our system as  
20 well because they are trying to do the right thing for a  
21 child. And we thank them for that.

22 But we also need to make sure that we have an  
23 equal and balanced hearing and the ability for everybody's  
24 voice to be heard in the system.

25 With that, I'll hand it over to my other

1 Chairwoman here, Chairwoman DeLissio.

2 MINORITY CHAIRWOMAN DeLISSIO: Thank you,  
3 Representative Delozier.

4 Good morning, everyone. I first want to make  
5 sure you know gratitude for serving as foster parents or  
6 those of you who are out there and listening to this.

7 What I've learned, in my now sixth term as a  
8 State Rep, is that government is complicated. It's highly  
9 nuanced. Rarely do we have days where things are so  
10 clear-cut you could describe them as the issues are black  
11 and white. I feel like our lives are more like shades of  
12 gray every single day. And we take our responsibility  
13 seriously to sort out the best possible policy for the  
14 greater good of our citizens.

15 That being said, I have reviewed the testimony  
16 that was provided and I'm grateful for that. It means I  
17 have an overview of what's being discussed today. And I  
18 hope by the end of the day, we'll have even additional  
19 information so that we can clearly state what the concern is  
20 today coming into this hearing.

21 Obviously, if you have any solutions to offer, we  
22 are always most grateful for that, those solutions, and to  
23 take them under advisement and subsequently decide how to  
24 proceed.

25 Thank you for your time and for being here today.

1 MAJORITY CHAIRWOMAN DELOZIER: Okay. Thank you  
2 very much.

3 And with that, we will get to our first  
4 testifiers, Jennifer and Derik Deibler, who are here to  
5 share their story and what they have learned about these  
6 issues through their very firsthand experience. I want to  
7 thank them for being here.

8 They are constituents of Speaker Cutler, who is  
9 here in the room with us today to support his constituents  
10 and advocate for them as well. Thank you for bringing the  
11 issue forward. The Speaker brought this issue forward.

12 And we are glad to be able to have you here today  
13 and hear your story. Thank you for everything you've done  
14 in all of your experiences and for being here to share with  
15 us today what you've seen.

16 So with that, I'll hand it over to you.

17 DERIK DEIBLER: Thank you so much.

18 And I'll ask that you all bear with us because,  
19 as you mentioned, it is emotional. You know, we're  
20 obviously very vested in our family so just bear with us as  
21 we go through this.

22 MAJORITY CHAIRWOMAN DELOZIER: And I hate to  
23 interrupt you. Can you pull the microphone closer because  
24 people that are watching need to hear you, too.

25 DERIK DEIBLER: Absolutely.

1 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
2 much.

3 DERIK DEIBLER: A piece of plexi-glass protects a  
4 tiny Bubba handprint from being washed away, for there will  
5 be no more sticky handprints or smudges on the windows from  
6 our dear Bubba.

7 After being wheeled out of the hospital out of  
8 Women and Babies on my wife's lap as a newborn, welcomed  
9 into our home and spending the first 18 months of his life  
10 in our care, we and the County were prepared to move forward  
11 with adopting Bubba. Then things changed suddenly.

12 A phone call from the County caseworker and only  
13 an hour to get him packed up, we had to say good-bye. The  
14 only saving grace was that we had the hope and promise  
15 through our County caseworker that this was only temporary  
16 and that he would be returned to our care after an  
17 investigation was completed.

18 Someone had called in a false allegation of child  
19 abuse. And according to the County, they believed we were  
20 set up, presumably as part of a stalling tactic from the  
21 biological family to keep the County from moving forward  
22 with TPR and adoption.

23 Despite the completion of the investigation and  
24 the allegations being unfounded, the County moved for  
25 permanent placement with Bubba's then respite family. Our

1 foster son was abruptly removed from our care never to  
2 return to his home, his family, his friends, his pets, or  
3 his church.

4 When he was driven away that day, the caseworker  
5 stated that he just kept saying, Momma, Dadda, Momma, Dadda,  
6 as they drove away. We knew that we had to fight, not for  
7 us but for him. But what could we do? What we learned in  
8 the weeks, months, and now years to come, there was  
9 ultimately nothing that we could do.

10 We tried what few legal options we found but  
11 those were to no avail. It was at this point that we knew  
12 something needed to change so that this does not happen  
13 again. Our main responsibilities as foster parents were to  
14 ensure that children in our care were healthy and provided  
15 for. But equally important to us was that we advocate for  
16 these children who are unable to advocate for themselves.  
17 Proverb 31a states that we are to speak up for those who  
18 cannot speak up for themselves for the rights of all who are  
19 destitute.

20 We took this responsibility very seriously. And  
21 we were always advocating for our children. When you  
22 empower foster parents with rights, you are empowering them  
23 to speak to what's best for the children in their care.  
24 Nobody spends more time with these children than the very  
25 foster parents whose care they are in. Nobody spends more

1 time with them than we do.

2 If we were afforded the rights as foster parents,  
3 our Bubba's voice would have been heard. Unfortunately,  
4 behind closed doors in a private hearing that we were not  
5 made aware of, a decision was made that detrimentally and  
6 potentially permanently traumatized an otherwise healthy  
7 child. Our dear Bubba was doing very well. He was  
8 excelling. He was overcoming many obstacles that my wife  
9 and I were able to pick up on and advocate for.

10 Despite being born with some complications, he  
11 was overall very happy and a very energetic boy. He was  
12 thriving. He was going to have an opportunity to grow up in  
13 one household without neglect, without abuse, and without  
14 the trauma that many children who come into foster care have  
15 unfortunately experienced.

16 I implore this group to put together legislation  
17 that will protect the lives and mental health of the  
18 children placed in the County's care. Our experience has  
19 proven that the agency commissioned with protecting the  
20 welfare of children has done just the opposite of that and  
21 has instead traumatized many children's lives. This could  
22 have potentially been prevented if we, as foster parents,  
23 simply would have had a voice to speak for our foster son.  
24 Please give Bubba a voice.

25 When we found out that he was not coming home, we

1 knew that the only thing left was to fight for other young  
2 lives, that this would not happen to anyone else. We hope  
3 that, at the very least, he can someday know that because of  
4 what he went through, others will not have to. If such  
5 legislation is introduced and passed, I would just ask that  
6 you please consider naming it Bubba's Law in his honor.

7 Thank you so much for the opportunity to speak  
8 here at this forum. I do hope and pray that legislation  
9 change will come and that situations like these can be  
10 avoided. I hope that by giving rights to foster parents  
11 more foster children will be heard.

12 Thank you and God bless you for your service.

13 JENNIFER DEIBLER: They used to say this was like  
14 the death of a child until someone said, no, it wasn't. It  
15 was like you just spent three months with a child on life  
16 support and without telling you someone else decided to pull  
17 the plug even though they knew it didn't need to be. It's  
18 probably the closest description there is. And that doesn't  
19 take into account what happened to our biological children.

20 We had an hour to say good-bye. We made  
21 arrangements for our youngest daughter, packed our two kids,  
22 called our pastors, and tried to begin to process what was  
23 happening. Bubba knew that something was up. And I'll  
24 never forget the look on his face or the car driving away.  
25 Sorry. (Crying) Nor will I forget panic in one daughter's

1 voice, the tears in another, and the blank wide-eyed silent  
2 stare at the other until she was finally able to ask,  
3 where's Bubba? And is Daddy going to jail?

4 After I explained what little I could about what  
5 was happening, then it was silent, dead silent. And I never  
6 understood the expression that silence was deafening until  
7 this happened.

8 None of us will ever be the same. We pray that  
9 someday we can say that memories, videos, and pictures bring  
10 joy without the accompanying pain, but we are not there yet.  
11 Things like Bubba's little crouch during the introduction of  
12 baby shark before breaking out into dance and laughing  
13 hysterically, waving the sign for milk and repeating milk  
14 over and over again while eating, or moving as fast as he  
15 could to get more bacon.

16 Sorry. It brings smiles and tears. I loved the  
17 little smirk he would give me when he knew he was doing  
18 something he shouldn't be and the kisses he gave us and all  
19 the animals. He was a cuddler and I actually ended up  
20 cutting the neck of all my scrubbing T-shirts that he pulled  
21 them over to his face as he snuggled.

22 That's how we spent our last morning. He just  
23 wanted to be held and laid his head on my shoulder and  
24 cuddled up with my shirt as I carried him around getting  
25 everything set for our daughter to go to her first day of

1 co-op. It was supposed to be our first Mamma and Bubba day,  
2 but it never happened.

3 As we said in our written comments, there has  
4 been so much learned about child development and psychology  
5 that doesn't seem to be reflected in the current foster  
6 system. The Judge's opinion cited 25-year-old case law when  
7 he dismissed our adoption petition, which ignores the more  
8 recent studies that show children bond to biological and  
9 non-biological parents the exact same way.

10 The phrase biological at best gets thrown around  
11 a lot in foster care but maybe it really should be bonded as  
12 best, especially with newborns who would be bonding with  
13 their foster parents as though they are their biological  
14 parents, just like Bubba.

15 For most of the placements, there seemed to be  
16 more of a focus on appeasing the biological parents than on  
17 the mental well-being of the children. For example, the  
18 girls' reunification was scheduled ten days after our  
19 daughter was leaving for college and just three days before  
20 they were to start school.

21 I suggested we consider a date before our  
22 daughter left so the girls would have only one good-bye  
23 instead of two and have even more time to adjust to their  
24 new home. The response I got was, everyone has an opinion.  
25 It wasn't even considered. I cannot tell you how many

1 referrals never got in or if they did, how many weeks or  
2 months it took to get them in. I could not tell you how  
3 many referrals never got in or if they did -- sorry. It  
4 took three months for Bubba's TPR paperwork to get filed  
5 because, as we were told, there were more important things  
6 to do.

7 My years of teaching taught me to never stop  
8 advocating for children's needs to be met, so that's what I  
9 did. Our COBYS caseworker said she had never had someone  
10 advocate for the kids as much as I had. I asked if that was  
11 a code word for complain and she said, no, that she felt I  
12 really did advocate for them.

13 I didn't think it mattered to our County  
14 caseworker. And honestly, I think it did more to annoy her  
15 and her supervisor than anything. The term God complex has  
16 come up in a lot of other people's stories to us. And I  
17 would have to agree. They know what is best for the  
18 children and they don't want to hear anyone else's ideas or  
19 suggestions. One of them was even quoted as saying  
20 something to that effect in a college magazine interview.

21 The only people who seem to advocate for the  
22 children or asked were our CASA workers and yet, despite the  
23 hours upon hours they spent in our home, no one seemed to  
24 give them any weight. COBYS said they would fulfill that  
25 role but they and the County had the same attorney, who was

1 also the husband of the County director, so we watched  
2 everyone circle the wagon to protect the entity.

3 So many times we heard things like no one bucks  
4 the County because then they wouldn't get placements and if  
5 they don't get placements they don't get money. And if they  
6 don't get money, they don't exist. That doesn't lead to  
7 doing the right thing because it's the right thing.

8 In our case, the GAL said, whatever the County  
9 wants. The new CASA worker said, whatever the County wants.  
10 COBYS said, whatever the County wants. And the caseworker  
11 said, I am the County. Throughout this entire process it  
12 was extremely hard to know what the process even was. There  
13 was a huge lack of contact and information. There was no  
14 respect for our due process rights and we were not presumed  
15 innocent. We are not even given the same treatment as the  
16 parents whose children we had fostered or the basic  
17 constitutional rights given to criminals.

18 We went three weeks without our youngest daughter  
19 while we waited for someone else to do something. Derik  
20 went three weeks with no contact at all, not a phone call,  
21 not a letter, nothing. Yet the other parents had had a  
22 phone call that first night and a visit the very next day.  
23 It took three weeks for the investigator to even contact us  
24 despite our numerous attempts to contact her. And we waited  
25 weeks to hear anything from the County or COBYS. We

1 couldn't even get a response to our e-mail asking if they  
2 received a copy of the unfounded letters, which you know in  
3 our written comments, there was a problem with that also.

4 We were not told about the hearing to move Bubba  
5 even though we just happened to send an e-mail asking for an  
6 update the day before. And we still don't even know what we  
7 were accused of doing. In preparing for today I found an  
8 agency online that works for foster parents in these  
9 situations. But despite several people looking, we never  
10 found that when we needed it. I obviously have no idea what  
11 the quality of their service is but their website says they  
12 have a membership fee.

13 We think that foster parents should have access  
14 to an ombudsman as soon as they begin fostering. It could  
15 have saved us so much stress and so much money if someone  
16 could have guided us through the process, had a direct  
17 number to the investigator, and been able to make sure the  
18 unfounded letters were delivered.

19 This will make Children and Youth more  
20 accountable to make referrals, get services, and file things  
21 like TPR in a timely matter. It would also make them  
22 accountable and to inform foster parents of hearings  
23 concerning their foster children. We absolutely would have  
24 spoken at the change of placement hearing if we had known  
25 about it, which I'd also bet is why it was kept a secret.

