



State of Rhode Island and Providence Plantations

State House
Providence, Rhode Island 02903-1196
401-222-2080

Gina M. Raimondo
Governor

July 14, 2016

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of article IX, section 14 of the Constitution of the State of Rhode Island and section 43-1-4 of the Rhode Island General Laws, I transmit, with my disapproval, 2016-H 7029, Substitute A, “An Act Relating to Domestic Relations – Adoption of Children.”

This legislation originally permitted a petition for adoption to be filed when a child is in the sole custody of a grandparent. However, the bill was amended late in session and now allows for a grandparent with guardianship or mere placement to petition the Family Court for termination of the natural parent’s parental rights. Under current law, with a narrow exception, only the State has the right to file such a petition. *In re John*, 605 A.2d 486, 488 (R.I. 1992).

I strongly support efforts to foster permanency for children and I recognize that kinship care is an important component of that effort. However, this legislation could undermine the rights of natural parents, and may inadvertently hinder the Department of Children, Youth, and Families’s ability to place children in the care of their grandparents.

The United States Supreme Court has long held that parents enjoy a fundamental liberty interest in the “care, custody, and management” of their children. *Santosky v. Kramer*, 455 U.S. 745, 758-59 (1982). Further, “the interest of parents in the care, custody, and control of their children is among the most venerable of the liberty interests embedded in the Constitution.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Under current law, natural parents have a right to counsel in any termination proceeding brought by the State, and the State is generally required to demonstrate that it has made all reasonable efforts to encourage and strengthen the parental relationship. These procedural safeguards are an acknowledgment of the natural parents’ fundamental right to the care and custody of their children.

It is unclear whether natural parents would still have a right to counsel in the event of a private right of action authorized by this bill, as it does when the State moves to terminate parental rights. The bill also does not require that any party make efforts towards family reunification – efforts that are a central tenet of our State’s child welfare system. I cannot support a bill that does not, at a minimum, provide these important protections.



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This legislation could also hamper efforts to place children, even on a temporary basis, in the care of their grandparents. If grandparents have the right to petition for the termination of parental rights once children are placed with them, then parents are less likely to agree to such kinship placements or guardianships, even though they might be in the best interest of the child. Attorneys may choose to advise their clients not to agree to such guardianships or placements if this bill were to become law. In 2015 alone, there were 128 guardianship petitions filed in the Family Court. If parents do not agree to such kinship care arrangements, permanency could be delayed, and children could end up in unnecessarily intensive settings of care such as group homes.

Representatives from the Rhode Island Family Court, the Department of Children, Youth, and Families, Office of the Public Defender, and the Rhode Island Coalition for Children and Families have all written to express their concerns and request a veto. These groups, along with other family law attorneys, suggest that this legislation does not survive constitutional scrutiny pursuant to the Fourteenth Amendment.

The issue of grandparent rights in these cases needs more thorough review. Fortunately, the Senate passed 2016-S 2221A, a resolution "Creating a Special Legislative Commission to Conduct a Comprehensive Review and Make Recommendations Regarding Grandparent Rights." This presents an opportunity for stakeholders to present a thoughtful analysis of constitutional rights and child welfare best practices. I encourage the Rhode Island Family Court, the Department of Children, Youth, and Families, the Office of the Public Defender, the Rhode Island Coalition of Children and Families, and family law practitioners to work together with the legislature and introduce a bill in the next legislative session that would protect the rights of natural parents while achieving the best possible outcome for children.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gina M. Raimondo", is written over the typed name.

Gina M. Raimondo
Governor