



## **H.R. 7976 (“SUSPEND THE TIMELINE NOT PARENTAL RIGHTS”) WILL STOP A TEMPORARY CRISIS FROM TURNING INTO LIFELONG TRAGEDIES**

With many bipartisan allies, Rep. Gwen Moore (D. Milwaukee) is calling for child and family allies to prevent a looming tragedy of permanent family destruction—the lifelong termination of the legal parent-child relationship. Families are fearful that the national and state public health crises brought about by COVID 19 has created nearly insurmountable obstacles to maintaining family legal ties if parents don’t meet a specific deadline. H.R. 7976, introduced on August 7, 2020, will suspend that deadline and give vulnerable families a chance to maintain and restore precious family bonds.

Current Law Creates a Special Hardship for Families During the COVID-19 Crisis. COVID-19 has had a pervasive impact on national and state economies and family life, with particularly severe impacts on already vulnerable children and families. Families involved in child welfare systems are already experiencing strain in parent-child and sibling bonds and face uniquely detrimental effects from physical distancing measures employed by child welfare agencies, courts, and support service programs. Such measures pose extreme barriers to reunification of families—particularly families of color—during a time when contact with loved ones and access to support is as critical as ever. While no one doubts the necessity and seriousness of limiting the exposure of children, families, and agency staff to COVID-19, these measures should not require permanently sacrificing the future of these families.

Federal law for over forty years has been centered on the principle that children’s best interests are served by meaningful efforts to keep their families together whenever safely possible. A duty is imposed on states to prioritize family reunification when children are removed from their parents’ care, by affording parent-child contact and rehabilitation opportunities for the parents to remedy the reasons for removal of their children.

The COVID pandemic has created a situation in which too many children and parents are unable to visit each other and attachments are strained., Families report an inability to access services, loss of housing, loss of childcare, and severe disruptions in relationships with their children (and sometimes between siblings if they are placed separately). This situation requires accommodations both during and after the end of a public health crisis to rebuild family

relationships and move forward to reunification, so that children experience a lifetime of stability rather than a permanent disruption in their family ties. As housing instability and job insecurity deepens, families are increasingly unable to engage in services needed to secure reunification as rehabilitative services and other supports have closed or waiting lists increased. As a result, parents now face an often-impossible legal barrier to maintaining their family relations that only Congress can fix.

The Adoption and Safe Families Act (“ASFA”) (codified at 42 U.S.C. 671(a) and 675(E)) passed in 1997— requires that states file a Termination of Parental Rights petition for any child who has remained in a foster placement for 15 of the previous 22 months, with limited exceptions. This deadline operates as a threat to federal funding under Title IV-E of the Social Security Act if states do not seek this drastic action. **Parent-child relationships end with a termination of parental rights permanently and irrevocably, as do sibling, grandparent, and other familial relationship.** . While this federal law’s purpose is to create permanency and stability for children currently in practice it is serving to create impermanence and instability for thousands of children during a pandemic or other public health crisis.

H.R. 7976 Will Give States and Families A Lifeline Simply By Suspending the Timeline in Times of Public Health Crisis Including COVID 19. We must afford parents a reasonable opportunity for reunification with their children, and their children the chance to have a permanent life-long relationship. This is both a basic right and an issue of racial justice, given the disproportionate rates at which black, brown and Native American children are separated from their families and placed in foster care.

#### What the bill does.

- The legislation creates a “public health crisis” exception to the federally-mandated deadline for termination of parental rights under the 15-out-of-22 months-in-foster care requirement. The legislation makes explicit that public health crises that have been declared by the federal or a state government suspends the mandated timeline.
- The legislation also makes explicit that a declared health crisis constitutes a compelling reason for jurisdictions not to have to file a termination of parental rights petition, and thereby avoids inconsistent and discretionary determinations as to which families are worthy of protection and which are not during times COVID or other declared public health crises. .
- The legislation instructs jurisdictions on options and alternative means for them to provide reasonable efforts towards reunification for families. This legislation promotes the federal policy goal of helping children who have been removed from their parents achieve permanency by providing ways for families to engage in services.

These provisions will allow States the flexibility to address families’ needs without risking the loss of federal dollars if they suspend termination proceedings during the pandemic.

The urgency of this legislation will grow as courts, programs, and businesses begin to reopen and as state agencies make up for lost time by pressing the reopened courts to adjudicate petitions under the belief that failure to do so will cause a loss of federal funding.

On June 23, 2020 the Children's Bureau issued guidance consistent with the legislation, but since , HHS cannot direct a change in the law, only Congress can tell states that their funding is not in jeopardy if they temporarily suspend termination proceedings during the pandemic.

### **IS TERMINATION OF PARENTAL RIGHTS CONTINUING DESPITE COVID? YES!**

And as courts reopen, more families who have not had a fair opportunity to receive services are likely to be increasingly told "Time's up!" on their parent-child relationships. For example, in some jurisdictions like New Jersey, termination of parental rights petitions have continued to be filed, with agency attorneys and judges asserting that these actions are required to continue federal funding, absent a change in federal law. In other jurisdictions such as California, caseworkers have stopped providing any reunification services due to pandemic-related closures. In many states, including Illinois, agencies fully or partially banned in-person visits for months, resulting in parents and children being deprived of critical time for bonding and attachment. The pandemic has set back enrollment in vital services by months.

