

SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO **SENATE, No. 3814**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 2021

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3814.

As amended, this bill amends section 2 of P.L.2001, c.250 (C.3B:12A-2) to stipulate that a “caregiver” is defined as a person over the age of 18, other than the person’s parent, who has a kinship relationship with, and has been providing support services to, the child while the child has been residing in the person’s home for either the last six consecutive months or nine of the last 15 months instead of either the last 12 consecutive months or 15 of the last 22 months as currently provided by law.

The bill amends section 5 of P.L.2001, c.250 (C.3B-12A-5) to require that the kinship caregiver assessment included in a petition for the appointment of a kinship legal guardian is to contain a certification from a caregiver that the caregiver has been providing care and support for a child while the child has been residing in the caregiver’s home for at least the last six consecutive months of nine of the last 15 months instead of for at least the last 12 consecutive months, as currently provided by law.

Current law allows the court to appoint a caregiver as a kinship legal guardian, in cases in which the Division of Child Protection and Permanency (DCCP) is involved with the child as provided in subsection a. of section 8 of P.L.2001, c.250 (C.30:4C-85), and based upon clear and convincing evidence, if the court finds the DCCP exercised reasonable efforts to reunify the child with the birth parents and these reunification efforts have proven unsuccessful or unnecessary and adoption of the child is neither feasible nor likely.

The bill amends section 6 of P.L.2001, c.250 (C.3B:12A-6) to remove the requirement that, in cases in which the DCCP is involved with a child, the court needs to find that the adoption of the child is neither feasible nor likely in order to appoint a caregiver as a kinship legal guardian.

The bill also amends sections 10, 11, and 34 of P.L.1974, c.119 (C.9:6-8.30), (C.9:6-8.31), and (C.9:6-8.54), respectively, to require

the court or the Division of Child Protection and Permanency (DCCP) to first make reasonable efforts to place the child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2) prior to placing the child with another suitable person when: (1) the DCCP is informed that there has been an emergency removal of a child from the child's home; (2) the court finds that a child's continued removal is necessary to avoid an ongoing risk to the child's life, safety, or health; or (3) the court places a child with a relative, other suitable person, or the DCCP for placement, upon a finding that the DCCP has made reasonable efforts to prevent a child's placement or that reasonable efforts to prevent placement is not required.

The bill amends section 6 of P.L.1991, c.275 (C.30:4C-12.1) to require that in any case in which the Department of Children and Families (DCF) accepts a child in its care or custody, including placement, the DCF is to consider placement of the child with a suitable relative or person who has a kinship relationship.

The bill further amends section 6 of P.L.1991, c.275 (C.30:4C-12.1) to require the DCF initiate a search for persons with a kinship relationship with the child who may be willing to provide care and support to the child and assess their ability to provide the care and support, including placement, required by the child.

If it is determined that a person with a kinship relationship is unwilling or unable to assume the care of the child, the DCF is to inform the person of its determination, the person's responsibility if there is a change in circumstances upon which the DCF made its determination, the person's right to seek review of the DCF's determination, and the possibility of that termination of parental rights may occur if the child remains in resource family care for more than six months.

Under current law, the DCF is required to initiate a search for relatives of a child who may be willing to provide care and support, including placement, to that child, assess their ability to provide that care and support to the child, and if a determination is made that he relative is unwilling or unable to assume care of the child, inform the person of its determination and provide the relative with other information as necessary by law. The DCF is not required to follow such procedures for persons who have a kinship relationship with the child.

The provisions of section 15 of P.L.1951, c.138 (C.30:4C-15) stipulate that a petition to terminate parental rights can be initiated on the grounds of the "best interests of the child" if the parent is unwilling or unable to eliminate the harm facing a child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm. Under this standard, such harm may include evidence that separating a child from the child's

resource family parents would cause serious and enduring emotional or psychological harm to the child.

The bill amends section 7 of P.L.1991, c.275 (C.30:4C-15.1) to eliminate the provision that allows evidence that separating a child from the child's resource family parents would cause serious and enduring emotional or psychological harm to the child to be used in initiating a petition to terminate parental rights.

COMMITTEE AMENDMENTS:

The committee amendments add a statement of legislative findings and declarations to the bill.

The committee amendments also clarify that the court is required to first consider placement of a child with a suitable relative or person who has a kinship relationship as defined in section 2 of P.L.2001, c.250 (C.3B:12A-2), when considering if the child should be placed in the custody of another suitable person.