



February 28, 2021

The Hon. Lisa Calderon
Chair, Assembly Human Services Committee
Hon. Committee Members
1020 N Street, Room 124
Sacramento, CA 95817

Re: SUPPORT AND CO- SPONSORSHIP OF AB 841 (CUNNINGHAM), AS AMENDED

Dear Chair Calderon and Committee Members:

The Children's Advocacy Institute at the University of San Diego School of Law, which for 30 years has worked to improve the well-being of children in California through regulatory, legislative, and judicial advocacy, and Dependency Legal Services, a multi-disciplinary, non-profit law firm providing legal representation to parents and children involved with California's Child Welfare System in eight California counties, respectfully requests your support for AB 841 (Cunningham).

Welfare & Institutions Code section 300, *et seq* ("WIC") properly provides that if a child has been abused or neglected the county may assert jurisdiction over the child, including removing the child from the care of their parents. While no precise definition of "neglect" or "abuse" exists, the Legislature has been careful to ensure that mere poverty is not in and of itself and alone a reason to rupture a family.

But in some cases county child welfare agencies will seek to remove a child from the care of a parent solely because the parent is not litigious; did not seek out and retain a lawyer or themselves initiate legal action against another parent. Thus, in one case illustrative of the problem, the sole – again, the only -- allegation against a parent was that

"The father []did not seek appropriate family court orders to obtain custody of the children [] to prevent the mother [] from taking the children to [another state] where they were exposed to unsafe circumstances and described in allegation b-1 even though he knew or reasonably should have known that the mother was using illicit drugs and had mental health issues."

Observe the allegation is not that the father knew that the mother was headed to another state. Nor is it alleged that the father knew what was in store for his children in the other state was dangerous. Nor is it alleged the father actually and subjectively knew of the mother's drug use. Here, the county successfully pressed the allegation that the father was legally abusive or neglectful only because he did not initiate litigation against the mother on her drug use – even though he may not actually have known of the drug use.

While such allegations are uncommon, counsel who work in dependency court have seen similar allegations persistently throughout the State.

A parent is not unfit because they are not litigious, lacking the money or sophistication or time to seek legal redress in court. Such allegations penalize and seek to rupture families of little financial means based solely on their poverty or lack of legal sophistication. Inspired by current law's treatment of lack of emergency shelter which, too, cannot all by itself justify removing a child from the care of a parent (WIC section 300(f)(1)(B)), AB 841 narrowly addresses this problem simply by saying such allegations alone cannot serve as the basis of county welfare action:

A child shall not be found to be a person described by this subdivision solely due to the failure of the child's parent or alleged parent to seek court orders seeking custody of the child.

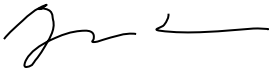
Notably, such an allegation would under this amendment still be permitted in addition to other allegations, as part of an overall neglectful picture.

Please support AB 841 (Cunningham).

Sincerely,



Ed Howard
Senior Counsel, Children's Advocacy Institute



Julia Hanagan
Policy Director, Dependency Legal Services