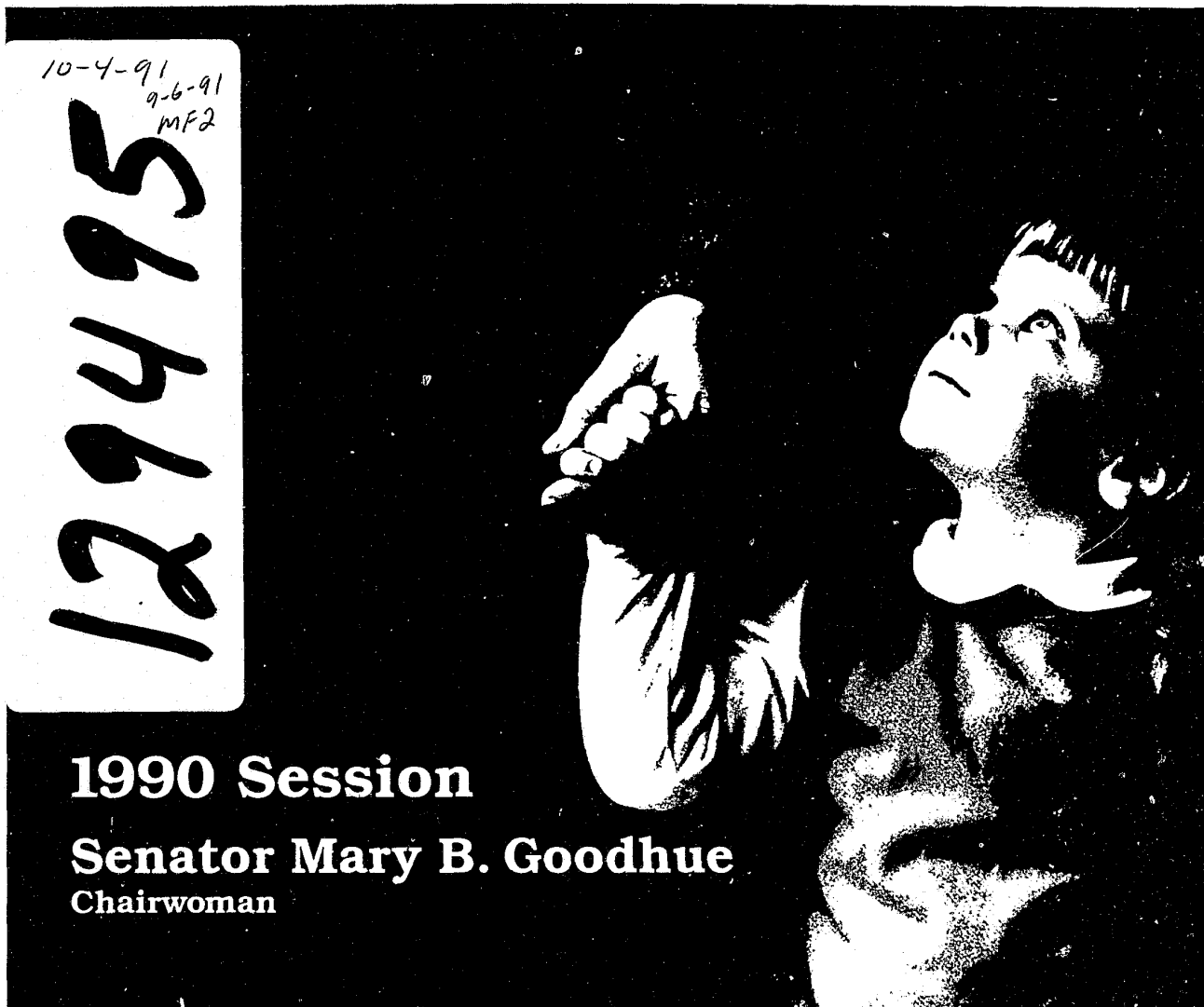


Chairwoman's Report

New York State Senate Standing Committee on Child Care



SENATE STANDING COMMITTEE ON CHILD CARE**1990 ANNUAL REPORT****SENATOR MARY B. GOODHUE, CHAIRWOMAN****COMMITTEE MEMBERS**

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I. CHAIRWOMAN'S COMMENTS

Child care issues received international as well as national attention in 1990. The Committee's work in the 1990 session continued the Senate's policy of advocacy for the welfare of children and the state's strong concern for protecting children. Helping parents find safe day care for their children and facilitating the adoption of children in need of permanent homes remain agenda priorities for the Senate Child Care Committee.