1           Our daughter returning home dependent on the bio  
2 family taking the girls for their interviews, had she not  
3 stepped in after three weeks, she would have been gone for  
4 six. We had never understood why it was allowed to take so  
5 long. If the interview was required within 24 hours, the  
6 process could have been much shorter and the disruption and  
7 trauma to the children so much less.

8           Having a dedicated group of investigators and  
9 State Police officers who receive special training and are  
10 accustomed to the idiosyncrasies of foster care and  
11 allegations against foster parents could lead to a more  
12 expedient process and lessen the disruption and trauma or  
13 re-traumatization of the children involved.

14           Without comment, false allegations against foster  
15 parents, a prioritized investigation could be a way to  
16 minimize the effects on these families. We never in our  
17 wildest nightmares could have imagined that in giving a home  
18 to a child in need we would lose our daughter for even a  
19 day, let alone three weeks.

20           Even though Bubba lost the most in all of this,  
21 he and our daughters were not the only children hurt by  
22 this. No one got to say good-bye to Bubba. After 18  
23 months, they lost their friend, the baby they had cuddled or  
24 helped with or the toddler they had loved to play with at  
25 church.

1                   We've had people tell us their children were  
2                   scared that someone was going to come in their home and take  
3                   them, others who said their children prayed for him to come  
4                   home for weeks or months after, others who just stared at us  
5                   with blank looks, and those who were actually able to say it  
6                   was too weird for him to not be there. It's not fair to any  
7                   of them. And it's not doing right by children like Bubba.  
8                   They are not pawns to be moved around on a whim. And 15  
9                   months needs to mean 15 months. We might not be here if it  
10                  did.

11                  We don't know if it's something that comes  
12                  gradually with time at 15 months or varies depending on the  
13                  age of the child entering care like with newborns. But at  
14                  some point, foster parents need to have some rights in  
15                  regards to their foster children. There has to come a point  
16                  where the bond and relationship between foster children and  
17                  foster parents and families is recognized and honored.

18                  It's not fair to the foster families, nor is it  
19                  fair to the children in care. Why would anyone sign up to  
20                  go through what our family has been through. We could never  
21                  even suggest that someone becomes a foster parent. And we  
22                  know for a fact that there are many families who won't now  
23                  because of what we've been through. It has to change.  
24                  Foster parents need to know that someone has their back;  
25                  that they are valued; and that they aren't a disposable

1 commodity that will get discarded like a piece of trash.

2 Our attorneys told us we were too naive and  
3 trusting to go into a police interview. Sometimes I wonder  
4 if we were too naive and trusting to even go into foster  
5 care. But I think most foster parents are in the same boat.  
6 We went into it because we wanted to help children. We knew  
7 that it would change us; that there would be sacrifices; and  
8 that we would be changed because of it.

9 But we never expected to be nearly destroyed by  
10 it. We did not expect to come out of it with our children  
11 traumatized with probable life-long triggers, PTSD, or have  
12 our daughter working upwards of 40 to 50 hours a week to put  
13 herself through college after we spent our savings trying to  
14 clear our name, get another daughter and Bubba home, and get  
15 our youngest nearly two years of counseling.

16 I know some people would say we didn't have to  
17 appeal the change of placement. In fact, a caseworker  
18 basically told us we needed to just get over it and move on.  
19 But we believe that God calls us not only to speak up about  
20 injustice but to fight injustice. We had to keep trying.  
21 We had to do whatever we could.

22 We had to be able to look our girls and hopefully  
23 someday Bubba in the eyes and tell them we did everything we  
24 could. I think our youngest truly said it best when she  
25 said, we had to fight for him because his parents didn't and

1 if we didn't, he might think he wasn't worth fighting for.  
2 These kids need to know that they matter that much. They  
3 need to know that what they have been through matters enough  
4 that we will make sure this doesn't happen to anyone else.  
5 And like Derik said, we'd love it if there was something you  
6 could name in his honor to show him in a concrete way  
7 someday that he matters to a lot of people, too.

8 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
9 much. I know that it shows how much you guys care. I mean,  
10 as we mentioned earlier, when you're dealing with kids, they  
11 worm their way into our heart pretty quick. When you lose  
12 one, it can only be devastating to not only as you mentioned  
13 yourselves, but certainly your other children. So thank you  
14 for sharing that, as painful as it obviously was.

15 One of the questions that I had had in dealing  
16 with -- you had mentioned an ombudsman type of situation,  
17 which we do have in other forms with our seniors and  
18 different state agencies. Who was your direct contact with  
19 the County? There is to be a GAL. There's to be, you know,  
20 notification and working with foster families. For you, did  
21 you have that contact?

22 I mean, you mentioned the fact that there was a  
23 hearing that you weren't even informed about. Was that an  
24 oversight or were you supposed to be at that hearing? And I  
25 don't know. I'm asking. I don't know.

1           DERIK DEIBLER: So it's our understanding that we  
2 didn't have a right to appear at that hearing.

3           MAJORITY CHAIRWOMAN DELOZIER: Okay.

4           DERIK DEIBLER: So they weren't obligated to tell  
5 us about it.

6           MAJORITY CHAIRWOMAN DELOZIER: Okay.

7           DERIK DEIBLER: That's our understanding.

8           MAJORITY CHAIRWOMAN DELOZIER: Okay.

9           DERIK DEIBLER: Now, after the fact, we had  
10 appealed that decision but then found out that really  
11 because the Judge had already, you know, ruled on it, that  
12 there was nothing to appeal. There was really -- there was  
13 an appeal but there wasn't really an appeal, if that makes  
14 sense.

15          MAJORITY CHAIRWOMAN DELOZIER: Okay.

16          DERIK DEIBLER: And during that process, it was  
17 interesting the question came up as to us being notified  
18 about that hearing but we never were.

19          JENNIFER DEIBLER: Like you were talking about  
20 the gray area. Some people said that we should have been  
21 notified because he was only in respite care. Technically  
22 he was still assigned to us so we should have been notified.  
23 Other people said, well, they're just going to say that he  
24 wasn't actually in your care so you didn't need to be  
25 notified. But after 18 months --

1 MAJORITY CHAIRWOMAN DELOZIER: I was going to say  
2 it had been a long period of time that you had had him.

3 JENNIFER DEIBLER: His whole life.

4 MAJORITY CHAIRWOMAN DELOZIER: Okay.

5 JENNIFER DEIBLER: So 18 months, his whole life.  
6 The GAL, we had met her one time at our request. We asked  
7 her to come over to our house because we had concerns about  
8 the reunification. So I think we met her for about a half  
9 hour to an hour that day. That was the only time we met  
10 her.

11 Our CASA worker --

12 MAJORITY CHAIRWOMAN DELOZIER: And this was at  
13 the end of the 18 months after he had been taken away?

14 JENNIFER DEIBLER: That was right before. The  
15 girls had been with us for 21 months at that point.

16 MAJORITY CHAIRWOMAN DELOZIER: Okay.

17 JENNIFER DEIBLER: And that was the first time we  
18 met her, the GAL that is.

19 MAJORITY CHAIRWOMAN DELOZIER: Okay.

20 JENNIFER DEIBLER: And Bubba was 18 months at  
21 that point.

22 MAJORITY CHAIRWOMAN DELOZIER: Okay.

23 JENNIFER DEIBLER: Our CASA worker that we had  
24 spent, you know, the time with had to resign like the week  
25 before due to health reasons. They assigned a new CASA

1 worker who we never met at all.

2 MAJORITY CHAIRWOMAN DELOZIER: Okay. So it seems  
3 that there's absolutely no communication whatsoever between  
4 the County and you as foster parents.

5 JENNIFER DEIBLER: There was not.

6 MAJORITY CHAIRWOMAN DELOZIER: Okay. With that  
7 change -- so when you found out about things, you said an  
8 hour before, who calls you to tell you that?

9 JENNIFER DEIBLER: The County caseworker called  
10 us.

11 MAJORITY CHAIRWOMAN DELOZIER: Okay. But that  
12 was the only communication that you had had about that  
13 issue. And from my perspective, what I'm trying to get at  
14 -- and I know there's some other panels to ask a little bit  
15 more of the specific details -- is what should happen? But  
16 from your perspective, all of a sudden you're told he's  
17 going to be gone and an hour later he's gone.

18 With that, I'll hand it over to Representative  
19 DeLissio.

20 MINORITY CHAIRWOMAN DeLISSIO: Thank you.

21 Thank you for sharing your story. I just want to  
22 make sure, Mrs. Deibler, when Representative Delozier just  
23 asked you about the Guardian and you said you had a meeting  
24 with the Guardian Ad Litem in reference to reunification,  
25 were you talking about the 18-month-old or were you talking

1 about the two young ladies?

2 JENNIFER DEIBLER: The two girls. We had asked  
3 her to come over.

4 MINORITY CHAIRWOMAN DeLISSIO: You've mentioned  
5 two different situations.

6 JENNIFER DEIBLER: Yeah.

7 MINORITY CHAIRWOMAN DeLISSIO: I think you have  
8 two totally different sets of processes perhaps. So it's my  
9 understanding this morning -- are we talking about the two  
10 young ladies as well today or just the 18-month-old?

11 JENNIFER DEIBLER: Just Bubba.

12 MINORITY CHAIRWOMAN DeLISSIO: Okay.

13 Mr. Deibler, you had said the respite family  
14 eventually adopted this young baby or not? Did I mishear?

15 DERIK DEIBLER: We don't know. The information  
16 is not available to us. I mean, we understand that they  
17 were planning to do that, yes. But we're not aware if  
18 that's happened or not.

19 MINORITY CHAIRWOMAN DeLISSIO: And what is the  
20 timeline on this? When did this happen? Because like I  
21 read through the testimony and just listened today. I'm  
22 trying to understand how quickly something had occurred and,  
23 you know, what the process was and the timeline, if it's  
24 spelled out at all, which I think is kind of integral.

25 JENNIFER DEIBLER: It's been two years, two years

1 in September since they came in and took him.

2 MINORITY CHAIRWOMAN DeLISSIO: Okay. I mean,  
3 that was an allegation alleged, subsequently discovered to  
4 be unfounded, correct? But as a result of that trigger,  
5 I'll use that word, that set off this chain of events, that  
6 was the issue that set off this chain of events, the child  
7 was not returned to your care and you were not given an  
8 explanation as to why; am I understanding this correctly?

9 JENNIFER DEIBLER: The little bit that we wrote  
10 in the written part was all we were told. I didn't do their  
11 hair well, which I don't do hair well.

12 MINORITY CHAIRWOMAN DeLISSIO: This referred to  
13 the 18-month-old because that's what we're --

14 JENNIFER DEIBLER: That's what they referred it  
15 to, yeah. That and that the respite family did a better job  
16 reaching out to the biological family, which we had been  
17 directly told we were not allowed to speak with them outside  
18 of visits because it was interfering with Children and  
19 Youth's investigation.

20 MINORITY CHAIRWOMAN DeLISSIO: Got it. So we  
21 don't know if the child may have subsequently been reunified  
22 with his biological family or not.

23 JENNIFER DEIBLER: As of about a month and a half  
24 ago when our adoption petition was dismissed, he had not.  
25 He was still with the same family.

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MINORITY CHAIRWOMAN DeLISSIO: I see. So even subsequent to this, you proceeded with your plan to adopt?

JENNIFER DEIBLER: We got paperwork two days after they took him that changed his goal to adoption with us as the adoptive parents.

MINORITY CHAIRWOMAN DeLISSIO: Okay. Those questions help me. Your answers help me very much. And again, I'm sorry anybody would have to go through any such very confusing thing. I'm looking forward to sort of understanding, as Representative Delozier mentioned, what the process should be, how it unfolded, and is there a trend or a pattern here.

Thank you.

Thank you, Representative Delozier.

MAJORITY CHAIRWOMAN DELOZIER: Okay. The ability for us to -- one of the things that resonated with what you said as well and I think is very, very valid as well is bonded as best. And I truly believe that the ability -- absolutely we want a family to stay whole, if at all possible. But many, many times, like you said, if a child is with another family for their lives, we also have to take a look at, as you mentioned, the mental health as well as what that child is expecting and what that detriment is or is not in removing.

So now, as was mentioned with that timeline, this

1 child has now been with two families, each for half of his  
2 life. He's approximately four now and he's now been with  
3 two separate families, neither of which is his biological  
4 family, which is the purpose for which he was removed from  
5 you. In doing so that doesn't make a whole lot of sense as  
6 to what could have been better for that child. Nothing  
7 against the respite family, which is now not respite  
8 anymore, but, obviously, has expanded in their role.

9 I just want to say at this point, we don't have  
10 any other questions for you. Thank you very much for taking  
11 the time to be here and for fighting for Bubba and other  
12 children very much like him.

13 So thank you for that.

14 JENNIFER DEIBLER: Thank you.

15 DERIK DEIBLER: Thank you.

16 MAJORITY CHAIRWOMAN DELOZIER: Okay. Next we  
17 have Attorney Craig Bluestein, who is an expert in adoption  
18 law and practice in Pennsylvania and has argued numerous  
19 cases pertaining to adoption, termination of parental  
20 rights, and foster parents' standing in the Commonwealth and  
21 Superior Courts.

