

#### **4.29.2025 Family Services Division (FSD) Testimony**

**Prepared and submitted by:**

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Thank you for the opportunity to offer testimony regarding Section 26 of S.109 (An act relating to miscellaneous judiciary procedures). The Department for Children and Families (DCF) supports the statutory change adopted in 2024 that removed a provision in Title 15A permitting consideration of nonpayment of child support as a factor in termination of parental rights (TPR) proceedings. However, we understand there were unintended consequences to that change. We recognize the need for further clarity and refinement, given that Title 15A governs all adoptions — including those outside of CHINS (Child in Need of Care or Supervision) proceedings. While Title 33 primarily guides DCF's work, Title 15A applies in the context of TPR and adoption proceedings.

#### **Historical Context of DCF Practices**

Historically, when a child entered foster care, FSD would review whether there was an existing child support order. If so, we would motion the court to name FSD as the obligee, allowing DCF to use child support payments to help offset foster care costs. If no order existed, we conducted an analysis of the case and the parents' financial situation to determine whether to pursue support. This analysis included a wide range of factors beyond financial status — such as the presence of domestic violence — that could bar pursuit.

At the time, federal law required states to consider pursuing child support in cases where children were eligible for Title IV-E foster care funding, a program based on strict income thresholds tied to the 1996 ANFC standard (predecessor to the Temporary Assistance for Needy Families program or TANF). In practice, this meant the state was required to consider pursuing child support from families with the least financial resources.

Significant advocacy led to a change at the federal level in 2022, when new guidance clarified that states were no longer required to pursue child support from low-income families. DCF had already adopted an income standard in partnership with the Office of Child Support (OCS) to protect these families, but the federal change allowed for full alignment with more trauma-informed and equitable practices. We continued to pursue child support only in cases where parents had sufficient means and where other criteria were met.

#### **Today's Practice & Value Alignment**

Today, DCF does not consider a parent's payment or nonpayment of child support as a factor in determining whether to pursue termination of parental rights. Decisions about whether a parent can safely resume



caregiving responsibilities focus on a parent's ability to provide a safe and nurturing environment and meet their child's basic needs.

In practice, child support matters are handled separately from case planning and permanency decisions. When determining whether to file for TPR, DCF's focus remains on whether a parent can safely resume caregiving responsibilities based on the totality of circumstances — not on isolated financial factors such as the payment or nonpayment of child support. Family Services Workers (FSWs) are not briefed on child support orders, and information about support payments is not used in TPR considerations. DCF's approach is consistent with national guidance that poverty alone should never be a basis for separation of a child from their parent.

### **National Context and Media Attention**

Last year's request was prompted by national reform efforts. A [2023 NPR article](#) named Vermont among a small number of states where statute still technically permitted nonpayment of child support to be considered in TPR cases. The article echoed concerns raised previously by child and family legal advocates, which have called for states to ensure economic hardship is not conflated with parental unfitness, underscoring the national dialogue about drawing the line between poverty and parental capacity.

Although Vermont was mentioned, we want to be clear: DCF has not historically used nonpayment of child support as a factor in TPR proceedings.

### **Possible Path Forward**

DCF is in support of exploring a statutory carveout affirming that nonpayment of child support shall not be used as grounds for TPR in CHINS proceedings initiated under Title 33. Maintaining alignment between current practice and statute is critical, and doing so also addresses broader societal concerns about government overreach.

We appreciate the opportunity to testify and remain available to collaborate on language that preserves both the values of Vermont's child welfare system and the goals of judicial discretion in non-DCF TPR proceedings.