One of the major accomplishments of the 1990 session was the enactment of a consolidated 17 bill package addressing child abuse and neglect proceedings in Family Courts throughout the state. These new laws which were the result of the Committee's federally funded 1988-89 study of 500 Family Court case histories, will assure that children are more aggressively protected from further abuse after court action has been taken on their behalf. Important elements of the package include authority for comprehensive law guardian representation of abused children, thorough monitoring of implementation of Family Court orders, and clear standards for supervision of abused children and their families.

Testimony at a Committee hearing held in June of 1990 on adoption issues led the Legislature to eliminate a statutory requirement that adoption surrenders of children in foster care must be executed upon before a Family Court Judge. Also, new mechanisms for biological parents to give their informed consent in extra-judicial adoption surrenders has been established.

The Senate has led New York State in initiating state support for child day care programs in order to help parents find and use child care for their young children. The Senate Committee has worked to expand the supply and quality of child day care and to ensure that low-income working parents can secure subsidies to pay for such care permitting them to maintain their employment. The Senate Committee has encouraged coordination of school based pre-kindergarten programs with other types of child day care, so that children have all the hours of care and supervision available to them that are required by their parents.

In this session the Senate Committee was able to make a major policy change in the regulation of family day care by instituting a registration system. It is the Committee's intention that the State provide orientation training and other assistance to all current and new family day care providers so that registered family day care will be of good quality. The Senate affirms the basic assumption that quality child day care can help bring self-sufficiency to many of New York's working families.

Convinced of the need for support services to help children of school age until they acquire the requisite skills for gainful employment and to be responsible adults, the Senate supported budget appropriations this year for Youth Bureau funding which was maintained, as were programs for "youth at risk" and "schools as community sites" under the Education Department.

Although these initiatives can help and have helped many children, there is more to do. As long as child abuse continues

unabated and children are shuttled from foster home to foster home without gaining any security or permanency, and as long as there is an inadequate supply of child day care for working parents, the critical tasks at hand are far from complete. The Senate is proud of the achievements in 1990 and will continue to seek long term solutions for New York's children.

II. COMMITTEE JURISDICTION

The Senate Child Care Committee was established in 1981 from the Senate's belief that the needs of the state's children and youth were of such importance that a specific legislative Committee should address children's issues. Bills referred to the Senate Child Care Committee cover all issues related to the welfare of children. These issues include: protection of children from abuse and neglect, provision of services to children in institutional or family foster care, adoption of children through both agency and private placement adoption procedures, regulation of child day care and the encouragement of the expansion of developmentally appropriate, safe and high quality child day care.

The Committee also reviews and reports to the Senate floor, legislation on child support, family violence prevention, juvenile delinquency, juvenile offenders, runaway and homeless youth, Persons in Need of Supervision (PINS), youth bureau programs and operations of the State Division for Youth. In its work, the Committee has focused on adolescent pregnancy prevention, and on the urgent needs of the babies of young women who cannot care for them because of their lack of maturity and/or drug addiction, as well as the needs of infants with AIDS and other drug induced disabilities.

III. 1990 SIGNIFICANT LEGISLATION AFFECTING CHILDREN

CHILD ABUSE PREVENTION

The Committee was responsible for a 17 bill package of child abuse prevention legislation all of which became law in 1990. These new laws were the product of a federally funded study conducted by the Committee in 1988.

Pursuant to a National Center of Child Abuse and Neglect grant, the Committee reviewed 500 family court cases in 14 representative counties throughout the state which were initiated in 1985. The children in these cases and their families were tracked for a three-year period. The study also reviewed court activities after the court disposed of the case, as well as concurrent and subsequent reports made to the State Child Abuse Hotline. The conclusions of the study were dramatic and sobering: children and their parents often are denied important due process protections in child abuse proceedings; child protective agencies charged with assisting and monitoring the conduct of abusive families cannot fully perform their duties; and, most important, family court orders in abuse and neglect proceedings are rarely monitored by the court and often are disobeyed, so that patterns of child abuse continue unabated. This was evidenced by subsequent reports being made to the Hotline concerning the subject child, after the conclusion of court proceedings.