22 Mr. Bluestein, we thank you very much for being  
23 here and look forward to your testimony.

24 Thank you.

25 CRAIG BLUESTEIN: Thank you very much, Madam

1 Chairwoman. And, Representatives, thank you very much for  
2 inviting me today. It's a pleasure to be here.

3 I know that you all have my written testimony.  
4 I'm just putting that aside because I'd rather speak, not  
5 only from my head, but from my heart today and tell you some  
6 stories, which reflect upon, not the ultimate merits of a  
7 case, which is very fact sensitive and has to be decided by  
8 a particular judge, but getting in the door, standing, if  
9 you will, which is, in essence, the focus of everything  
10 we're talking about today.

11 Standing, the right to be heard, the extent to  
12 which people have the right to be heard, extent to which  
13 they have the right to listen, to listen to the things that  
14 go before them in the courtroom. And to, by the way, answer  
15 the question you asked initially to Mr. and Mrs. Deibler,  
16 they have the absolute right to have notice of all the  
17 proceedings under the Dependency Law, period, under Section  
18 6336.1 of the Dependency Law. And they have the right to be  
19 heard. That's what the law says in the Dependency Law.

20 It doesn't tell us more about what that means.  
21 To further answer the question, I've often thought that  
22 being heard necessarily must include, in order for your  
23 words to be meaningful, the right to be in the courtroom the  
24 whole time and hear what goes before you so you can address  
25 it. That's very inconsistent. No one knows what the law

1 means, thus we need you to clarify. Does it mean that the  
2 Deiblers can enter the courtroom when it's their turn to  
3 talk and say their piece and get out? Does it mean they can  
4 come in at 9 o'clock like everybody else and listen to  
5 testimony and then not only say their piece but think about  
6 what everybody said before they got there so they can  
7 meaningfully speak? Does it mean they just get up and give  
8 a narrative? I'm not sure. Does it mean they get on the  
9 witness stand and have a lawyer, be it a County Solicitor,  
10 be it be the Guardian Ad Litem, be it their own lawyer, ask  
11 questions on direct examination subject to cross examination  
12 by their people? I don't know what it means and I never  
13 have.

14 But when I've had the opportunity, I've often  
15 told judges that I think it means they have the right to  
16 listen and hear everything that goes before them so as to  
17 meaningfully reply to what has gone before them. That needs  
18 to be clarified very much so. And given what the law  
19 currently says, it should be shocking to all of us that  
20 foster parents get notice of a hearing one hour in advance.  
21 That should never happen. They should have the notice that  
22 everybody receives in a timely fashion so as to have time to  
23 form their thoughts and opinions and perhaps prepare a  
24 writing.

25 There's also something called a Resource Family

1 Report, which foster parents, resource parents, have the  
2 right to provide to a court system. But it's always been  
3 unclear to me, and it often depends upon the County, what  
4 happens with that report. Does it go into evidence? Is it  
5 part of the record? Is it not? Who has seen it in advance?  
6 Has the Judge seen it sufficiently in advance, such that the  
7 Judge can take it into account in making his or her  
8 decision? I don't know.

9 That needs some clarification and uniformity  
10 across the state. Not only that, but this Resource Family  
11 Report, if it's part of a record, that means if there's an  
12 appeal, it goes to the Superior Court and the Supreme Court.  
13 If it's not part of the record, it doesn't. People need to  
14 know what happens to that Resource Family Report once it's  
15 sent in.

16 Let me go back to the three stories. The first  
17 one is not about foster parents or about a child. But it's  
18 about standing. And it reflects upon what we're considering  
19 today. So about 30 years ago, I copied a few cases.  
20 They're on my shelf, many years, sitting there, hoping that  
21 one day I would get to use them. So about eight years ago,  
22 I did get to use them.

23 The cases were about Gregory K and Kimberly Mays  
24 in Florida. Kimberly Mays was the switched-at-birth baby.  
25 Gregory K was a foster child just like the Deiblers had with

1 them. And Gregory K back then, like 30 years ago, filed  
2 with the media fashioned as a petition to divorce his  
3 parents. But it was really a petition to terminate the  
4 rights of the biological parents. He was in foster care.

5 And in so many words, the Guardian Ad Litem for  
6 him filed it. In our Adoption Law, the Guardian Ad Litem  
7 has standing to do just that, to file a petition for  
8 termination of parental rights. That person, on behalf of  
9 the child, has standing to do that. The lawyer gets into  
10 the door and is allowed to be heard on the merits. But that  
11 was unheard of back in Florida 30 years ago.

12 So it went to the Supreme Court. And the Supreme  
13 Court -- the media played it up as divorcing the parents,  
14 but it wasn't that. It was termination of parental rights.  
15 It was a great story back then. But the Florida Supreme  
16 Court, recognizing and looking closely at the Florida  
17 Constitution, said in so many words that every man for a  
18 wrong done to him shall have redress in the courts.

19 And they concluded little old Gregory K had  
20 standing to file what he filed. The merits are another  
21 issue. What happened? He did, in fact, divorce his  
22 parents. Termination of rights was granted. But it stood  
23 for the proposition in Florida that he had the right to get  
24 in the door. And that's standing.

25 So I took the file off my shelf eight years ago.

1 So, wow. The Florida Constitution has the same words as the  
2 Pennsylvania Constitution verbatim, in Article I, Section  
3 11, of the Pennsylvania Constitution, that every man for a  
4 wrong done to him, just him, it doesn't say her, of course,  
5 it means her also now, shall have redress in the courts.

6 So I represented a child who was in foster care  
7 in Chester County. His first name started with a D. And he  
8 was with foster parents. The foster family's brother and  
9 wife, aunt and uncle, so to speak, had a very close  
10 relationship with the child for a number of years. He was  
11 in foster care four years already. I represented those  
12 people, the brother and his wife. The aunt and uncle, so to  
13 speak.

14 And myself -- well, the Guardian Ad Litem and I  
15 spoke about filing a petition by the child for adoption --  
16 rights were already terminated in this case -- the child  
17 filing an actual petition for adoption to be adopted by my  
18 clients, something that I don't think was ever done before.  
19 Well, not in Pennsylvania. Maybe not in the country.

20 And as anticipated, the County agency filed a  
21 motion to dismiss the child's petition for adoption for lack  
22 of standing. He shouldn't have the right to be heard about  
23 his own life. And I also filed a petition for adoption on  
24 behalf of the hopeful adoptive parents.

25 So we did have an actual lengthy hearing about

1 that, the right of a child to have standing to advocate on  
2 his own behalf with regard to his own familial relations and  
3 bravely I thought Judge Tunnell in Chester County entered an  
4 order dismissing the motion to dismiss and granting to the  
5 little boy the right to petition for his own adoption.

6 And that's the first time, I think, in  
7 Pennsylvania, a child was granted that right. And it has  
8 everything to do with what we're talking about today. It's  
9 recognizing who has a right to be heard about their own  
10 life.

11 Fast-forward to the case, which as a result of  
12 which I think I'm here today, which was in the Commonwealth  
13 Court, starting with RV against the Department of Public  
14 Welfare, a case that I attached to the materials that you  
15 have. The child was in foster care for about eight months.  
16 The County agency sought to remove the child to place the  
17 child with another relative.

18 The foster parents, before I knew them, filed an  
19 appeal under the Pennsylvania Code, 55, PA Code 3700.73,  
20 which says in so many words that the foster parents have the  
21 right to appeal if the child has been there more than six  
22 months, appeal to remove them except in five circumstances.  
23 And in any of those five, they don't have standing to do so.

24 One of those and the operative one was if the  
25 move was initiated by the Court. What does that mean? Not

1 quite sure. But I've always thought that if anybody files  
2 something and a Court decides it, the matter wasn't  
3 initiated by the Court. I thought the matter was initiated  
4 by the complainant or the petitioner.

5 But the Commonwealth Court held that the Juvenile  
6 Court had jurisdiction. The Common Pleas Court Juvenile  
7 Division had the right to enter an order moving the child.  
8 True. Everybody would agree with that. And therefore, the  
9 move was initiated by the Court. All because the move in  
10 the a Commonwealth Court was initiated by the Court, the  
11 foster parents didn't have standing to appeal pursuant to  
12 those words in the Pennsylvania Code.

13 So the Pennsylvania Code gave foster parents the  
14 right to appeal if the child has been there more than six  
15 months. And then in that case -- it's attached to your  
16 materials -- that right was taken away, in my view. So as a  
17 result of that case, since then, because every move of a  
18 child out of a foster home has to be now, since 2011, by  
19 statute and rule, approved by the Court by an order entered  
20 by a Court, therefore, every foster parent, it could be  
21 argued and argued well, doesn't have standing to appeal  
22 under the Pennsylvania Code anymore. So what Pennsylvania  
23 gave to foster parents, I think in that case, it was taken  
24 away. I think that's right.

25 Now fast-forward more. With permission of my

1 current clients to talk about this, whose first names start  
2 with A and D and they live near Mr. and Mrs. Deibler and  
3 have dealt with the same entity, the same vendor, foster  
4 care agency as the Deiblers dealt with, they had two little  
5 girls in their home who have been in their home for now  
6 about 28 months.

7 This is October. In approximately May of this  
8 year, the County agency advised them that they're going to  
9 move the children out of their home to be placed with a  
10 paternal aunt. The Father had already passed away, sadly.  
11 And the mother's rights have already been terminated by  
12 Court order in that County.

13 So the County agency, as required, filed a motion  
14 to modify placement with the Court. So the issue is whether  
15 the children are going to stay put or not. They did have  
16 some relationship with the aunt. Foster parents were  
17 wonderful and continue to be wonderful at making sure the  
18 children see the aunt about once every two months or more if  
19 the aunt wanted to. Very flexible.

20 The foster parents also made sure the children  
21 have a wonderful relationship with the maternal family also.  
22 So no issue at all with regard to the behavior of the foster  
23 parents. They are very cooperative. No complaints.

24 So, under the current state of the law, as you've  
25 heard, they just have the right to notice and an opportunity

1 to be heard. Now we're back to that issue and what it  
2 means. So the Judge was -- we filed a petition for  
3 intervention into the proceeding involving the motion to  
4 modify placement or to remove the children, only in that,  
5 not in the enter dependency case, just that because that  
6 involved removal of the children from their home.

7 They and the children are as much a family unit  
8 as any parents and children can be. They call them Mommy  
9 and Daddy. They are in every way their Mommy and Daddy that  
10 a kid can have a Mommy and Daddy other than legally. They  
11 love them to death and would do anything for them.

12 So the Judge in that court, very patient and fair  
13 and a gentleman, denied the petition to intervene in the  
14 case, which means they didn't have a say anymore. The Judge  
15 did allow me to put the foster mother on the witness stand  
16 and ask questions to bring out all the information we wanted  
17 the Judge to know subject to cross examination.

18 And that's one view of what those words mean,  
19 opportunity to be heard. He allowed that. Another judge  
20 might have said, no, you can't testify. But you can stand  
21 up and tell us whatever you'd like. No uniformity. There  
22 needs to be uniformity on that.

23 So the foster mother and father didn't have much  
24 right anymore to participate in the proceeding other than to  
25 be heard. But after that, get out of the courtroom because

1 you're not part of the entire proceeding because you were  
2 denied intervention. Therefore, you were denied standing.

3 And what is standing? It's not just being heard.  
4 It's the right to call witnesses to the stand, submit  
5 evidence, cross-examine, and appeal or be part of an appeal  
6 if the other side is the appellant. It involves all those  
7 rights, standing. Without standing, you lose all of those  
8 rights.

9 And in this particular case, who more on the  
10 earth, other than the two kids, are impacted but those two  
11 adults who the kids call Mommy and Daddy and who would do  
12 anything for these children?

13 Sadly, I've seen in my life with regard to that  
14 case I first told you about where the child filed a petition  
15 for adoption on his own behalf along with our petition for  
16 adoption, the County agency favored what they called fifth  
17 degree away of consanguinity cousins. They turned out to be  
18 six degrees away, who met the children twice or the child  
19 twice for a half-hour in the last four years. We see that a  
20 lot out there with the push toward and move toward the  
21 appropriate family finding and keeping children with family  
22 whenever possible.

23 I find way too often putting best interests  
24 second in line, second to family placement no matter what.  
25 I've seen that sometimes across this Commonwealth. I think

1 the best interest of the child has to be right up there with  
2 merely placing a child with family whenever possible.  
3 Sometimes it is in their best interest and sometimes it's  
4 not. If we could eliminate the need for all offices of  
5 Children and Youth because every child can stay home, that  
6 would be the goal. That should be the goal. I suspect that  
7 will never happen. So we have to forever keep all the  
8 factors in mind which impact what's in the child's best  
9 interest.

10 In the real world, happily, my two clients who  
11 have been in frequent communication with Aunt and Uncle in  
12 this last case in the Deiblers' county, because of the very  
13 good relationship they have with the aunt and the uncle,  
14 they proposed a post-adoption contact agreement, which is  
15 something that's allowable in law in writing and  
16 enforceable. And they worked out a post-adoption contact  
17 agreement. The Aunt and Uncle have chosen to not pursue  
18 adoption.