### **IS THE CHANGE IN H.R.7976 NECESSARY?**

Some potential allies have suggested that the law isn't necessary because current law also allows case-by-case exceptions to the federal deadlines. But these exceptions turn on the discretion of individual caseworkers, creating added unfairness. States, too, need to be excused from the inflexible requirement imposed by federal law because the pressure is on states to maximize federal dollars, which are at risk if petitions are not filed by the deadline. Some have suggested that the Children's Bureau's guidance of June 23, 2020 is sufficient protection for parental rights. That's not true! Helpful as the guidance is in urging states to be compassionate and flexible, the guidance doesn't create an exemption from the requirement for states. Some judges have refused to follow the guidance, thinking it insufficient to stop the clock. In order to have clarity for the entire country , federal law needs to be clear and consistent.

The proposed amendment, moreover, is modest. It suspends the timeline and adds clarity to pre-existing standards as to how these requirements should apply to provide ongoing opportunities for rehabilitative services and supports for families during public health crises.

### **WHY DO FAMILY ADVOCATES ON BOTH SIDES OF THE AISLE SUPPORT H.R. 7976?**

United Family Advocates, a bipartisan federal policy group, is coordinating the effort to secure passage of H.R. 7976. Groups supporting the effort include Texas Public Policy Foundation, the Shriver Center on Poverty, ParentalRights.Org and numerous non-partisan family advocacy organizations throughout the United States. Here's why they support this measure:

"Parents who were diligently working services required to provide a safe, stable home for their children suddenly, and through no fault of their own, found themselves unable to access these services due to COVID-19 pandemic-related lockdowns. But the clock continues to run on arbitrary case timelines governing termination of parental rights, robbing them of precious time. A temporary suspension of termination timelines gives these parents a fair opportunity to restore

their families and honors their decision to take personal responsibility by doing the hard work necessary to achieve reunification.”

*Andrew C. Brown, Distinguished Senior Fellow of Child and Family Policy with the Texas Public Policy Foundation*

“Without this statutory amendment, judges are unable to give these families the necessary extensions to access required services that are not currently accessible. Children in foster care have a heightened need and clear right to visit their parents. At the start of the pandemic, many child welfare agencies suspended in-person family time for children and their parents and siblings. Before the pandemic, many of these children would have been returned to their families, but agencies have been unable to provide the services needed to facilitate reunification. We should not allow this pandemic to lead to unnecessary permanent termination of parent-child relationships.”

*Jey Rajaraman, Chief Counsel, Family Representation Project, Legal Services of New Jersey*

“Termination of parent-child relationships is a drastic, irrevocable step with lifelong consequences for children. This bill is a critical step to ensure that child-welfare involved parents impacted by the COVID crisis are given the same opportunities they otherwise would have had to restore their families. It will assure states and child welfare agencies that they can take the time to reunite families when safely possible. We should not allow the unprecedented challenges of this public health situation to take away a family’s chance to reunite. Children deserve the right to be with their families whenever safely possible.

Many of the families we work with would be together by now if it weren’t for the public health crisis. All over the country, drug treatment and other social services were cut off, family visits were suspended, housing insecurity increased – unprecedented challenges that delayed family reunification. But it is not too late to give children and families the chance they deserve.”

*Chris Gottlieb, Co-Director, New York University School of Law, Family Defense Clinic*

"Children's best interests are supposed to be paramount in any child protection case. We cannot let the pandemic and its disruptive consequences sever the lifeline of vital relationships that children need with their own parents, siblings, grandparents, and aunts and uncles. If we don't put a pause on the mandate to speed toward permanent termination of rights, we will turn the temporary health crisis into a lifetime of severed connections -- that cannot be squared with fidelity to children's needs and their long-term interests in family connections.

Diane Redleaf,  
Co-Chair,  
United Family Advocates  
(a bipartisan policy advocacy group)

“Parents who were diligently working services required to provide a safe, stable home for their children suddenly, and through no fault of their own, found themselves unable to access these services due to COVID-19 pandemic-related lockdowns,” said Andrew C. Brown, Distinguished Senior Fellow of Child and Family Policy with the Texas Public Policy Foundation. “But the clock continues to run on arbitrary case timelines governing termination of parental rights, robbing them of precious time. A temporary suspension of termination timelines gives these parents a fair opportunity to restore their families and honors their decision to take personal responsibility by doing the hard work necessary to achieve reunification.”

See also: <https://imprintnews.org/child-welfare-2/pandemic-congress-parents-reunify-kids-foster/46487>

For one parent’s story as to why it is so important to pass H.R 7976, see. <https://drive.google.com/file/d/12ON0fK5N4hx6160yHbQvrfSFEPZLiuOc/view?ts=5f281775>

FOR MORE INFORMATION, CONTACT DIANE REDLEAF, [familydefenseconsulting@gmail.com](mailto:familydefenseconsulting@gmail.com) or ANDREW BROWN, [abrown@texaspolicy.org](mailto:abrown@texaspolicy.org), United Family Advocate Co-Chairs.