



everychildinc
Empowering Families. Strengthening Futures.

Every Child, Inc.
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**Prepared Written Testimony of Laura A. Maines, Esq.
CEO, Every Child, Inc.
Pennsylvania House Children and Youth Committee
House Bill #2213, 2214
January 25, 2022**

Chairperson Delozier, Chairperson DeLissio, and Members of the House Children and Youth Committee:

Thank you for the opportunity to offer testimony in support of legislation the purpose of which is to address the unsustainable impact of a constricting and increasingly unaffordable insurance market on private children's services providers.

Every Child, Inc. was founded in 1997 on the belief that all children, no matter their age, race, disability or special health care need, deserve the opportunity to grow up with a loving and lasting family. Initially focused on providing care and support for foster children with significant medical needs, Every Child has broadened our services to provide foster care and adoption services as well as in-home prevention, clinical and therapeutic care to children and families across Southwestern Pennsylvania. Most these programs and services are funded through contracts with counties using a complex combination of local, state, and federal dollars. Many of these services and supports are mandated through statute or regulation. All focus on the desired outcomes of keeping children safe, supporting permanency, competency development, accountability, and ensuring community safety.

As a private children's services provider, Every Child's 24-hour foster care service is an endeavor that carries with it inherent challenges and risk. We are caring for traumatized children with increasingly complex physical, educational, and behavioral health needs in an environment in which we face rising costs, depleting workforce, and stagnant funding. Our challenges are not so different than those faced by our public county agency partners who are also facing rising costs and escalating need.

Every Child has always viewed our public county agency stakeholders as our partners in the important work of protecting and providing for vulnerable children in our community. That shared responsibility is reflected in the way foster care is structured – Every Child recruits and trains foster families, child placements are determined and approved by county CYS agencies, and we share in the oversight responsibility for those foster care placements, sharing critical case information, collaborating on support services, and ensuring each child's needs are being met

effectively. While we share in this responsibility, public agencies and private children's services providers have not shared in the risk. In fact, county child welfare agencies have largely shifted all of the risk of children's services to their private service providers while increasingly requiring greater authority over provider foster care operations and limiting our ability to mitigate risk.

Most of Every Child's county contracts contain language which specifically requires Every Child to indemnify, protect, defend, and hold harmless the County, its elected officials, officers, appointees and employees from and against any and all liability, damages, claims, lawsuits, liens, and judgments of whatever nature, including but not limited to, claims for contribution and/or indemnification for losses of any kind or nature caused by, in conjunction with, or arising out of the scope of service. Moreover, we are required by our county agencies to maintain professional liability insurance with specific coverage minimums and that all policies of insurance shall be endorsed to include the county, its elected officials, officers, appointees and employees as additional insureds. The practical effect of these risk-shifting provisions means that Every Child must insure risk exposures over which we have no control. Set against a backdrop of high profile litigation and substantial settlements, growing need for services, and fears that the current pandemic will lead to an avalanche of claims, the cost of liability insurance has grown exponentially while available coverage has been reduced or eliminated.

For the majority of Every Child's history we were insured by First Nonprofit Insurance Co. through an occurrence policy that provided lifetime coverage for any incidents that occurred during the policy period, regardless of when they were reported. As a small foster care program, and having made no claims against the policy, our annual renewal was generally flat or included a modest increase of 2-3%. In June 2020, Every Child was informed that, despite our excellent claims record and long-term relationship, our insurer had decided to no longer insure foster care services and they would be dropping us for FY 20/21. After an exhaustive search for insurance options, we were able to obtain claims-made insurance through another carrier at a more than 50% increase in premium. A claims-made policy only covers claims that occur and are reported during the policy period. Meaning that should we ever be dropped or change insurers we would need to purchase tail coverage at significant expense. For this fiscal year, we were fortunate to be able to renew our liability policy. However, this year we had to purchase an additional umbrella policy which last year was included. Our insurance premium went up an additional 45%. This escalating cost, and reduced coverage, is not sustainable.

The insurance market for children's services is being impacted by complex systemic issues that will not be resolved with a single policy. Children's service providers are reaching a crisis point, however, at which professional liability insurance will be unavailable, or so cost prohibitive that we have no choice but to close our programs. Legislation like HB2214 will serve as a pressure release valve while simultaneously improving accountability in our system of care. Eliminating the shifting of risk in public agency and private provider contracts by making such contract provisions unenforceable will require both parties to insure against their own conduct and incentivize both parties to adhere to the highest standards of care. Mutual indemnification clauses in which each party takes responsibility for their own conduct are key to improving our foster care system and ensuring accountability for all and under this bill would continue to be enforceable. The insurance market will be able to evaluate its risk for insuring private providers

based upon the conduct and operations of each provider and each provider will, through its own operations, be able to mitigate that risk and stem the tide of escalating liability insurance costs.

Every Child is committed to serving children in our community well into the future. Stabilizing the liability insurance market so that professional liability insurance is accessible and affordable is vital to our program's sustainability. Legislation that promotes the equitable sharing of risk between public and private provider agencies and prohibits the practice of public agencies shifting liability to providers will go a long way to accomplishing that goal.

Thank you for the opportunity to provide testimony on this important issue. Should you have any questions or require additional information, please do not hesitate to contact me at lmaines@everychildinc.org or 412-654-4404.

Sincerely,

Laura A. Maines, Esq.
CEO, Every Child, Inc.