19 The children will stay where they are presumably.  
20 They still are there. County agency will presumably,  
21 assuming all goes well, promote and advocate in favor of the  
22 adoption of two children by the foster parents. So the real  
23 world and the good faith between parties took over in this  
24 case. And I think the children will forever be their  
25 children and forever they will be their parents because of

1 the goodwill of the parties.

2 In the case, I filed an appeal to the Superior  
3 Court from the denial of our petition for intervention just  
4 arguing they should have a say down below. And the Superior  
5 Court did enter an order promptly saying, you have ten days  
6 to tell us why we should hear the appeal at all because they  
7 don't appear to have any standing.

8 I'll never know what would have happened there  
9 because the arrangement was made between foster parents and  
10 the aunt and uncle. The County agency has withdrawn their  
11 petition to modify placement to remove the children. And I  
12 think the adoption by the foster parents will finalize in  
13 the months to come. So that was happy. It appears like  
14 we're headed toward a happy ending.

15 But the problems, the concerns of the foster  
16 parents remain. We have to clarify what notice and an  
17 opportunity to be heard means. And there has to be a  
18 circumstance. It would seem that when children become so  
19 sufficiently bonded to a foster parent or foster parents and  
20 vice versa, but more so the first part, the children are so  
21 bonded, those people who the kids call Mommy and Daddy have  
22 a right to be heard.

23 I don't know what the exact answer is, how much  
24 time it should be. Six months is bandied around. Six  
25 months is in many statutes. Whether it be six months, nine

1 months, a year, whether it be other circumstances that are  
2 factored in, something has to give to allow people who are  
3 incredibly important in the life of a child to at least  
4 advocate and be heard. And then if they believe that it's  
5 not in the best interest of the children to be moved, they  
6 may be wrong. That's okay. It's always a fact-sensitive  
7 case. Every single case. Change the facts, change the  
8 result.

9 But by being heard allows Courts to build a  
10 broader record of facts and have a more well-founded  
11 decision-making process and more well-founded decision,  
12 including a Superior Court or Supreme Court can have a  
13 broader record, a more full record to decide whether a lower  
14 court abused its discretion or did not abuse its discretion.

15 One day I predict that this will keep happening.  
16 And a foster parent will not only contest their lack of  
17 intervention but seek to declare the current statute  
18 unconstitutional because it doesn't allow a person whose  
19 rights are apparently wronged maybe to have redress to the  
20 courts. Because currently they only have that right to  
21 notice and an opportunity to be heard, however slightly. I  
22 predict that will happen.

23 But before that does happen, it's wonderful that  
24 you're considering under what circumstances and what time  
25 periods foster parents statutorily and by rule should have a

1 right to have a say, not in regard to the merits, just have  
2 a say, be heard like everybody else who is an important  
3 stakeholder in the child's life.

4 I welcome questions.

5 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
6 much.

7 And also for those that may be watching and  
8 certainly for those in the room, there are a lot of other  
9 committee hearings being held. So if you see members  
10 leaving, it's not due to lack of interest in this. The  
11 ability for them, they have to get to voting meetings in  
12 other parts of the building. So just in and out. There  
13 will be folks coming both ways. So I just wanted to put  
14 that out there for folks so that they are aware of it.

15 Thank you for your testimony on the different  
16 issues. One of the things that I think is glaring from  
17 listening to the Deiblers and the parents that are  
18 experiencing this as foster parents and then you  
19 representing them as well, you're saying they do have the  
20 right to be at that hearing. They do have the right. But  
21 yet it doesn't seem to be coming to fruition.

22 The family was saying they did not have any  
23 communication with the County. And they're in the same  
24 County that you're representing folks in. All 67 counties  
25 we can assume from that are treated differently and that

1 value on communication is different. Can you speak to the  
2 fact that, you know -- how much is it that we can clarify,  
3 as you've said, that we need to do? Fine. I'll take that.  
4 And that is something that we can actively work on to make  
5 sure that it is clarified. What does that mean, that their  
6 voices be heard? And what participation can they have?

7 I wholeheartedly agree with you 1,000 percent  
8 that that foster family that a child has been with should be  
9 an integral part of a court hearing of any kind because they  
10 have a lot to say, I would imagine, of what the child is  
11 doing and the bonding that goes along with it.

12 Can you talk to -- I'm assuming you've practiced  
13 in other -- have you practiced in other counties as well?  
14 Can you speak to that communication or lack thereof and that  
15 interpretation? I think it goes to the fact of what we need  
16 to clarify.

17 CRAIG BLUESTEIN: Sure. There definitely is not  
18 uniformity across counties. Judges and probably solicitors  
19 for Offices of Children and Youth across the state think  
20 differently about what the words mean, notice and an  
21 opportunity to be heard. That's all the guidance offered in  
22 the statute under Section 6336.1 under the Dependency Law,  
23 which is the Juvenile Act.

24 Even if they gain no further rights, that needs  
25 clarification. They should have the right to be in the

1 courtroom all day just like everybody else at that hearing.

2 MAJORITY CHAIRWOMAN DELOZIER: Correct.

3 CRAIG BLUESTEIN: On the hearing to modify  
4 placement, that's the one that most impacts them. But then  
5 there are other hearings, permanency review hearings, other  
6 kinds of hearings that are not impacting them that much.  
7 But they should have the right to be in all the hearings all  
8 day long just like all the parties.

9 It's hard to imagine that people who are caring  
10 for a child for a year 24/7 and taking care of all of the  
11 needs of a child have questionable rights to participate.  
12 But a parent who has been absent for 18 months that shows up  
13 has the full right to participate. Now, the parent should  
14 have the full right to participate. Everybody would think  
15 that. That's easy.

16 MAJORITY CHAIRWOMAN DELOZIER: But so should the  
17 foster parents.

18 CRAIG BLUESTEIN: But so should the foster  
19 parents. There should be uniformity in a statewide way  
20 about what opportunity to be heard means. I don't think it  
21 should mean stand up, state a narrative, and go. I think it  
22 should mean you're entitled to be in the courtroom all day  
23 long at each and every hearing and be heard by way of direct  
24 examination and cross examination.

25 Even if you didn't expand rights at all, that is

1 not inconsistent with the law as it stands. It just  
2 clarifies it so everybody knows what it means.

3 MAJORITY CHAIRWOMAN DELOZIER: Can I ask you, do  
4 you think that the County providing that notice to those  
5 foster parents when those hearings are and what their rights  
6 are, it seems that even the understanding of what those --  
7 the information from the County is not clear.

8 CRAIG BLUESTEIN: There are time elements in the  
9 rules as to when the County agency must give notice of  
10 hearings, like ten or twenty days.

11 MAJORITY CHAIRWOMAN DELOZIER: Okay.

12 CRAIG BLUESTEIN: The foster parents should just  
13 get that same notice that the County agency is required to  
14 give everybody in the case, the mother, the father, the  
15 grandmother, if she's involved, any party.

16 MAJORITY CHAIRWOMAN DELOZIER: Okay.

17 CRAIG BLUESTEIN: The rules should be the same.

18 MAJORITY CHAIRWOMAN DELOZIER: Okay. All right.  
19 That seems fair.

20 With that, I'll hand it over to Representative  
21 DeLissio.

22 MINORITY CHAIRWOMAN DeLISSIO: Thank you.

23 I think we can all agree that the benefits and  
24 the welfare of the children in the Commonwealth are a mutual  
25 and collective primary goal here, a priority. That being

1 said, this Committee completed four regional calls of all  
2 the counties. It was specifically focused on the suspension  
3 of regulations during the pandemic. The conversation always  
4 categorically through all four calls morphed into other  
5 areas of operation. Our calls were with the County and  
6 Youth agencies, not the Administration, not the State  
7 Administration.

8 And, you know, in talking about different things,  
9 particularly court appearances, the ability to do that  
10 virtually, etc., pluses, minuses, it became very clear and  
11 it's become clear through other hearings that this Committee  
12 has held that the Judicial Branch operates independently of  
13 the Legislative Branch obviously and that even within a  
14 County, multiple judges could be administering their courts  
15 very differently within the same court, which I can  
16 appreciate the concern and the frustration of that. It  
17 concerns and frustrates me as well.

18 But the children -- and correct me if I'm wrong.  
19 And this may be old language or not current lexicon. The  
20 children are wards of the State at the point that they are  
21 in foster care, correct? The State is ultimately  
22 responsible for their well-being and their welfare?

23 CRAIG BLUESTEIN: Yes.

24 MINORITY CHAIRWOMAN DeLISSIO: I don't disagree  
25 that those who are close to those children on a 24/7 hour

1 basis should have the ability to weigh in, as it were, at  
2 various parts of this process unless for -- well, they  
3 should have the ability to weigh in and be heard.

4 If, in fact, they did have standing in the legal  
5 definition of what that word means, do you believe,  
6 Mr. Bluestein, that would help to eliminate this  
7 discrepancy, discrepancies that occur from courtroom to  
8 courtroom, whether it's within the same county or from  
9 county to county, if it was, you know, they definitively had  
10 standing, therefore they could step forward?

11 I can appreciate both not having a definitive  
12 solution but saying more clarification is necessary. But  
13 what's to prevent folks from being back here ten years from  
14 now having that particular clarification be put through the  
15 mill and shredded? So if they had standing, would that, in  
16 fact, help with some of this consistency or not necessarily?

17 CRAIG BLUESTEIN: I definitely think it would  
18 help with creating consistency. It would be clear to all,  
19 all judges in the same courthouse and all judges across the  
20 Commonwealth, what position, what standing, or what right  
21 foster parents have to participate in the proceedings.

22 If it was clear -- and there's a lot of policy  
23 decisions involved in a standing of foster parents. I  
24 understand that. But if it was clear that they had the  
25 right to take the witness stand, be cross-examined, have the

1 right to admit evidence, have the right to appeal or be the  
2 appellee defending an appeal, that really needs to be clear  
3 to all judges the extent to which they can participate.

4 Right now, it's not clear at all the extent to  
5 which they may participate. The extent to which they  
6 participate is different in various courtrooms. And all  
7 judges have to grapple with that notion of how much do I let  
8 them talk? Do I even let a lawyer be there for them?  
9 There's no clear answer to that one either. So I do think  
10 it would help with consistency.

11 At the same time, I do recognize the importance  
12 of the first suggestion you made. And that is that the  
13 children are a ward of the State. The State stands in a  
14 position of having to protect them. There is some level of  
15 need for the State acting through the County agencies to  
16 make decisions on behalf of the child, possibly unfettered  
17 by the opinion of foster parents. Change the facts. You  
18 probably change the extent to which foster parents' view of  
19 the situation should carry today or not. Every case is  
20 different.

21 But I do recognize that's a big policy decision  
22 as to what extent you turn over some of the control of the  
23 courtroom, if you will, turn over some of the fate of the  
24 children to the foster parents. It's a fair issue and has  
25 to be considered.

1           You change the facts from if a child is there for  
2 seven months, that's one thing. But what about if the child  
3 is there for three years? But during the last one year of  
4 those three years, maternal aunt starts to step forward and  
5 sees the child five times. And she's family, therefore  
6 family finding. Therefore we move the children to the aunt  
7 who for two years didn't step forward. I don't know.

8           It's a big policy decision on how you weigh the  
9 importance of that child being with family, with the aunt,  
10 who didn't step forward for the first two years, allowing  
11 the child to bond for those two years with the foster  
12 parents.

13           And then there might even need to be more  
14 clarification as to the duties of the County agency as to  
15 the efforts they need to make in the first 30 days to find  
16 family. And that is the current state of the law during  
17 those 30 days to do due diligence searches for family that  
18 are within five degrees of consanguinity, five degrees of  
19 blood. So they have to do that, too.

20           But I don't think there's any exact set standard  
21 as to what that diligent search for family looks like.

22           MINORITY CHAIRWOMAN DeLISSIO: I'm wondering if  
23 ancestry.com has aided or abetted or undermined that effort.  
24 And I am going to go home tonight and find out where my five  
25 degrees are and how far out we're talking because again, you

1 know, sometimes the folks we chose to be in our lives or  
2 find in our lives we are much closer to than those that are  
3 five degrees blood related.

4 CRAIG BLUESTEIN: Sure.

5 MINORITY CHAIRWOMAN DeLISSIO: Thank you,  
6 Mr. Bluestein.

7 CRAIG BLUESTEIN: What we're talking about  
8 there's in the law now the word kin. I wrote about that in  
9 the testimony. A teacher can be kinship if they have a nice  
10 relationship with the child under the current state of the  
11 law. But the two-year foster parents who have cared for a  
12 child every day and night for two years aren't thought of as  
13 kin so much. That's a little hazy, too.

