

August 25, 2024

The Honorable Gail Pellerin
California State Assembly
1021 O Street, Suite 6310
Sacramento, CA 95814

RE: AB 2496 (PELLERIN): SUPPORT AS AMENDED AUGUST 23rd

Dear Assemblymember Pellerin:

The Children's Advocacy Institute at the University of San Diego School of Law ("CAI"), which has sought to advance the well-being of California's children through legal education, advocacy, and litigation for over 30 years, has now two reasons to express its gratitude to you.

First, CAI reiterates its gratitude to you for amending AB 2496 to delete the gut and amended parts that would have enacted unprecedented legal standards reducing compensation to abused and neglected foster children who are yet again abused while in the care of Foster Family Agencies ("FFAs"). Second, CAI thanks you for amending your bill on August 23rd to provide the state and counties with the urgently needed regulatory authority and flexibility to address the consequences of the Nonprofits Insurance Alliance of California's ("NIAC") actions as those actions have impacted the State's blameless foster children.

CAI in particular commends you for the following new provision:

The State Department of Social Services, in coordination with any other relevant state departments or agencies, counties, and stakeholders, shall examine available options to make insurance available to foster family agencies. The department shall update the Legislature on these efforts in conjunction with the 2025-26 fiscal year budget process.

According to county sources, the lives of nearly 10,000 California foster children are at-risk of being disrupted by the decision of NIAC to cancel and nonrenew FFA insurance policies. As the saying goes, "[t]hose who cannot remember the past are condemned to repeat it."¹ For this reason, part of any "examination" of "available options to make insurance affordable to foster family agencies" must include a searching examination of how we arrived at the need for this urgency measure. This scrutiny should be broad-ranging and should, respectfully, include examining the actions of the company that is both a creature of statute (Corporations Code section 5005.1) and a tax exempt philanthropy which, to our knowledge and so in our opinion, (i) neither sought nor engaged in meaningful transition planning or collaboration with the state or

¹ George Santayana, *The Life Of Reason* (1905-06) *quoted* n John Bartlett, *Familiar Quotations* 703 (15th Ed. 1980).

counties to minimize the disruptions in the lives of foster children from its cancellations and nonrenewals and (ii) citing its own cancellations and nonrenewals and, in our view, still unsubstantiated claims of lawsuit abuses, pursued gut and amend legislation that would have reduced its financial exposure *not* by ambitiously promoting safer FFA practices that would have prevented foster children from being harmed in the first place, but legislation entirely devoted to enacting unprecedented conditions on the ability of FFAs to sue NIAC if the insurer may have acted in bad faith toward the FFA and unprecedented conditions on the ability of foster children to obtain compensation when they are tragically abused yet again while under the care of an FFA.

Insurance market fluctuations are inevitable, precedented, and rarely based on any one factor. NIAC was in part founded to prevent such insurance market fluctuations from afflicting non-profit operations.² At minimum, *the way* what has occurred has occurred must not, to safeguard our foster children, be repeated. Your legislation laudably offers a process through which we can learn how to prevent this from ever happening again.

We know that protecting the well-being of our foster children has been your legislative aim. The deletion of the prior portions of the bill and the insertion of the most recent amendments will help achieve that purpose and as a result, we once more thank you and support the measure, as amended.

Sincerely,



Ed Howard
Senior Counsel, Children's Advocacy Institute

² “Nonprofits Insurance Alliance® is a group of 501(c)(3) nonprofit insurers whose sole purpose is to serve other 501(c)(3) organizations by providing a stable source of fair and equitably priced liability and property insurance — all tailored to meet the specialized needs of the nonprofit sector and to assist these organizations to develop and implement successful risk management programs.” “Nonprofits Insurance Alliance (NIA) began as a direct result of the liability insurance crisis of the mid-1980s, when many insurance companies were refusing to offer affordable liability insurance to nonprofits, believing them to be ‘high risk.’” <https://insurancefor nonprofits.org/about/mission-history/>