Implementation of the new laws will mean that the courts as well as the Child Protective systems will have an enhanced capacity to ensure that children are protected and that families receive needed services. The seventeen new laws in this package include Chapters 187, 319, 171, 194, 205, 170, 140, 141, 206, 336, 316, 317, 318, 283, and 320, the new legislation falls into three categories: improved court and agency procedures; due process protections; and law guardian responsibilities, and is accordingly described below, along with other child protective legislation.

Court Procedures

S.7365/A.10110 - Chapter 187

Senator Goodhue

This law requires that the Family Court state on the record, the reason for the dismissal of a child protective proceeding. As noted by the Committee's study, the absence of this information has made it difficult to assess whether the subject families agreed to a voluntary removal of the child from the home or other disposition not requiring a finding on the petition, but which might still require continuing child protective agency involvement and monitoring to protect the child.

S.7366/A.10111 - Chapter 206

Senator Goodhue

The Committee's study found that court orders of supervision in child abuse and neglect cases were frequently entered without detailing their terms and conditions. Absent such direction,

compliance and consequently enforcement of the order becomes difficult, rendering the supervision less meaningful. To remedy these differences, this new law requires that the Family Court set the terms of an order of supervision which a respondent must meet as well as the action a social service agency must take to supervise the respondent and any child released into the respondent's custody. (See chapter 320)

S.7371/A.10116A - Chapter 283

Senator Goodhue

The Committee's child abuse study found insufficient attention to parent-child visitation in Article 10 placement orders. This law amends the Family Court Act to require inclusion in a dispositional order placing a child, when the intention is to reunite the child with the family, specific direction to the agency to make diligent efforts to strengthen the family relationship by encouraging and facilitating visitation with the child by his or her parents. Other provisions emphasize visitation by grandparents and siblings.

S.7373/A.10118 - Chapter 171

Senator Goodhue

In order to correct the misuse by social services districts of pre-petition removal granted by the Family Court Act, this new statute directs that a court order of removal from the home explicitly state the court's findings concerning the need for the child's removal, and cite the specific statutory grounds. In addition the court order should state whether the respondent was present at the removal hearing and if not, what notice the

respondent was given of the hearing. Similar information will also be required to be included in the child abuse or neglect petition itself. This bill was prompted by the committee's findings in its child abuse study.

S.7374B - Chapter 194

Senator Goodhue

The Committee's study found that hearings on violations of orders entered in connection with an adjournment in contemplation of dismissal were first re-calendared 7.5 months after application to the court. To remedy this problem, the new law requires that an application for a rehearing must be made and that such an application for a rehearing must be considered by the Family Court within 60 days, unless this time period is extended for good cause shown.

S.7378/A.10108 - Chapter 141

Senator Goodhue

This law provides that the Family Court may, at the conclusion of a fact finding hearing in child abuse and neglect cases, order a reasonable adjournment on its own motion, or the motion of either party or the child's law guardian, to permit a court ordered investigation to assist it in the making of a dispositional order. This use of court ordered post-fact finding investigations was found to be irregular and inconsistent from county to county.

S.7379A/A.10109A - Chapter 320

Senator Goodhue

This law requires the State Department of Social Services to promulgate minimum standards and practices for the delivery of child protective services when the court orders supervision of a child and family. The promulgation of such standards will assist the Court and child protective agencies in crafting stronger and more meaningful intervention tools to assist abused and neglected children and their families. (See also chapter 206)

Due Process Protections

S.7367/A.10112 - Chapter 336

Senator Goodhue

This law adds a new section to Article 10 of the Family Court Act formalizing initial appearances in child protective proceedings. At the initial appearance, the Court is required to appoint a law guardian to represent the child to inform the parent of the allegations in the petition, of his or her right to counsel and of the right to a hearing for the return of the child if the child has been removed from the respondent's custody prior to the filing of a petition; and to appoint counsel for indigent respondents.

S.7372-A/A.10117-A - Chapter 319

Senator Goodhue

In order to promote better protection of abused and neglected children, this statute requires the appointment of a law guardian for a child at the earliest judicial contact with a child protective proceeding (e.g. an emergency removal). Under

the terms of the statute, the appointment of the law guardian will continue until conclusion of any open order of disposition or adjournment in contemplation of dismissal and extensions thereof.