14 MINORITY CHAIRWOMAN DeLISSIO: Yeah. That  
15 definition in and of itself.

16 CRAIG BLUESTEIN: Yeah.

17 MINORITY CHAIRWOMAN DeLISSIO: Thank you.

18 I'll hand it over to Representative Gleim.

19 REPRESENTATIVE GLEIM: Thank you, Mr. Bluestein.

20 And please forgive me. I'm not an attorney so if  
21 I use the wrong terminology, I apologize.

22 My first question is, how often, if you know, in  
23 Pennsylvania has the Court turned down the right of foster  
24 parents to appeal after six months?

25 CRAIG BLUESTEIN: Well, I don't know the answer

1 offhand because cases are sealed.

2 REPRESENTATIVE GLEIM: Do you know if it's a  
3 common occurrence?

4 CRAIG BLUESTEIN: I'd have to modify the question  
5 sort of because it's not really the courts that are usually  
6 involved in that issue. It's usually the Bureau of Hearings  
7 and Appeals. That right to appeal, where the child has been  
8 in the home for at least six months, is set forth in the  
9 Administrative Code. Foster parents would send a letter to  
10 the County agency and it goes up through the protocol and  
11 ultimately to a hearing before the Bureau of Hearings and  
12 Appeals.

13 But I would say to you, very seldom have I seen  
14 cases on that point. Very seldom do I see foster parents  
15 appeal. There's very few reported cases in the court system  
16 like the Commonwealth Court, which hears appeals from  
17 government agencies on that topic.

18 I've been around a long time. In all my years, I  
19 haven't seen many foster parent appeals in all these years.  
20 I suspect it's an extreme minority of the time when foster  
21 parents exercise that right that they seem to have had and  
22 seem to not have anymore.

23 REPRESENTATIVE GLEIM: That's interesting. Thank  
24 you for that clarification.

25 And then I just have one extra question here.

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CRAIG BLUESTEIN: Sure.

REPRESENTATIVE GLEIM: If a child is the guardian of a state, as we are saying here, what happens when that guardian, the bureaucracy itself, fails? Doesn't that give standing to the resource family then, to the foster family?

CRAIG BLUESTEIN: Well, your question is nuanced, so let's break it down some. When we talk about standing, there's a couple different court systems we talk about.

REPRESENTATIVE GLEIM: Okay.

CRAIG BLUESTEIN: One is under the Juvenile Act where a child's initially found dependent and becoming a ward of the State. And then that child is going to be a foster child, so to speak, for a period of time. They might go home. And that would be a great result.

But if they don't, when a child has been in care 15 of the last 22 months, the county agencies are supposed to file a petition for termination of parental rights so there isn't foster care drag and so a child can find permanency sooner rather than later. So that's the system which is in Juvenile Courts so far, I'm talking about. And the only rights they have are notice and opportunity to be heard.

In this last case I told you about, we petitioned to intervene. We were denied. I can't tell you that the Judge was absolutely wrong. It was a fair decision. I

1 think he could have decided either way, but he decided  
2 against them under the words of that statute, which also  
3 say, by the way, you know, the Deiblers have the right to  
4 notice and the opportunity to be heard, period.

5 But nothing in this chapter shall give the foster  
6 parents standing. It does say that, too. So the  
7 Legislature has spoken of that standing in Juvenile Court.  
8 But let's say we move it forward and the county agency or  
9 the Guardian Ad Litem for the child filed a petition for  
10 termination of parental rights. Now it's in Orphans Court,  
11 a separate division of the court system in each county where  
12 adoptions are heard. Orphans Court hears adoptions and  
13 estate matters.

14 Now, you've asked the question, do the foster  
15 parents have standing in Orphans Court, the adoption section  
16 of the court? And I'll add to your question. Let's make  
17 the foster parents the petitioners for adoption. Because  
18 that's the real question, do they have standing to do that  
19 when an agency doesn't consent and the agency, for instance,  
20 wants to have maternal cousins adopt who haven't had custody  
21 but they filed for adoption?

22 So can the foster parents get by a motion to  
23 dismiss and have the adoption heard on the merits, win or  
24 lose, but can it be heard on the merits, despite the  
25 agency's failure or refusal to consent adoption in favor of

1       them, the foster parents? And the answer, I believe, and I  
2       think it's fairly clear, is, yes. They can get by and  
3       defeat the motion to dismiss and be heard on the merits by  
4       virtue of a few cases, especially JEF, which I attached to  
5       my materials, where the Supreme Court of Pennsylvania held,  
6       I think appropriately, that it's for the trial court who has  
7       everybody before it who hears the witnesses, watches,  
8       watches people's demeanor, hears all the facts to decide on  
9       the impact of a withheld consent by an agency.

10               So foster parents can move forward on the merits  
11       and be heard about whether they should have the blessing of  
12       adopting that child who has been with them for a year or two  
13       or three. Yes, they can by case law, though. It would be  
14       nice and appropriate to consider whether that should be  
15       touched upon by this body and the Legislature as a whole,  
16       that they should have standing.

17               REPRESENTATIVE GLEIM: Thank you.

18               MAJORITY CHAIRWOMAN DELOZIER: Representative  
19       Shusterman.

20               REPRESENTATIVE SHUSTERMAN: Thank you,  
21       Chairwoman.

22               The testimony this morning is heartbreaking,  
23       absolutely heartbreaking. It's almost like the system is  
24       set up to separate the foster parents from the potential  
25       reuniting to the family or the possibility that that family

1 will never come back in play. So these buckets, I mean,  
2 you've -- if you are baby-sitting a child for the evening,  
3 you would interact with the parents or the guardian to know  
4 a little bit more about that child.

5 And in this case, the care workers are not being  
6 heard. The foster parents who have been working and caring  
7 for that child aren't being heard. And the fact that they  
8 have an hour before they're called in, you're speaking a lot  
9 about different court cases. I'm on Judiciary. This could  
10 potentially be a Judiciary-type solution here.

11 But there has to be clarity, and it's almost like  
12 we have to do something in between the law to make sure that  
13 that child is being represented and heard as opposed to  
14 those two entities kept separate.

15 My question is, they're traditionally kept  
16 separate to protect the possibility that there might be  
17 animosity, that there might be a misunderstanding. Is that  
18 the history of the fact that there isn't an easier path of  
19 communication between the foster parent, the parents who are  
20 reemerging into the child's life, and the caseworker  
21 facilitating that? Is that only facilitated in court?

22 Thank you.

23 CRAIG BLUESTEIN: I think you raised some great  
24 points.

25 No, it's not only facilitated in court. But it

1 varies actually case by case, caseworker by caseworker. I  
2 think we saw it and I still think that you get us out of the  
3 way, and foster parents and biological parents can  
4 communicate just fine a lot of the time.

5 I mean, look what happened in the case I  
6 mentioned when we got my clients speaking directly to the  
7 aunt and uncle. They worked it out. The aunt and uncle  
8 felt there's no way it's in the best interest of the  
9 children to remove them from the only parents they know. It  
10 was a really loving act. They didn't have to do that. I  
11 think they were thinking of the children first.

12 There should be -- there's no reason why there  
13 can't be much more communication. In a given case, there  
14 can't be based on the facts. If a parent, mother or father,  
15 is in parts unknown or is living a lifestyle that's not  
16 conducive to good communication with others, then maybe it  
17 can't occur. But I think you're right in your basic premise  
18 there can be a lot more communication. There's nothing  
19 wrong with it. People are able to talk. Who knows. It  
20 might even resolve cases that judges have to resolve.  
21 Judges recognizing they are strangers to the child. They  
22 learn what they learn in the courtroom.

23 But the stakeholders, people who have highly  
24 valued relationships with the child, have a lot more at  
25 stake and hopefully would work more toward the best interest

1 of a child than just getting a decision in a courtroom.

2 REPRESENTATIVE SHUSTERMAN: Thank you.

3 MAJORITY CHAIRWOMAN DELOZIER: Representative  
4 Toohil.

5 REPRESENTATIVE TOOHL: Thank you.

6 Attorney Bluestein, this has been extremely  
7 illuminating. I think it's helpful to the members so thank  
8 you so much for your testimony today.

9 CRAIG BLUESTEIN: Thank you.

10 REPRESENTATIVE TOOHL: In your expertise, how  
11 long does a family -- how long does a foster family have to  
12 appeal to the BHA, the Bureau of Hearing and Appeals?

13 CRAIG BLUESTEIN: Well, aside from the case we  
14 talked about, which may have taken it right away completely,  
15 assuming for the moment they still had that right, they have  
16 15 days under that Pennsylvania Code -- no. Strike that.  
17 The county agency has to give 15 days' notice to the foster  
18 parent of their intent to remove the child.

19 As I sit here, I don't remember if there's a time  
20 element in how much time they have to appeal. But if they  
21 don't appeal during those 15 days, the child is probably  
22 going to be removed right after the 15 days. However, only  
23 with a Court order now since 2011.

24 REPRESENTATIVE TOOHL: Okay.

25 CRAIG BLUESTEIN: So I think there's no time

1 element. But I suspect the right answer is 15 days.

2 Because after the 15 days, it may be too late.

3 REPRESENTATIVE TOOHL: Okay. And that is in the  
4 case of a removal that you're looking at, appeal of removal?

5 CRAIG BLUESTEIN: Yes.

6 REPRESENTATIVE TOOHL: Okay.

7 CRAIG BLUESTEIN: And it's attached to the  
8 materials starting with RB, the letters.

9 REPRESENTATIVE TOOHL: Okay.

10 CRAIG BLUESTEIN: It's attached to my testimony.

11 REPRESENTATIVE TOOHL: Okay. So I'll go through  
12 that. And you had -- in the case of Gregory K that you  
13 cited -- I have to go through your testimony -- what was the  
14 age of that child? That was the child in Florida that was  
15 divorcing their parents or approximately.

16 CRAIG BLUESTEIN: I think four.

17 REPRESENTATIVE TOOHL: Okay.

18 CRAIG BLUESTEIN: And that's not in my materials.  
19 As I sat here listening like you did, it made me think of  
20 Gregory K.

21 REPRESENTATIVE TOOHL: Okay. And so in a case  
22 like that -- I'm not sure how Florida conducts itself, but  
23 there would be a Guardian Ad Litem for the child. Here in  
24 Pennsylvania we have the Guardian Ad Litem that's the voice  
25 of the child. And usually they do not initiate petitions

1 like that. So I'm not sure in cases that you're looking at,  
2 you're saying that the foster parents themselves, they would  
3 have to come to court and they would be the ones initiating  
4 that petition?

5 CRAIG BLUESTEIN: Well, let's break down what  
6 kind of petition. When you mentioned Gregory K, what we're  
7 talking about is, in so many words, a petition for  
8 termination of parental rights. And currently in our  
9 adoption laws, it says who has standing to file that. And  
10 the Guardian Ad Litem has standing on behalf of the child to  
11 file that.

12 REPRESENTATIVE TOOHL: Okay.

13 CRAIG BLUESTEIN: Now, almost all the time, if  
14 it's a public case, which is what we're talking about, as  
15 opposed to a private adoption, the county agency files the  
16 petition for termination of parental rights, I would say, 99  
17 percent of the time across the state. So it's rare that a  
18 Guardian Ad Litem files it, but the Guardian Ad Litem has  
19 the right to do so. No. The foster parent doesn't have  
20 standing under the statute to do so. That's clear.

21 REPRESENTATIVE TOOHL: Okay.

22 CRAIG BLUESTEIN: Very clear.

23 REPRESENTATIVE TOOHL: Okay.

24 CRAIG BLUESTEIN: But to take your question  
25 further, to break it down more, what I spoke about five

1 minutes ago was the foster parent filing a petition for  
2 adoption in Orphans Court, a different division of the  
3 court, and the ability of them to be heard on the merits on  
4 their own petition for adoption, to which I believe the  
5 answer now is, yes, they can. And the court has the right  
6 to consider whether to dispense or not dispense with the  
7 need for the consent of the agency to hear it on the merits.  
8 If that answers you.

9 REPRESENTATIVE TOOHL: Yes.

10 And just one more question, Madam Chair, if I  
11 may.

12 What is your recommendation to this Committee on  
13 the time period of which standing would occur for a foster  
14 parent? If it would be in legislation, would you go with  
15 the six months that other states have for foster parent  
16 standing or what number comes to mind for you that you could  
17 recommend to us?

18 CRAIG BLUESTEIN: That amount of months does come  
19 to mind for me. And I view it how I view a lot of things in  
20 this area of the law. An area of the law and an area of  
21 life that I thought about for the last 36 years ever since  
22 my first child joined our home, I look at everything through  
23 the eyes of the child. And it makes things clear to me,  
24 especially when things are difficult to decide.

25 Do I think it would be helpful to a child's life

1 for people who are caring for him or her for a long time?  
2 Let's just call it six months. That's somewhat arbitrary,  
3 six months, but for a period of time that they should at  
4 least be heard. So whoever has to make a decision knows a  
5 lot about the situation. And their decision, whatever it  
6 is, is more well-founded. It's as simple as that to me.

