OFFICE OF THE PUBLIC DEFENDER

160 Pine Street, Providence, Rhode Island 02903

TELEPHONE: (401) 222-3492 FAX: (401) 222-3287

EMAIL: info@ripd.org WEBSITE: www.ripd.org

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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No: HB6120

ENTITLED, AN ACT RELATING TO DELINQUENT AND DEPENDENT CHILDREN – PROCEEDINGS IN FAMILY COURT

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender has concerns about HB6120, which would grant our family court jurisdiction to make findings for Special Immigrant Juvenile Status (SIJS) petitions, including determinations about dependency, parental reunification, and the child's best interest. While we acknowledge the humanitarian goal of protecting immigrant children, we believe the proposed legislation could have due process implications on individuals whose parental rights have not been terminated.

The Special Immigrant Juvenile classification was initially created by Congress to provide protection for abused, neglected, or abandoned non-citizen children eligible for long-term foster care, but it evolved to include those that cannot reunify with one or both parents for similar reasons.[1] The proposed bill would give our state's family court the ability to make findings that reunification with one or both parents "is not viable." The legislation does not require that parental rights to the child have been terminated by the family court, or even that such a petition has been filed against the parent or parents.

In Rhode Island, it is well settled that "[n]atural parents have a fundamental liberty interest in the care, custody, and management of their children." *In re Donnell R-H*, 275 A.3d 1139, 1144 (R.I. 2022) (internal quotation marks omitted). Parental rights to a child cannot be terminated unless a family court judge—after notice of a duly filed petition and a hearing on that petition—finds by clear and convincing evidence that the parent willfully neglected the child for one year or is unfit by reason of conduct or conditions seriously detrimental to the child. R.I.G.L. § 15-7-7.

HB6120 is silent as to what, if any, evidentiary burden would need to be met for a family court judge to make a factual finding that reunification is not viable. In fact, there does not appear

[1] *See* U.S. Citizenship and Immigration Services Policy Manual, Vol. 6, Part J, Ch. 1, available at: https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-1#:~:text=This%20protection%20evolved%20to%20include,a%20state%20or%20juvenile%20court., (last accessed 4/9/25).

to be a requirement that a hearing be held or that the parent or parents be given notice that they are at risk of such a finding being made. Yet, for SIJS to be ordered, the family court must "intend[] for its determination that the child cannot reunify with his or parent(s) to remain in effect until the child ages out of the juvenile court's jurisdiction."[2] Thus, the proposed bill could effectively terminate the individual's parental rights without notice or a hearing.

Thank you for your consideration of these concerns. Our office would welcome the opportunity to discuss language that would more effectively carry out the goals that the proposed bill attempts to achieve in a manner that also protects the rights of parents.

Sincerely,

Megan F. Jackson
Legislative Liaison
Office of the Public Defender
401-222-1509
mjackson@ripd.org

[2] *Id.*