



STATEMENT OF PRUDENCE BEIDLER CARR

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submitted to the

**COMMITTEE ON WAYS AND MEANS
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U.S. HOUSE OF REPRESENTATIVES**

for the hearing

“Modernizing Child Welfare to Protect Vulnerable Children”

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Chairman Smith, Ranking Member Neal, Chairman LaHood, and Ranking Member Davis,

My name is Prudence Beidler Carr, and I am the Director of the American Bar Association Center on Children and the Law. Thank you for the opportunity to participate in this hearing on “Modernizing Child Welfare to Protect Vulnerable Children.”

The ABA’s Center on Children and the Law has been in existence since 1978 and works collaboratively in the child welfare arena with judges, attorneys, and the courts nationwide to promote access to justice for children, parents, and families. In addition to serving as a nonprofit director for the Center, I am a lawyer by training, and have worked on wide-ranging issues of constitutional law, which I will explain shortly.

This brief statement will cover the following points:

- First, I will explain how child welfare is both a social services field and a legal field.
- Second, I will provide data demonstrating that child welfare law has an extremely large reach in this country.
- Third, I will give examples of why child welfare legal work is especially complex.
- Finally, I will highlight how Congress’s Title IV-B investment in the Court Improvement Program has provided invaluable support connecting the legal and social services sides of child welfare for three decades.

As you have heard from the other witnesses, child welfare work is comprised of a system of services. Child welfare work is also comprised of a system of laws. Last term, the Supreme Court explained in *Brackeen v. Haaland*, a case concerning the Indian Child Welfare Act, that child welfare is governed by both federal and state law. These laws are primarily designed to protect the rights of both parents and children. They also address the government’s responsibilities to ensure the safety of its community members.

The relationship between individual rights and government responsibilities begins most concretely when an agency conducts a child protective services (CPS) investigation into allegations of child maltreatment, a process that occurs with greater frequency than previously understood.

More than 37% of all children in our country will experience a CPS investigation by age 18. I want you to focus on that number – 37% of all children in America. Most parents do not think about this at the time of bringing a child into the world – that there is greater than a 1 in 3 chance of experiencing a government investigation into your home and family before you raise that child from infancy to adulthood. But I suspect even in this room most of us know someone in our own family networks and communities who has experienced a CPS investigation. Traditionally, parents have not had access to an attorney during these investigations and must navigate the legal implications on their own. That is beginning to change.

If an investigation leads to a child's removal from the family, the case transitions into a more formal court process. State courts oversee the cases of roughly 610,000 children in foster care each year. As a comparison, state courts hear about 75,000 real property cases annually. In other words, the child welfare docket is roughly eight times larger than the property law docket.

In addition to its massive reach, child welfare law includes several structural elements that make it especially complex. For example, in the majority of civil and criminal cases, judges are required to apply the law to a set of facts that happened in the past. In child welfare cases, however, judges must examine three different time periods. They look backward at government allegations supporting removal; they evaluate current facts, such as a parent's engagement with case plan requirements; and they must make a future prediction about a child's best interests. None of this is easy.

As I mentioned, I have a background in constitutional law. I have worked on First Amendment, Fourth Amendment and Tenth Amendment cases that have gone to the U.S. Supreme Court addressing complicated national security, immigration, and maritime law topics. There is no area of law I have ever worked on that is more demanding and complex than child welfare.

In recognition of the high stakes for children and the families involved and the connection between services and law, Congress established the Court Improvement Program (CIP) in 1993 through bipartisan legislation. CIP grants are designed to enhance collaboration between the courts and child welfare agencies. The program is budgeted at \$30 million a year distributed across all fifty states, U.S. territories, and federally recognized tribes. The funds go to the supreme court in each state, with a base amount and additional funding based on child population. For example, the Alaska CIP receives \$290,000, while Texas CIP receives \$1.8 million.

CIP grants are the only federal funds state courts receive for child welfare work. In response to COVID-19, Congress again acting through bipartisan legislation, authorized \$10 million in emergency CIP funding in 2020. This support was extremely effective in mitigating case delays after courts initially shut down because the funding facilitated time-sensitive investments in such things as zoom licenses and training on how to hold virtual hearings for judges, attorneys, and party participants.

In recognition of the value of this program and the fact that annual funding has not changed since 2006, the President's budget in both the current and prior administrations have proposed an additional \$30 million for CIP through Title IV-B. Recent legislative proposals have also supported CIP expansion and examined opportunities for greater investments in court technology and access to legal representation for both children and parents.

We commend Congress for focusing on the importance of this program from 1993 to today and for recognizing that child welfare is a large and complex legal sector. Thank you, again, for holding this hearing and for providing me with the opportunity to testify on behalf of the American Bar Association.