7 Six months is in statutes in different places in  
8 this area of the law. It doesn't have to be six months.  
9 But the Legislature saw fit, by the way, years ago, which  
10 law has been in effect a long time and many parents rights  
11 have been terminated because under 2511(a)1 of the Adoption  
12 Law, if you neglect or if you fail or refuse to perform your  
13 parental duties for six months, the Court may terminate your  
14 rights.

15 So that had some meaning, six months, to the  
16 Legislature in the past. That's never been changed. It's  
17 been in effect for a long time. And if you could impose on  
18 parents, parenthood, after six months because they neglected  
19 their parental duties, which is a huge constitutional thing  
20 to do to people, then it doesn't seem a very far stretch to  
21 just let people be heard who have been caring for a child  
22 for six months.

23 REPRESENTATIVE TOOHL: Thank you.

24 MAJORITY CHAIRWOMAN DELOZIER: The last question  
25 comes from Representative Guenst.

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REPRESENTATIVE GUENST: (No audio)

CRAIG BLUESTEIN: You raise a great point.

Obviously, the easy answer is that the voice of the child is through the mouth of the Guardian Ad Litem, all of whom act in different ways. Me, I was Guardian Ad Litem for 16 years in Montgomery County. I represented a lot of kids over the years. I love to hear from foster parents in every case. That's where I get the best information because they live with the child.

I hear from others sometimes. I hear from foster parents sometimes that the Guardian Ad Litem has said to him or her or them, I'll call you when I want to talk to you. I will never come out to the house. That should not be. Guardian Ad Litem is a very important role. And, in fact, I would say it's an extremely important voice to all judges, the voice of the Guardian Ad Litem, because it's really the only person who is there to only, only speak for the child.

The county agency, their job is to look out for the best interest of the child, too. But they have other factors that they have. They have funding issues. They have family-finding issues. They have protocol issues. There's many things they have to consider in deciding what course of action to take. But the Guardian Ad Litem just has one, the best interest of the child. I agree with you.

REPRESENTATIVE GUENST: Thank you very much.

1 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
2 much. I appreciate your time here today. And you actually  
3 allowed for us a good segue talking about the judges since  
4 our next panel is a judge.

5 CRAIG BLUESTEIN: Thank you.

6 MAJORITY CHAIRWOMAN DELOZIER: Thank you for your  
7 time and being here and for all of your input as well as  
8 your work with all the kids down in Montgomery County and  
9 Lancaster County.

10 CRAIG BLUESTEIN: Thank you.

11 Let me just say also, I speak for myself, not for  
12 any court system, Guardian Ad Litem, judges, or the other  
13 hearing officers.

14 MAJORITY CHAIRWOMAN DELOZIER: Got it.

15 CRAIG BLUESTEIN: Thank you.

16 MAJORITY CHAIRWOMAN DELOZIER: Thank you for that  
17 public service announcement.

18 Next we'll hear from the Honorable Jennifer  
19 Rogers, a Common Pleas Judge from Luzerne County. Judge  
20 Rogers sits in Family and Juvenile Courts and hears adoption  
21 cases as well.

22 Prior to joining the bench, I understand she also  
23 practiced family law as a part-time Solicitor for the County  
24 Children and Youth Agency.

25 So a lot of what we've already spoken about and

1 certainly we look forward to your perspective, Judge Rogers.

2 Thank you.

3 JENNIFER ROGERS: Thank you very much.

4 Good morning, Majority Chairwoman Delozier,  
5 Democratic Chairwoman DeLissio, esteemed members of the  
6 House Children and Youth Committee. Thank you for the  
7 opportunity to appear before you today and present testimony  
8 to you.

9 I have been asked to provide comment in my role  
10 as Administrative Judge of Family and Juvenile Court for the  
11 Luzerne County Court of Common Pleas. I have served in this  
12 role for the bulk of my tenure, which will approach the  
13 ten-year mark this December 2021. Specifically, I have been  
14 asked to address the rights of foster parents under the  
15 Pennsylvania Juvenile Act and the Pennsylvania Code to  
16 modify a child's placement.

17 Information that I am providing to the Committee,  
18 including my thoughts on cases, statutes, and regulations,  
19 is in connection with matters about which I have personally  
20 acquired knowledge and expertise through my judicial duties.  
21 Opinions and thoughts expressed in my statement and in  
22 response to any questions that you may have are, indeed, my  
23 own and do not reflect the views of the Pennsylvania Supreme  
24 Court, the Luzerne County Court of Common Pleas, or the  
25 Administrative Office of Pennsylvania Courts commonly

1 referred to as AOPC.

2 It's my understanding that all of the members of  
3 the Committee have already received my written submission  
4 prior to today's hearing. Therefore, it would be my intent  
5 to highlight certain areas of my submission prior to  
6 receiving questions, if the Honorable Chairwoman will  
7 permit.

8 MAJORITY CHAIRWOMAN DELOZIER: Please do.

9 JENNIFER ROGERS: Thank you.

10 Rights of foster parents and opportunities to be  
11 heard are addressed in two forms. And we've heard a lot  
12 about them already through Attorney Bluestein's  
13 presentation. However, I would just like to briefly review  
14 them because they are, indeed, distinct.

15 There is a bulk of rights and opportunities to be  
16 heard, which I'm going to reference generally as regulatory  
17 rights. Those are governed by the Pennsylvania Code. And  
18 the Pennsylvania Code, as has been stated, provides the  
19 opportunity for foster parents to be heard before the Bureau  
20 of Hearings and Appeals. And, as I'm sure all of you know,  
21 the Bureau of Hearings and Appeals is an agency that  
22 operates under the auspices of the Secretary of the  
23 Department of Human Services. So with the Secretary's  
24 authority, that Bureau is able to handle over 280 different  
25 jurisdictional issues that are presented to us.

1           And one of those issues is the right of appeal of  
2 a foster parent to challenge the removal of a child welfare  
3 agency's decision, a child welfare agency's decision to  
4 remove a child from a foster family. I obviously repeated  
5 that. Not the Court's decision. The child welfare agency's  
6 decision to remove a child from their care, except under  
7 five scenarios.

8           And this is why, in my humble view, I believe  
9 that Attorney Bluestein indicated you don't see very many  
10 cases reported. The statistics that the Honorable  
11 Representative who asked earlier that has left, that  
12 statistic, in my humble view, comes from the DHS. The  
13 Department of Human Services don't even know how many  
14 appeals they have from foster parents. The courts do not.  
15 But the Department of Human Services will have that data for  
16 this Committee, should it wish to further inquire.

17           And those five scenarios are as follows: That  
18 the child was with the foster parents less than six months.  
19 You lose your right of appeal.

20           That the removal is initiated by the Court. If  
21 that happens, you lose your right of appeal.

22           Removal is to return the child to his or her  
23 parents. The goal is reunification. You lose your right to  
24 appeal.

25           Removal is to place the child for adoption. You

1 are not a pre-adoptive home. You are merely what's commonly  
2 referred to as a traditional foster home, but you did not  
3 wish to adopt but another family does. You lose the right  
4 of appeal.

5 And lastly, that an investigation of alleged  
6 child abuse requires removal. You lose your right of  
7 appeal. So there's a very, very narrow class of foster  
8 parents, in my view, that has the ability to take an appeal  
9 to the Bureau of Hearings and Appeals under the direction of  
10 the Department of Human Services.

11 So those are the regulatory rights that foster  
12 parents have. Foster parents also have legal rights derived  
13 under the Pennsylvania Juvenile Act and case law of our  
14 Appellate Courts. Now, one distinction that I also want to  
15 raise prior to moving on to this second class of rights is  
16 that all of those appeals that I've just spoken about coming  
17 out of the Bureau of Hearings and Appeals and the Department  
18 of Human Services, those appeals from that Administrative  
19 Judge level would progress up to the Commonwealth Court.

20 As we know, the Commonwealth Court of our  
21 Commonwealth addresses appeals from agencies. And so the  
22 Department of Human Services, as that agency, would then  
23 trigger the Commonwealth Court serving as the appellate body  
24 reviewing the decision of the Administrative Judge. And  
25 that resulted in the Burns decision that Attorney Bluestein

1 spoke about earlier.

2 Separate and apart from that, we have what I'm  
3 now going to call legal rights. And as I stated, those  
4 legal rights derive from Pennsylvania case law and also the  
5 Pennsylvania Juvenile Act. We've heard a lot about standing  
6 today, as we should. Standing is a legal doctrine, a legal  
7 concept, which describes the condition parties who seek a  
8 remedy before the Court must demonstrate that he or she  
9 possesses before ever being able to pursue that remedy.

10 So if the Court determines that I do not have  
11 standing under the law, the Court cannot, shall not, permit  
12 that party to proceed, shall not permit that litigant to  
13 proceed as a party. And with party status comes the right  
14 to participate in all proceedings, to call witnesses, to  
15 cross-examine, to submit evidence. That is what standing  
16 is.

17 In the case of foster parents under our current  
18 law, foster parents will only earn standing to participate  
19 in an ongoing dependency case and therefore be viewed as a  
20 party according to our Pennsylvania Appellate Courts in one  
21 of three conditions. And this is the Pennsylvania Superior  
22 Court and Supreme Court talking now. The bulk of these  
23 decisions are Pennsylvania Superior Court, however.

24 One, that the foster family or foster parent is  
25 what the law through case law calls a pre-adoptive status.

1 Pre-adoptive status is gained with or without having legal  
2 or physical custody of that child. And our Pennsylvania  
3 Superior Court carved that out long ago in 1997 in a case  
4 called, In Re: Griffin. And that cited a very thorough  
5 summary of what pre-adoptive status means harking back to a  
6 case coming out of Bucks County, Mitch v. Bucks County. And  
7 that's a 1989 Pennsylvania Superior Court case. So we've  
8 been talking about this for quite some time.

9 Pre-adoptive status is one ground that will  
10 enable you to have standing to seek an intervention within a  
11 dependency case. The second is that you, yourself, as the  
12 foster parent or oftentimes it's a kinship parent, has  
13 physical and legal custody of the child.

14 An example of that is that I am a maternal aunt  
15 of my niece -- my sister or brother has not demonstrated the  
16 ability to properly parent but I'm certainly hopeful that he  
17 or she is going to meet all of the goals of the family  
18 service plan that has been set up for him or her -- and that  
19 I'm going to serve as a foster parent, a kinship parent, for  
20 my niece until my brother or sister achieves those goals.  
21 But I do not want to receive a subsidy. I'm serving in that  
22 role because I want to take care of my niece and I hope my  
23 brother or sister achieves those goals and can parent again.  
24 I would have legal and physical custody of my niece at that  
25 time. The agency would not. Because of that, however, I

1 would have the ability to intervene within the dependency.

2 And the third ground would be that my parent  
3 control, if I'm the foster parent, is in question. And  
4 we've heard testimony today of those scenarios. The foster  
5 parents' care and control are in question. Any of those  
6 three scenarios enable a foster parent or a kinship parent  
7 to seek intervention within a dependency hearing, a  
8 dependency case.

9 A Superior Court, however, in a somewhat recent  
10 case, 2018, from the Superior Court, In Re: M.R.F., stated,  
11 however, that if standing is indeed conferred upon foster  
12 parents, the only issue that that intervening foster parent  
13 or parents may explore is that of removal. All right.

14 So they already certainly should have received  
15 notice of the removal hearing. And down the line, if they  
16 seek to intervene within the dependency case, the only  
17 point, the only issue that they may be heard about is  
18 removal. The M.R.F. case involved the challenge in which a  
19 foster parent wished to intervene to contest an increase of  
20 visitation for a mother. The foster parents opposed that,  
21 increasing visitation. And the Superior Court said, no.  
22 We'll permit you to intervene but solely for the purpose of  
23 challenging removal from your home, which was not the issue.  
24 So, therefore, they didn't need to intervene. It was solely  
25 their intent to challenge an increase in visitation.

1           So those are the rights we have. And believe me,  
2 I've sat here this morning and agreed with all of the  
3 statements that have been made. Each and every one of these  
4 cases are driven so much by emotion. And they're case  
5 specific. Change one fact in any given case and the outcome  
6 could be incredibly different.

7           But to echo an opening statement of the  
8 Chairwoman, in my humble view, it's the role of the courts  
9 to balance, to balance the voices. I, as a Judge, need to  
10 hear all those voices. And so therefore, I think best  
11 practice dictates that obviously a Court should expect that  
12 a foster parent has notice of every hearing, is able to  
13 submit the Resource Family Report that has been mentioned  
14 here today more than once, and has the opportunity to be  
15 heard.

16           Another thing that I want to stress is that  
17 foster parents, kinship parents, always have the ability to  
18 be called as witnesses by any party. So when we're  
19 mentioning the Guardian Ad Litem, that Guardian Ad Litem has  
20 immense power, an immense opportunity to allow the foster  
21 parents to usher them into court, to call them as a witness,  
22 and to question those foster parents as to the needs and  
23 welfare of the child. And perhaps that's not used enough.  
24 Perhaps that's something that's being overlooked. Because  
25 it's a great power that that Guardian Ad Litem has to enable

1 the foster parent to be heard as to various issues beyond  
2 removal. The foster parents wouldn't need to intervene at  
3 that point, wouldn't need to be a party, because they have  
4 been called as a witness and are able to be heard.