S.7375/A.10118 - Chapter 205

Senator Goodhue

To enhance due process protections, regularize administrative practices and improve court records, this law requires that where an emergency removal of a child takes place without a court order but with a parent's consent, that such removal must be in writing and that a copy of the consent be attached to the petition alleging abuse or neglect of the child.

S.7376-A/A.10106-A - Chapter 170

Senator Goodhue

The Committee's study found numerous instances where parents were not represented by counsel and were not advised of their statutory rights. To deal with this problem, the law requires that the Family Court advise respondent parents, upon the emergency removal of a child in a child protective proceeding, of their right to counsel and of the procedures to obtain counsel if they are indigent.

S.7377/A.10107 - Chapter 140

Senator Goodhue

This law requires the Family Court to hold a hearing for the return of the child under Section 1028 of the Family Court Act upon a pre-petition removal of a child from the home. The Committee's study found that the parent's rights to an immediate

1028 hearing were routinely waived when a preliminary hearing was held authorizing the child's removal under FCA 1027, even though the parents were unrepresented at such hearing.

Law Guardian Responsibilities

S.7368-A/A.10113-A Chapter 316

Senator Goodhue

Based on the Committee's study findings pointing to the need for greater protection of abused and neglected children following court disposition, this law materially expands the post-dispositional role of law guardians. Upon receipt of reports from child protective agencies indicating continuing risk to the child, the law guardian is required to apply to the family court for appropriate intervention on behalf of the child. (See chapters 317, 318, 319 and 323)

S.7369/A.10114 - Chapter 317

Senator Goodhue

This law addresses a problem documented in the Committee's study, of recurring child abuse after the court has intervened and entered a dispositional order in a child abuse or neglect proceeding. The law requires a child protective agency to notify a child's law guardian of subsequent indicated reports of child abuse or maltreatment after a dispositional order at an adjournment in contemplation of dismissal is issued against a respondent, permitting the law guardian to take affirmative action to protect the child (as authorized by chapter 316, above).

This law institutes a new requirement that where no extension of placement is sought for an abused or neglected child at the conclusion of the period of an adjournment in contemplation of dismissal, the child protective agency must submit a report to the court and the child's law guardian on the status and location of the child and family, and any actions taken or contemplated concerning such child and family at least sixty days prior to the expiration of the order. Where the child is in foster care and an extension of placement is to be sought, the report must also include an assessment of whether the child's return to the family would subject the child to imminent risk. The purpose of this report is to establish a formal procedure to assess whether any progress has been made in the child's circumstances during the term of the court order to determine whether the child is still at risk of abuse or neglect.

To better protect abused children following court intervention, this law requires that child protective agencies file reports with the court, the parties and the child's law guardian, on the implementation of dispositional orders made in child abuse and neglect proceedings, including orders pursuant to adjudications by consent. Such reports are required no later than 90 days after the issuance of the dispositional order, unless the court determines that the facts of a particular case

do not require a report to be made. Further progress reports are to be made in such time and manner as directed by the court.

S.7456/A.9099 - Chapter 167

Senator Goodhue

This new statute allows the child's law guardian to petition the Family Court for an order directing a local child protective agency to implement its agreed upon responsibilities under the terms of an order made in connection with an adjournment in contemplation of dismissal if such agency is not fulfilling its obligation under the order.

OTHER CHILD PROTECTIVE LAWS

S.4434-A/A.7335-A - Chapter 156

Senator Goodhue

This law clarifies the elements which law enforcement officials must certify in order to receive access to confidential information contained in the Statewide Central Register of Child Abuse and Maltreatment. Previously the law required that law enforcement officials have prior knowledge of a child abuse report before requesting Statewide Central Register data. Law enforcement officials under the new law will be able to request Register reports if they have reasonable cause to believe that a suspect under police investigation may have been the subject of a report. This bill will enhance the investigation and criminal prosecution of child abusers.

S.6897-B/A.10301-B - Chapter 268

Senator Goodhue

Extends long-arm jurisdiction to child abuse cases, making it possible to pursue alleged child abusers who flee the state or reside in another state. It authorizes the service of an abuse or neglect petition on a non-resident outside the state, if the abused or neglected child resides in New York State. The law specifies the time limits the court must follow before proceeding to a fact finding hearing in such cases.

