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Dear Senator:

My name is Elizabeth Bartholet, and I am a Professor of Law and Faculty Director of the Child Advocacy Program at Harvard Law School. I have focused on issues of child welfare for the past three decades. Before joining Harvard's Faculty, I worked for five years as a staff attorney with the NAACP Legal Defense Fund. I then founded and for five years served as Director of New York's Legal Action Center, a public interest law firm focused on helping ex-offenders and ex-addicts, as well as addicts in treatment, break down barriers to employment and rehabilitation.

I have been committed to civil rights, public interest, and progressive causes since entering law school in the fall of 1962.

So it might surprise you that I'm writing to support Senator Barto's foster care reform bill #1452, since many liberals take a critical view of this kind of legislation.

When I published *Nobody's Children* in 1999, I wrote: "Unless liberals join with conservatives to promote children's interests, there will be no real change...Children have liberty interests as well as adults." I believe that liberals and conservatives should join to support this legislation, which is designed to help poor and minority race children victimized by abuse and neglect, and exposure to drugs during pregnancy, have a fighting chance for the nurturing parents that are essential if they are to grow up with a good chance to overcome the circumstances they were born into.

SB1452 contains critical protections for children 0-3. Below I will refer to just some of these.

One is the requirement that the state child protection agency comply with the intent of state and federal law. Federal law was changed in a child-friendly direction in 1997, with the Adoption and Safe Families Act (ASFA), but Arizona policy has ignored many of ASFA's positive changes. For example, under current state policy when an infant is removed to foster care based on safety risks, the state's default position is that reunification is in the child's best interest, and services are required toward that end which often last for years. Federal law encourages states to bypass reunification services in cases of extreme abuse. SB1452 says that where there is a

proven pattern of extreme abuse, the default presumption would be that reunification with the abusive parent is not in the infant's best interest.

In the area of spousal abuse our society has made major strides in the direction of protecting women and enabling them to escape the abusive household. In that area, as I have written, "No one argues that the appropriate response to wife battering is to redouble efforts to keep the wife in the home and her marriage intact."

Likewise, we must recognize that parents who repeatedly abuse their infants, or have committed egregious abuse of prior children, may be victims of unfortunate circumstances themselves, but they are also *perpetrators*. This law recognizes that parents guilty of maltreating children deserve support and a chance to correct their behavior, but *not infinite chances*. It recognizes that children have rights also.

This law recognizes the importance of outreach to relatives, since relatives committed to the long-term care of the infant should be as a general matter a first preference for placement.

However, if a child has been in a loving home that is willing to adopt and relatives cannot be located after six months, this law gives the child protection agency permission to prioritize at that time the infant's attachment to the foster family over shared DNA. All we know about child development including the best social science supports this recognition of the infant's need for stability and attachment during the first years of life.

This bill takes action on one of the major crises of our times. It recognizes that drug-exposed infants deserve greater protection than they are currently afforded. It gives offenders a chance to correct their behavior, but not forever.

No bill ever satisfies any one of us 100 percent.

But SB1452 will help protect infants who have experienced extreme abuse and are at serious risk for ongoing abuse. That is neither left nor right, but compassionate and humane.

Thank you for your consideration of this important legislation.

Sincerely,



Elizabeth Bartholet