5 So I stated in my submission I personally do not  
6 believe, based upon my experience, that we need to  
7 statutorily broaden the voice of foster parents. But we, as  
8 judges, clearly need to ensure that such opportunities are  
9 enabled, achieved, and that the voices of foster parents are  
10 indeed heard by all the mechanisms that the law already  
11 provides and perhaps are not being properly used.

12 Thank you for the opportunity to offer this  
13 testimony to the Committee today. I am happy to answer any  
14 questions that members may have.

15 MAJORITY CHAIRWOMAN DELOZIER: Thank you, Judge,  
16 very much. I appreciate your testimony.

17 If I can just clarify something that you were  
18 talking about. And I appreciate you delineating down the  
19 different breakdowns of legal rights versus the regulatory  
20 rights. You just mentioned the fact that the family, as was  
21 the case that you cited, foster family, could not testify  
22 because the case did not have to do with removal so they did  
23 not have that capability.

24 But what you're saying is that the GAL, the  
25 Guardian Ad Litem, can call the parents, foster parents, in

1 a court case or hearing where it is more than just the  
2 removal. Did I understand that correctly?

3 JENNIFER ROGERS: Yes, in part. Yes.

4 MAJORITY CHAIRWOMAN DELOZIER: Okay.

5 JENNIFER ROGERS: What I was stating is that the  
6 case law currently indicates that the foster parents, if  
7 they are permitted to intervene and have party status --

8 MAJORITY CHAIRWOMAN DELOZIER: Okay.

9 JENNIFER ROGERS: -- would only be able to pursue  
10 the issue of removal if they're granted party status.

11 MAJORITY CHAIRWOMAN DELOZIER: Okay.

12 JENNIFER ROGERS: However, in all proceedings, a  
13 Guardian Ad Litem has the opportunity to call a foster  
14 parent. And then an example, a very real example, through  
15 the M.R.F. case -- I want to get the initials right.

16 MAJORITY CHAIRWOMAN DELOZIER: Um-hmm.

17 JENNIFER ROGERS: M.R.F.

18 MAJORITY CHAIRWOMAN DELOZIER: Right.

19 JENNIFER ROGERS: Through the M.R.F. case, it  
20 would indicate that the visitation could be explored.

21 MAJORITY CHAIRWOMAN DELOZIER: Okay.

22 JENNIFER ROGERS: But it's being explored through  
23 the Guardian Ad Litem.

24 MAJORITY CHAIRWOMAN DELOZIER: Okay. And that to  
25 me was a point in the sense that, again, whether it's

1 standing that we're going for versus having their voice  
2 heard.

3 JENNIFER ROGERS: Correct.

4 MAJORITY CHAIRWOMAN DELOZIER: So if they don't  
5 necessarily have -- because even when you said that they  
6 could not testify on increased visitation, which, again, I  
7 think they should have their voice heard because they are  
8 going to know the impact on that child with additional  
9 visitation depending on the situation. It could be a good  
10 thing. It could be a bad thing depending on what's  
11 happening. As we said, time and time again, every case is  
12 different.

13 But it's interesting to me that the only way that  
14 they can talk on any other issue other than being removed  
15 from their care is only being called as a witness versus  
16 having their standing and their voice meaning something in  
17 the court system. So I guess that was an interesting point  
18 to me.

19 I mean, certainly in one way I agree with you.  
20 It possibly should be used a lot more, it seems than it is  
21 since their voice is not seeming to be heard as much as  
22 necessary in the process. And as a judge, certainly I would  
23 imagine you would want to hear from everybody across the  
24 board.

25 JENNIFER ROGERS: Absolutely. I can certainly

1 tell you that as a Judge, you're called upon to make  
2 incredibly heartbreaking decisions.

3 MAJORITY CHAIRWOMAN DELOZIER: Um-hmm.

4 JENNIFER ROGERS: And the more information I  
5 have, I'm enabled to make the best and sound, most sound,  
6 decision for that child.

7 In my submission, I've outlined all of the  
8 considerations that I would, you know, have in making that  
9 decision. And I can also tell you that as a Judge over the  
10 past ten years, I've been called upon to make a decision to  
11 return a child to -- I shouldn't say return -- to move a  
12 child to the home of a relative or to keep a child with a  
13 foster parent. And I have made decisions in both directions  
14 based upon the facts that were before me at that time.

15 An example, a child in a foster home for 24  
16 months -- and this is a mere example. This certainly isn't  
17 me, you know, citing the exact data of a specific case. But  
18 by way of example, a child in a foster home for 24 months,  
19 with that foster family from birth, from the hospital, and  
20 now an application of a maternal grandparent in California  
21 who has been approved through the state for the placement of  
22 children, a long and arduous process, coming after these 24  
23 months, seeking a transfer. And the decision that I made  
24 was, no. I was keeping the child with the foster parents.  
25 The grandparent had only visited twice over the course of

1 two years. And I did not see a commitment from that  
2 grandparent to deserve a transfer.

3 And in that instance, that's where bonded is  
4 better. And that's why we do have to entrust the fact that  
5 we have these modes of expression already in our law. We  
6 have to use them. And I think that's what I was able, at  
7 least, in my humble opinion, to distill here today. The  
8 rights are there. They're just not being afforded in some  
9 instances apparently. We need to ensure that. Perhaps a  
10 bulletin needs to be implemented throughout all 67 counties.  
11 That might be a suggestion to start the conversation.

12 MAJORITY CHAIRWOMAN DELOZIER: Well, it certainly  
13 would be a start. There might be more that was needed.

14 With that, I'll hand it over to Representative  
15 DeLissio.

16 REPRESENTATIVE DeLISSIO: Thank you, Judge  
17 Rogers, for your testimony.

18 I think I know what your answer would be if I  
19 were to ask you the same question that I asked Mr. Bluestein  
20 about standing legislatively. You've covered that point.  
21 But my concern is -- and I realize today is one instance,  
22 although I'm sure there are others out there like that. I'm  
23 sort of data driven. Trends and patterns I find sometimes  
24 the Legislature seems to respond to an instance of bad  
25 behavior out there or bad process. And all of a sudden you

1 have a law and, you know, that's what will get us at the end  
2 of the day. It's one more law. But one concern is it is  
3 interesting to hear that these laws are already there. They  
4 need to be done, you know, elevated, followed more, etc.

5 That's the part that I think concerns me because,  
6 you know, Judges differ. I mean, we have a big judicial  
7 election coming up on November 2nd. How many of our fellow  
8 citizens are even tuned into that, that we're going to be  
9 electing Supreme Court, Appellate Court, Common Pleas Court  
10 Judges that are going to sit, like you do, on the bench  
11 many, many days out of the year and make life-impacting  
12 decisions and a whole other conversation that makes me  
13 crazy.

14 So I don't know how laws become laws. I do have  
15 some insight into how judges become judges. And that alone  
16 is enough to concern me on many days at least in the  
17 counties that I represent, you know, and have that firsthand  
18 experience. Then we see the outcome of it here all the time  
19 in terms of things .

20 So I don't know if I will be abandoning my  
21 thought about standing, which helps them to ensure some sort  
22 of consistency from county to county. We certainly heard a  
23 lot about that. And I'll be looking for other ways to try  
24 to lift this up in the meantime. It's not like laws happen  
25 around here too quickly on most days.

1                   JENNIFER ROGERS: Representative, I would, in  
2 response to that thought, as far as providing standing and  
3 therefore party status at the outset, indicate that, in my  
4 humble view, that could invite what I'll view as unintended  
5 consequences. And what I mean by that is that it could  
6 create a custody trial in a different context.

7                   We have custody laws. And we have private  
8 custody laws that govern custody of children. We have  
9 dependency court for those children that sadly and  
10 unfortunately find themselves without proper care and  
11 control.

12                   In Dependency Court we have the State intervening  
13 within a family's life. We have a level of oversight from  
14 governmental agencies imposed upon that family because of an  
15 unfortunate lack of proper parental care and control. We  
16 have private custody statutes that are geared at loving  
17 parents or sometimes grandparents and parents, sometimes  
18 people who are standing in the shoes of a parent lovingly  
19 seeking custody of that child. And we risk affording that  
20 statutory standing at the outset, creating custody trials in  
21 a dependency context when the State is intervening within  
22 that family's life. And I think that might be an unintended  
23 consequence.

24                   Another unintended consequence, I'm just going to  
25 suggest, every county is different. Every county has

1 different policies and different initiatives. All of them  
2 are wonderful. Every single county wants to steal from  
3 other counties because of the ones that are successes. And  
4 I know that sometimes within our Commonwealth there are  
5 those that utilize foster parents as mentors for biological  
6 parents.

7 And if we initially at the outset of the  
8 dependency case, when the goal is reunification -- I'm going  
9 to use the word pit -- pit foster parents against the  
10 biological parents, I don't know what level of mentorship  
11 could ever be achieved. I don't know what trust would ever  
12 be earned. And I think that would be another example of an  
13 unintended consequence that should be considered.

14 REPRESENTATIVE DeLISSIO: Thank you.

15 MAJORITY CHAIRWOMAN DELOZIER: Representative  
16 Nelson.

17 REPRESENTATIVE NELSON: (No audio)

18 JENNIFER ROGERS: All right. You may not be a  
19 lawyer, but that's an incredibly insightful question, sir.

20 Because the goal in child welfare, again, in my  
21 view, is to create permanency for a child as rapidly as  
22 possible, to give parents the opportunity to, quote, get  
23 things right, achieve the goal of the family service plan,  
24 reunify the family. And if that's not possible, then that's  
25 why we have not only State statutes but Federal statutes

1 that oversee the guidance of the child welfare agency to act  
2 promptly and efficiently to move toward that permanency.

3 To answer the question specifically, if standing  
4 were granted at the outset, thereby creating party status  
5 for a foster parent, that foster parent would be able, at  
6 the outset, to appear at every hearing, to call witnesses,  
7 to cross-examine, to present evidence, and would create  
8 essentially a fourth party, when we only have two parents at  
9 issue, mother's counsel, father's counsel, agency's counsel,  
10 Guardian Ad Litem -- pardon me, a fifth party -- and now  
11 foster parents' counsel at every single hearing.

12 Affording the foster parent would also then  
13 enable them to file an appeal to any final order. And those  
14 appeals would only go to the superior court. They would  
15 never be seen by the Commonwealth Court because in this  
16 instance, the Bureau of Hearings and Appeals would never be  
17 involved.

18 So they would solely go to the Pennsylvania  
19 Superior Court. Pennsylvania Superior Court and  
20 Pennsylvania Supreme Court, for that matter, have what's  
21 called a child fast-track system. The timelines for filing  
22 are cut by 50 percent. So every brief, every opinion, needs  
23 to be filed in 50 percent of the time.

24 I only handle child-centered matters. So every  
25 single opinion that I must write must be submitted 30 days

1 from the filing of the appeal as opposed to 60 days by any  
2 other Judge in any other type of hearing.

3 Then it goes to the Superior Court. The Superior  
4 Court is acting on a fast track. But by the sheer number of  
5 cases that are in front of the Superior Court, in all  
6 generosity, I would suggest that we would not get a decision  
7 for at least six months. So now we've added on at least six  
8 months. And I'm being generous. So therefore, we've  
9 created that longer timeline where a child is in limbo.

10 And if another appeal is taken to the Supreme  
11 Court, which is rare -- only I think 9 percent are granted  
12 at this point -- still we're potentially then adding on to  
13 that timeline with that child where that child is in limbo  
14 waiting for a direction. And that's not the goal of the  
15 Juvenile Act. And that's certainly not the goal of, in my  
16 humble view, the child welfare system. If our guiding  
17 paramount concern is the welfare of the child, entwining  
18 them in a legal battle is not an attempt to achieving that  
19 goal.

20 MAJORITY CHAIRWOMAN DELOZIER: Thank you very  
21 much. I appreciate your time here today and all of your  
22 insight into the court system. Thank you for all of your  
23 work in Family Court. I know it's not easy.

24 JENNIFER ROGERS: Thank you so much.

25 Thank you very much, everyone, for this

1 opportunity.

2 MAJORITY CHAIRWOMAN DELOZIER: Thank you.

3 And finally we just -- and I'm very sorry for  
4 cutting this a little short. Mr. Garry Krentz is here on  
5 behalf of the Pennsylvania State Resource Family Association  
6 where he previously served as President and is currently the  
7 Legislative Chair and Policy Advisor. Mr. Krentz has  
8 several decades of experience in the field in a number of  
9 different roles. And we are pleased to have him with us.

10 With that, I just want to say, I know there's  
11 going to be some movement and everything else with Session  
12 starting. So I'm very sorry for cutting this a little  
13 short. We do have your testimony.

14 So any summation that we could get to question  
15 would be wonderful.

16 Thank you very much.

17 GARRY KRENTZ: Thank you so much. We appreciate  
18 it from the Committee.

19 I would say just listening to the testimony is  
20 very encouraging, but yet very frustrating. We hear that we  
21 don't have standalone statutes. We already have done this.  
22 We've been here. We already have several statutes to  
23 involve resource families. The problem is the  
24 implementation.