S.7324/A.9953 - Chapter 55

Senator Goodhue

This law extends the Child Abuse Prevention Act of 1985 until June 30, 1991, so that the legislature can further study and evaluate the procedures used to investigate and rectify abuse of children in institutional care.

S.8788/A.10750 - Chapter 622

Senator Goodhue

This law allows the Family Court to enter an order of protection against a person who is no longer a member of the household in order to protect a child and his caretaker up to the child's 18th birthday. This will protect the family and eliminate the need for renewal of orders of protection.

VETOED LEGISLATION

S.7534-B/A.10285-B - Veto #5

Senator Goodhue

This bill authorized an immediate stay on appeal by the Appellate Division of the Court in a child protective proceeding

with the right to oral appellate argument. The Governor vetoed the bill stating that enacting the right to appellate oral argument upset the balance of powers and limited judicial discretion to hear cases.

IMPORTANT LEGISLATION WHICH PASSED THE SENATE ONLY

S.393

Senator Goodhue

This bill allows school districts to screen prospective new employees both against the criminal records files of the State's Division of Criminal Justice Service and against the Statewide Central Register of Child Abuse and Maltreatment if local school boards so elect. Currently, only school districts coterminous with municipal boundaries, such as New York City, have access to New York's criminal conviction records and no district has access to the Statewide Central Register.

S.814-A

Senator Goodhue

This bill ensures the fair treatment of child witnesses in Family Court Article 10 cases by use of videotaped testimony.

S.1720/A.5767

Senator Goodhue

This bill confers immunity from civil or criminal liability on doctors, nurses or dentists participating in good faith in furnishing information to child abuse investigators as mandated reporters. The bill also requires these professionals to furnish information to investigators pertaining to the diagnosis, care,

treatment or evaluation of a child when such information is reasonably related to the allegations contained in a child abuse report.

S.1722

Senator Goodhue

This bill would give child protective investigators access to certain criminal conviction records of a person who is the subject of, or is named in, a child abuse report made to the State Central Register.

S.1723-A

Senator Goodhue

This bill authorizes the retention of unfounded child abuse reports for a period of five years. Such reports would be made available only to child protective agencies investigating subsequent reports on the same child or the alleged perpetrator.

S.3355-A/A.5055-A

Senator Marino

This bill provides access to criminal conviction records and indicated child abuse reports of employees and volunteers of certain not for profit agencies, if such agencies are providing recreational and support services to children, and their employees or volunteers have regular and substantial contact with children.

S.5798/A.10870

Senator Goodhue

This bill would require that school districts report to the State Central Register of Child Abuse and Maltreatment the name

of any child who has been absent from school without notice from parents more than 20 consecutive days. Such unexcused absences are properly the concern of child protective service as possible educational neglect and accordingly warrant investigation.

ADOPTION

In 1990 the Senate Child Care Committee joined with the Assembly Committee on Children and Families to sponsor a hearing on Adoption. Appendix A of this report describes the participation and proposals received at the hearing. The primary result was the passage of a new law establishing a new system for extra-judicial adoption surrenders for children in foster care. The Committee felt that biological parents may be more willing to sign a consent to the adoption of a child born to them if they do not have to go before a Judge in order to do so. Other chapters of laws of 1990 also sought to encourage adoption of young children, particularly abandoned infants.

ENACTED LEGISLATION

S.2053-B/A.3112-B - Chapter 376

Senator Goodhue

This new statute clarifies that where a parent surrenders a child so that such child may be freed for adoption, no further liability for child support attaches to that parent.

S.4132/A.7330 - Chapter 253

Senator Johnson

Prior to the enactment of this legislation, state adoption subsidies were never available for children who were not public charges but were surrendered to voluntary agencies. The new statute, consistent with federal law, will provide subsidies for such children, and facilitate their prompt adoption.

S.4473/A.7391 - Chapter 165

Senator Johnson

This law requires the release of the medical history of a foster child and the biological parents of such child upon the adoption of such child. No information identifying the biological parents, however, would be provided.

S.6845/A.10692 - Chapter 508

Senator Goodhue

This law exempts the step parent who seeks to adopt his or her spouse's child from the requirements of certification as an adoptive parent, if such person has lived with the natural parent and the child for a year.

