Testimony of Frank Vandervort before the House Judiciary Committee Regarding HB 4259

Chairman Condino and Committee members: My name is Frank Vandervort. I want to thank you for allowing me this opportunity to speak in support of House Bill 4259, which will expand critically needed adoptive resources for children in the foster care system. Before I address the substance of the Bill, permit me to give the Committee a bit of background about who I am and my interest in this Bill.

Currently, I am a Clinical Assistant Professor of Law at the University of Michigan Law School, where I teach in the Child Advocacy Law Clinic. For more than twenty years I have worked in Michigan's child welfare system, first as a direct services work for abused and neglected children and since 1989 as an attorney. Over those years I have handled hundreds of cases involving child abuse and neglect in which my clients have been placed in the foster care.

I mention this background because, as you may know, our foster care system is in a near constant state of crisis. In 1991 then Governor John Engler appointed Lt. Governor Connie Binsfeld to chair the Special Commission on Adoption. In 1992, that Commission submitted its report of a year-long study of Michigan's adoption process. At that time, there were 2,180 Michigan children in our foster care system in need of adoption services.[1] As this Committee considers House Bill 4259 today, that number has climbed to some six thousand. These Michigan children await the possibility of a permanent home with parents who will love them and provide for them. It is this unique population of children that I want to talk about today.

[1] A Child is Waiting: The Report of the Binsfeld Commission on Adoption at p. 15.

The change in Michigan law that would be worked by the passage of HB 4259 would provide important resources for foster children in need of adoption services. Let me provide you an example. Some years ago, when then Washtenaw County juvenile court judge Nancy Francis read the Adoption Code to permit two unmarried persons to jointly adopt a child, the Child Advocacy Law Clinic represented a child who suffered from very serious medical conditions which required intensive care. Our client was placed in a foster home with two Catholic nuns. Eventually the rights of the child's parents were terminated and, with the consent of their order, the child was adopted by these two wonderful women. Obviously, these two women were not married, but because of second parent adoption, our client was able to find a secure, permanent and stable home with two loving parents. Although our client's parents were not married, their joint adoption provides more stability and predictability for a child who sorely needs them than would any legal arrangement involving only one parent.

As I am sure you know, since that time, Attorney General Cox has interpreted the Michigan Adoption Code to prohibit adoption by two persons who are unmarried. Under Michigan law, that interpretation is binding on state agencies until a court determines otherwise. Thus, the Michigan Department of Human Services is unable to petition for second parent adoptions at this time.

This is unfortunate for other children could surely benefit from second parent adoption as did the child I referred to a moment ago. Let me give you an example. The Child Advocacy Law Clinic is currently representing a little boy who is three years old. I will call him Tommy, although that is not his real name. Today Tommy is healthy and as sweet a child as you could imagine. He attends pre-school and loves to have books read

to him. Like many children his age, Tommy is shy and reserved when he first meets you, but after you've been with him for a little while, he will pull out one of his many books and ask you to set and read to him. Tommy had the misfortune to be born to a mother who was seriously addicted to drugs and who, among other things, prostituted to support her drug habit, so we don't know who Tommy's father is. When he was only an infant, his mother was regularly taking him into "crack houses." But all his fortune was not bad, for he had the good luck to have a grandfather who would literally risk his life to be sure Tommy was safe. And that is just what he did.

One day three years ago, when Tommy's grandfather found out where he was, his grandfather went to the "crack house" and demanded that his daughter turn Tommy over to him. His grandfather took Tommy home that day and called Children's Protective Services. From that day to this, Tommy has lived with his grandfather. When Tommy had been in foster care for about a year, his mother went to jail for several months for breaking and entering, she had been breaking into houses and stealing to support her drug habit. While is jail she did pretty good, she attended some Narcotics Anonymous classes. When she was released, we were hopeful that she would maintain sobriety. Unfortunately, that is not what happened. Within just a couple months of her release, Tommy's mother died of a drug overdose.

Tommy is doing well with his grandfather, who was granted guardianship after his daughter died. Tommy's grandfather has applied to adopt Tommy. Here is the problem: Tommy's grandfather is in his mid-sixties I am not very good at math, but even I can figure out that Tommy's grandfather will be in his early eighties when Tommy turns 18. Of course, we all know that young people these days need parental support in

one way or another well beyond 18, so Tommy's grandfather will likely be closer to 90 by the time Tommy is really able to take care of himself. And there is another complication. About a year-and-a-half ago, Tommy's grandfather had a stroke, which has left him with some partial paralysis on his left side. He is doing pretty well now, but he understands that there is a very real possibility that he won't be able to raise Tommy until he's a young adult and able to care for himself.

If HB 4259 becomes law, Tommy's grandfather could jointly adopt Tommy with Melinda (not her real name), a long-time friend of the family and the person whom Bob would to see take Tommy if he can no longer take care of his grandson. Melissa has been instrumental in helping with Tommy and with his grandfather's recovery. Tommy sees Melinda as his mom, and he sees Melinda's two sons as his brothers. But as the law stands now, Tommy's grandfather and Melinda cannot jointly adopt Tommy. If they could, Tommy's custodial arrangements would be much more stable and predictable, and we could make it legally possible for Tommy to be part of the group he understands to be his family.

Now, I know that there are those who will oppose this bill. Some will say that it will destroy the "traditional family." Some will, no doubt, argue that such a bill will rip apart the very fabric of our society. In this regard, I think what Lt. Governor Connie Binsfeld's Adoption Commission wrote in 1992 is applicable today: "**The adoption system must not be driven by money, politics, or the needs of adults.** Our sole responsibility is to protect and preserve the child's right to live and grow, knowing they are loved as part of a family."[2] Consistent with Lt. Governor Binsfeld's clear statement

[2] A Child is Waiting: The Report or the Binsfeld Commission on Adoption, 1992 at page 42 (emphasis in original).

that the needs of child should be the paramount concern in the adoption context, her Commission noted that "Discussion needs to occur concerning the redefinition of family by expanding the definition to include godparents and non-related individuals with whom a significant bond exists."[3]

It would be in the best interest of foster children in this state that this Committee to pass House Bill 4259. I urge you to do so. Thank you.

[3] Id. at 53.