25 Act 68 of 2005, which our organization was

1 heavily involved in, states that after six months, the  
2 resource parents have to be considered the primary resource  
3 for adoption after six months. Now, the reason a lot of the  
4 stuff you don't hear and different things is because there's  
5 standalone state laws that are not in the Juvenile Act.

6 Further on top of that, we passed Act 73 of 2005,  
7 which is the most progressive act in the United States, to  
8 include resource parents and give them rights.

9 I know time is of the essence. But if you look  
10 at the bulletin that I submitted, on page 2, it covers Act  
11 68 and Act 73 and also Act 76 on court participation where  
12 it clearly states the right to be heard and resource parents  
13 have to be given notice as soon as the agency has notice.

14 So I know I'm trying to wrap this up. I sort of  
15 wish I would have went first because some of this stuff has  
16 already been done. You already have the best laws in the  
17 state of Pennsylvania. You go down to page 2 and you'll see  
18 the bulletin. You can see there's two pages' worth of  
19 information in there of rights that foster parents have now.  
20 And it's mandated under statutory requirement. All public  
21 and private providers have these rights. It clearly states  
22 in Act 76 in the Federal law that you have to have the right  
23 to be heard. To me, there's no ambiguity there at all.

24 But also without reading the whole thing, like  
25 notification of scheduled meetings to allow the resource

1 family to actively participate.

2 Provisions of support service consistent with the  
3 children's permanency plan.

4 Timely open and complete response from the agency  
5 when contacted.

6 Provision of information about the children's  
7 medical, behavioral, and family history.

8 Consultation with the resource family in  
9 developing the children's permanency plan.

10 Consultation with the resource family in the  
11 decision to release their address.

12 Assistance with the coordination of services of  
13 the family as needed to help in dealing with the loss.

14 Provision of all written agency policies or  
15 procedures related to the resource family.

16 Provisions of appropriate training to enhance the  
17 skills and performance of the resource family.

18 Provisions of information on how to receive  
19 services and reach agency personnel 24 hours, seven days a  
20 week.

21 Assurance of confidentiality regarding any abuse  
22 allegations as long as it doesn't jeopardize the safety of  
23 the children.

24 Provisions of the opportunity for resource  
25 parents to be heard regarding agency decisions and practices

1 involving the children in their care.

2 Assurance that the agency will in no way  
3 discriminate or retaliate for them questioning the agency  
4 policy.

5 Inclusion of resource family, if interested, as  
6 an adoption interview candidate for children whose goal has  
7 been changed to adoption and who has resided in the resource  
8 family home for at least six months as well as an  
9 explanation of the criteria for selection, if another family  
10 is chosen by the decision-making agency.

11 Assurance that the resource family's right to be  
12 notified of any statutory proceedings related to the  
13 children in their care happens as soon as the agency  
14 receives the information.

15 Assurance that the right of the resource family  
16 to be heard during any statutory proceeding related to the  
17 children in their care.

18 Assurance that no resource parent shall be denied  
19 consideration as an adoptive resource solely because the  
20 resource parent cannot be accessed as the resource parent in  
21 the future.

22 And it goes on to state that every public and  
23 private agency must have these codified in their policy  
24 because it's statutory requirements. It's no longer best  
25 practice. These are all built on best practices. The

1 reason we did all this in early 2000 was because there was a  
2 crisis where there wasn't enough resource families.

3 And from the testimony of the family, that's the  
4 reason why. They were not part of professional teams. So  
5 we set out -- it wasn't just us. It was also the head of  
6 all the provider agencies. We all did this together. And  
7 we made these best practices and mandated them statutorily.

8 So we have the most progressive laws in the  
9 United States. That's the good news. The bad news is the  
10 implementation.

11 MAJORITY CHAIRWOMAN DELOZIER: I would say that  
12 to you in the sense of -- so with that being stated, in  
13 black and white --

14 GARRY KRENTZ: Yes.

15 MAJORITY CHAIRWOMAN DELOZIER: -- and as the  
16 Judge had mentioned on the last panel, you know, reissuing  
17 or issuing a bulletin, it's already in a bulletin.

18 GARRY KRENTZ: Right.

19 MAJORITY CHAIRWOMAN DELOZIER: So what, in your  
20 opinion, would make this enforceable? I mean, what do you  
21 see across the state? Obviously, some are being enforced  
22 more than others. We've talked about other opportunities of  
23 calling witnesses. Maybe that's not being used enough to  
24 hear the voice of the parents, the voice of the foster  
25 parents.

1           But the frustration, as you were talking about,  
2           is the lack of enforcement of these rights that are in black  
3           and white.

4           GARRY KRENTZ:   Correct.

5           MAJORITY CHAIRWOMAN DELOZIER:   Okay.

6           GARRY KRENTZ:   So there's some easy solutions  
7           actually at no cost to anybody.

8           MAJORITY CHAIRWOMAN DELOZIER:   We like those.  
9           Those are very good solutions.

10          GARRY KRENTZ:   So basically in 2004 to 2008 --  
11          because statistically two-thirds of all resource parents  
12          were leaving within the first year of being recruited  
13          because of frustration.   So there was a need for parents and  
14          they couldn't keep them.   The flip side of the statistics is  
15          two-thirds of all foster parents are recruited by other  
16          parents who have good experiences.

17          So if you make them part of the team, the  
18          resource parents will self-recruit.   And just being a  
19          private provider and full disclosure also, it works.   You  
20          know, that's why we went out and resource families and  
21          caseworkers formed their own agency because it works.   But  
22          the way that I would say is easiest, because even these  
23          standalone laws, a lot of people aren't familiar with.   The  
24          Judiciary, some of these standalone laws were never put in  
25          the Juvenile Act.

1           So what I would say is, you know, it falls on  
2 public and private providers to make sure. Actually in the  
3 statute it says that they have to do that. We spoon fed it  
4 in to public and private agencies and came up -- we did this  
5 with OCYF and other providers. Here's a policy. And you're  
6 mandated to sign off this when you license a family. So  
7 right there is the first step, making sure that's done. How  
8 would you do that? I would say the easiest no-cost solution  
9 is that every public and private agency has yearly licensing  
10 standards.

11           And by the way, our organization did go to the  
12 top and say, why don't you include this in the licensing  
13 process? Not to the punitive. No one wants to be punitive.  
14 Everybody is trying their best. But with that being said,  
15 if you simply had the things that support resource families  
16 in that audit and make sure of that when they come in for  
17 their yearly audit, I guarantee you the next year they will  
18 be implemented because they are not punitive. But they  
19 would say, oh, you don't have this to include all your  
20 resource families. You don't do that during your licensing  
21 process.

22           What happens is they are mandated to have a plan  
23 of correction if that's not in there. And they have to have  
24 a plan of correction like immediately. So following an  
25 audit, if you would put these things in that audit process,

1 I guarantee you the next year when they come back, all the  
2 resource parents would know what their rights are because  
3 it's mutual and that's what we do at the states, mutual  
4 rights and responsibilities.

5 MAJORITY CHAIRWOMAN DELOZIER: Right. And I  
6 would say one of the things that we've heard in the last  
7 hearing as well is that becoming a foster family is like,  
8 you know, buying a house with a stack of papers that they  
9 have to do. So I don't know if two more would be something  
10 that they would look kindly on or not but I understand your  
11 point.

12 One of the other issues that I also wanted to  
13 ask, with your association and with communication and  
14 feeling of a network with foster families, can you tell me,  
15 do you provide services to foster families? Is there  
16 something that we could use to educate and in a sense to  
17 back up? Because it's obviously got to be frustrating out  
18 there for foster families when they feel that they are  
19 fighting this fight alone. And if there was some suggestion  
20 that you might have for those families.

21 GARRY KRENTZ: That's a great question because we  
22 like there's a registry for every foster parent now in the  
23 state of Pennsylvania. And we had gone to higher-up  
24 authorities who could say, yeah, everybody has to know about  
25 this organization.

1           The problem with everything we're talking about  
2 today is we're a Commonwealth. And some people do it really  
3 good and some people do it not so good. And even on our  
4 website we have a foster parent manual for every foster  
5 parent in the state of Pennsylvania, Reader's Digest version  
6 of all their rights along with their responsibilities. And  
7 I think that's part of the frustrating part is there's no  
8 mechanism to make sure that everybody knows that we're  
9 there.

10           And I'm talking really fast. I'm a little  
11 passionate. But we get these calls constantly.

12           Could you allow me just one minute to address  
13 some other thing that I heard?

14           **MAJORITY CHAIRWOMAN DELOZIER:** Um-hmm.

15           **GARRY KRENTZ:** So the appeal process, to be  
16 honest, that's the responsibility of the agencies, public  
17 and private. And if their position is not to get there,  
18 they will just go and get a Court order. And that  
19 eliminates all their due process. It just wipes it away.

20           We had some great testimony from the other folks  
21 about the appeals process. To be honest, they usually don't  
22 make it there because it's the agency's responsibility. And  
23 I can tell you from -- I can't give you statistics but I can  
24 tell you the ones that do make it to the appeal process,  
25 resource parents usually get sided with.

1           But the problem is the mechanism to get it there.  
2           The mechanism to get it there, if they met all the criteria  
3           that the child's removal was justified, okay. But maybe the  
4           criteria should be that the resource parents after six  
5           months have the right to appeal directly. I would suggest  
6           that.

7           Also standing at six months, clearly Act 68 --  
8           standing is a hard left. I think the only state is  
9           California that I'm aware of that has standing because as  
10          the Honorable Judge had said, it would be huge. But the  
11          standalone state laws that we already put in there, for  
12          example, Act 68, after six months and they should be given  
13          primary consideration.

14          A lot of times we hear about kinship. But the  
15          definition of kinship in the State of Pennsylvania is  
16          defined as anyone who has a positive relationship with a  
17          child. Obviously, any resource parent with six months is a  
18          positive influence on a child. That's sort of -- I'm being  
19          Captain Obvious there. I'll just leave it there.

20          We had some other great testimony. But my point  
21          is, you know, everybody is looking out for the best  
22          interest. And I saw my time was so limited. I'm trying to  
23          squeeze it in.

24          MAJORITY CHAIRWOMAN DELOZIER: Sorry. Yes. The  
25          Speaker will come and yell soon.

1           GARRY KRENTZ: With that being said, it really is  
2 an implementation. We had some of the best statutory  
3 requirements in the United States for resource parents being  
4 included as part of the professional team. The problem is  
5 there's just a breakdown. Unfortunately, in or around early  
6 2000, we had 20,000 children in care and not enough  
7 families. And it just got to be pretty bad. I worry that  
8 we did all this work in the early 2000s and we slipped back  
9 into that crisis, which I'm hearing is starting to go back  
10 that way.

11           Again, statistically, two-thirds of all families  
12 recruited by other people have good experiences. It does  
13 work when you practice and you include them as part of the  
14 professional team, not only the best practices but statutory  
15 requirements at this point.

16           So I would say we don't want to slip back into  
17 that 2000. There's not enough homes. And also, you know,  
18 we've had some of -- I'll be brief -- about trauma.  
19 Statistically, you know, if you don't have enough homes and  
20 you're allowed six children in your home, with every  
21 placement of a child in that home, statistical probability  
22 of disruption goes up.

23           If you don't have enough homes, you know, at some  
24 point you're becoming part of the problem. We already have  
25 a solution. With every disruption of a child and every time

1 there's a disruption usually the one who has the most  
2 behavior probably needs the most help is the one that will  
3 have to leave. And then what happens? They have more  
4 behaviors because they experience another trauma cycle. And  
5 then after they experience that trauma cycle, they move  
6 again. With every move that child's statistical probability  
7 of them being successful in society goes down immensely.

8 So there's a bigger picture here. Resource  
9 parents have their own culture. People who do it good, word  
10 gets out. They will have plenty of resource parents.  
11 People say come here, you want to have a child. People that  
12 don't include them and really end up getting hurt, they have  
13 the wrong culture. So there are simple solutions. I  
14 apologize for speaking so fast here.

15 MAJORITY CHAIRWOMAN DELOZIER: No, we appreciate  
16 this fast speaking. I'm sorry that we ended up short on  
17 time. Thank you very much for your testimony and the  
18 ability to reach out with questions and for the association  
19 because I think if foster parents have a resource and can  
20 turn to a group that has been there and done that to give  
21 them some guidance, I think that that is very, very true.

22 With that, I have to cut off or the Speaker will  
23 come yelling at us, as we have to end before the floor  
24 starts.

25 I appreciate your time and your energy. Thank

1 you for your passion as well and for all that you do. And  
2 with that, this hearing is adjourned.

3 Thank you very much.

4 GARRY KRENTZ: Thank you.

5 (Whereupon, the hearing adjourned.)  
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I hereby certify that the proceedings and  
evidence are contained fully and accurately in the notes  
taken by me on the within proceedings and that this is a  
correct transcript of the same.

\_\_\_\_\_  
Jean M. Davis  
Notary Public