S.8392-A/A.9735-A - Chapter 605

Senator Goodhue

This new law will establish a new procedure to expedite the procedure to free abandoned babies for adoption. As soon as such an infant enters foster care, a search will immediately commence to locate the parents. In six months, the agency shall initiate a proceeding to terminate parental rights on the grounds of abandonment and the court may take judicial notice of the prior efforts to locate the parents. The new time frames in the

law will speed the court process and thus help families adopt infants more quickly.

S.8322-A/A.10743-B - Chapter 547

Senator Goodhue

This law authorized the Family Court to entertain petitions for the readoption of children whose adoption was finalized in the foreign country in which they were born. The purpose of the legislation is to provide New York adoptive parents the security of an American adoption decree where they have already concluded the adoption of a foreign national in the child's country of origin.

S.8426-A/A.10655-B - Chapter 479

Senator Goodhue

This new law replaces a 1989 statute requiring that adoption surrender of children in foster care be taken before a family court judge. The law now also permits an adoption surrender of a foster child to take place before 2 witnesses, one of whom must be trained to take such surrenders and the other must be an attorney or social worker. If the birth mother is a foster child herself, a judicial surrender will still be necessary.

IMPORTANT LEGISLATION WHICH PASSED THE SENATE ONLY

S.477

Senator Tully

This measure expands adoption venue to provide that if the adoptive parents do not reside in this state, a New York adoption may be commenced not only where the adoptive child resides, but

also where he or she was born.

S.4058

Senator Marino

This bill prohibits the adoption of a child by persons convicted of a crime involving child abuse.

CHILD DAY CARE

Child day care laws in NY required revision to clearly define each category of child day care and the regulation required for each category. The Committee is pleased that one of the major pieces of legislation in 1990, Chapter 750, includes a revision of Section 390 of the social services law on regulation of day care. In addition to clarifying definitions, the major change, institution of a registration system for family day care, will be implemented gradually in 1991 and 1992. Other child day care chapters affect the authority to make start up grants and to transport children to child care sites before and after school.

ENACTED LEGISLATION

S.5183/A.7332 - Chapter 66

Senator Donovan

This law authorizes school age child care programs to operate during the summer or other times when school is not in session. The great need for child care programs for school age children makes it important to allow school age programs to operate at times when the parent needs child care. This may be

during vacation periods as well as before or after school. The original school age child day care legislation in 1984 did not authorize or regulate programs operating during school vacations and summer vacation times.

S.5426/A.9959 - Chapter 665

Senator Goodhue

This law authorizes school districts to transport children to and from school to day care sites within the child's school attendance zone or to licensed child care programs in the district. Existing law did not permit districts to set reasonable geographic limits on the transportation available to children whose parents want them to be taken to child day care providers. This bill will assure that transportation provided by school districts to child day care programs will be reimbursable with State transportation aid. (Education Committee)

S.5686-B/A.972-B - Chapter 750

Senator Goodhue

This law will revise the current statutes regulating child day care and will institute a registration system for family day care. Definitions of all types of child care are included. Current providers of family day care who are not yet licensed or certified will be able to register without interrupting their caregiving. Most other types of child day care will still be required to be inspected and licensed prior to offering child day care. The law requires the State to educate parents on choices for quality child care, to conduct orientation sessions for all family day care providers, and requires family day care providers

to have 15 hours of training prior to biennial registration renewal. The law institutes a child care complaint line so that people concerned about the safety of children in child day care may report child care providers who are not operating according to the law or regulations. Homes or programs reported to this complaint line as in violation of laws or regulations will be inspected, as well as 20% of the registered family homes annually. This major legislation will become fully effective in July, 1991, and will cover family day care homes in New York City by 1992 and child care centers in public school buildings at that time. With effective implementation of the law, the Senate's initiation of this registration system will make safe regulated child care available throughout the state and may raise the quality of child day care with the addition of training requirements for certain providers.

S.7155-A/A.6468-D - Chapter 421

Senator Trunzo

This law authorizes the State to deduct child care expenses from the wages of State employees and make payments for child care for those employees. The passage of this legislation will make the Dependant Care Tax Deduction available to state employees in 1991. (Civil Service & Pension Committee)

S.8152-A/A.10810-A - Chapter 277

Senator Goodhue

This law continues the school age child day care grant program and authorizes start-up grants to additional types of child day care programs. Previously, the only authority for most

start-up or expansion grants to child care programs has been in the annual state budgets.

S.9069/A.12111 - Chapter 882

Senator Goodhue

This measure excludes intergenerational day care centers from the above referenced Chapter 277, and allows start up grants for such programs to remain under the jurisdiction of the State Office for the Aging.

FOSTER CARE

The increasing volume of children entering foster care during the closing years of the last decade continued unabated in 1990. Many of these children are victims of abuse or neglect compounded by the proliferation of crack and cocaine use by parents and pregnant women. Sadly, children entering foster care often never leave the system until they age-out unprepared to deal with the stresses of modern life. Committee initiatives regarding foster care are detailed below.

ENACTED LEGISLATION

S.96/A.140 - Chapter 365

Senator Padavan

This law will require that authorized social service agencies notify municipalities prior to the selection of a site in a given community for foster boarding homes or group homes.

S.6886-C/A.8735-A - Chapter 592

Senator Goodhue

This law amends the HIV confidentiality statute to permit a child's law guardian to have information pertaining to the minor's AIDS or HIV status. Such information may be redisclosed, with the minor's consent, in the course of the legal representation of the minor. Additionally, a child's HIV or AIDS status may be disclosed to a child's foster parent in connection with care, treatment and supervision of the child, and to a prospective adoptive parent with whom the child is to be placed for adoption.

S.8276/A.10994 - Chapter 278

Senator Goodhue

This measure extends until March 31, 1993, provisions of a 1988 enactment which makes available \$300 monthly rent supplements for up to 3 years to assist families in securing the return of a child from foster care, when the absence of adequate housing was the reason the child could not return home from placement.

S.8299-A/A.10994-A - Chapter 854

Senator Goodhue

This law requires that reasonable efforts be made to place sibling children together or to arrange for their visitation or communication when they cannot be placed together. An exception is made where a child's health, safety or welfare would be endangered by such placement or communication with his or her siblings. This statute applies to children placed in foster care voluntarily or pursuant to a child abuse or neglect proceeding.

S.8506/A.11765 - Chapter 256

Senator Goodhue

This measure recodifies and strengthens the requirements of an instrument for a voluntary transfer of the care and custody of a child to an authorized agency. Such instrument must now include information concerning the right to and availability of legal services to the parents, the parent's right to participate in setting the terms of visitation, and the amount the parent will contribute towards the support of the child, if known.

IMPORTANT LEGISLATION WHICH PASSED THE SENATE ONLY

S.821-A

Senator Goodhue

This bill would provide for the defense and indemnification of foster parents against whom claims are made for activity arising from their responsibilities as foster parents. Foster parents provide an essential service to children who need stability and nurturing care. They should have protection from untoward liability claims against them. This protection can be an incentive to recruit more foster parents for the numerous children who are coming into care in the 90's. Under the terms of the bill, foster parents would not be protected from their own acts of gross negligence or willful misconduct.

S.976-B/A.4456-B

Senator Skelos

This bill would allow agencies which recruit and train foster parents to screen the names of prospective foster parents against the state's criminal conviction record files as a check

against exposing foster children to prospective parents with extensive criminal histories. The names of prospective foster parents are already screened against the Statewide Register of Child Abuse.

PREVENTIVE SERVICES

Prevention of child abuse, of homelessness, of unnecessary foster care, and assistance to families so that they can adequately care for their children are primary goals of the Senate Child Care Committee. The Committee has been instrumental in securing the enactment into law of several bills which establish important State policies to help parents cope with their responsibilities and assure that State agencies' responsibility for children's programs adhere to these mandates. Legislation vetoed by the Governor, sought to prevent placement of children in foster care because of a lack of housing for the family by expanding the housing assistance.

ENACTED LEGISLATION

S.6087-A/A.7505-A - Chapter 166

Senator Goodhue

This law articulates a state policy regarding children and families and emphasizes the importance New York sets on assuring that children will be able to live in nurturing families which can receive needed supportive services in order to care for their children. The law requires a state review of current services to

children and families in light of these family policy guidelines.

S.7306/A.10257-A - Chapter 49

Senator Goodhue

This law extends permanently the provision of the Teenage Services Act which established a case management system in every county to assist pregnant adolescents and teen mothers to receive public assistance and personal support to become self supporting young parents.

S.7510-A/A.10256 - Chapter 48

Senator Goodhue

This law makes permanent the Adolescent Pregnancy Prevention Program, an initiative to provide funding to communities seeking to reduce the rate of teen pregnancy and to help young people in education, job preparation and jobs. The Adolescent Pregnancy Prevention Program serves not only young mothers but also young fathers and potential parents and coordinates local agency programs in funded communities. Young people have the best chance for successful adult lives if they can delay the start of their families until they are equipped to support themselves.

S.9158/A.12176 - Chapter 657

Senator Lombardi

This law, titled the Neighborhood Based Initiative program, will allow selected communities or neighborhoods to draft plans to combine and integrate the resources available from various State and local public agencies to address the critical social, health and economic needs of the area. In this way, the funded community may facilitate the delivery of comprehensive services

to children and families, and receive flexibility in the form of waivers from existing entitlement requirements in order to improve services.

VETOED LEGISLATION

S.8321-A/A.11053 - Veto #22

Senator Goodhue

This bill would authorize a local social services district to provide up to \$300 in a monthly preventative service housing grant to a family whose current lack of housing is a primary reason for placement of a child in foster care. This bill mirrors above referenced Chapter 278, and offers the service as a preventive measure designed to prevent the entry of a child into foster care. The Governor's veto was based on the alleged cost of the program.

CHILD SUPPORT

Enacted Legislation

S.9045-A/A.11505-C - Chapter 818

Rules Committee

This bill, enacted pursuant to federal mandate, amended the Civil Practice Law and Rules, Domestic Relations Law, Family Court Act and Social Services Law to provide for a formal method for litigants to seek child support collection services. The bill further provides that upon a successful application for modification of a child support award, the statutory child

support guideline percentages enacted in 1989 presumptively apply. Additionally, the bill adds to the factors the court will consider, the existence of a prior separation agreement, stipulation, or decree making a distribution of marital property or an award of spousal support, where the effect of applying the guidelines would yield an unjust result in light of such property distribution or award.

YOUTH ISSUES

Although the Committee reported to the Legislature, several bills addressing specific Division for Youth issues, an omnibus bill to recodify and strengthen Division for Youth authority proposed by the Governor and the Division was not agreed upon by the legislature. The Senate felt that the responsibilities of the Division for Youth for preventive programs for youth throughout the state should be clearly delineated and adequately supported in an omnibus bill. Additionally, the Division's program for rehabilitation of incarcerated youth in its facilities after release should be clearly defined in law. Lines of authority between the Division and the family court regarding appropriate placement need to be clear in new legislation. These issues will be addressed in the next session.

ENACTED LEGISLATION

S.4751-B/A.8209-B - Chapter 223

Senator Goodhue

The law amends the Family Court Act to clarify when a juvenile delinquency proceeding can be deemed to commence so that the speedy trial provisions may be determined under Article 3 of the Family Court Act whenever the criminal court transfers a juvenile case to the Family Court.

S.6161-A/A.8644-A - Chapter 671

Senator Lack

This law increases state aid for apprentice training programs during 90-91 school year to \$1.00 per training hour.
(Labor Committee)

S.7465/A.10242 - Chapter 222

Senator Goodhue

This law extends for one year the Division for Youth's authority to transfer juvenile offenders to less restrictive Division facilities in preparation for their release from the Division.

S.7555/A.10931 - Chapter 458

Senator Goodhue

This law authorizes the Division for Youth to expand its vocational training program using the income from the sale of the products made by the youth for the purchase of materials for new projects.

S.7638/A.8612-A - Chapter 174

Senator Spano

This law creates a Youth Opportunity Program for economically disadvantaged youth by providing job opportunities in predicted labor shortage occupations in the State Offices of Mental Retardation and Developmental Disabilities.

S.8247/A.11581 - Chapter 211

This statute authorizes the State Urban Development Corporation to finance and participate in the development and rehabilitation of State operated institutions and community facilities of the Division for Youth. It establishes a local Youth Center Facility construction and rehabilitation program to help local communities acquire and rehabilitate youth centers.

(Rules Committee)

A.11635 - Chapter 212

This law is an amendment to Chapter 211 to make technical correction with respect to the constitutional debt limitation relating to the financing of youth centers by the urban development corporation.

IMPORTANT LEGISLATION WHICH PASSED THE SENATE ONLY

S.691-B

Senator Mega

This bill authorized certain officials to visit Division for Youth Facilities including the Governor, legislators and Judges. The Division is required to establish rules for visitation by

persons other than those enumerated above, in a manner which will not endanger the security of the facilities.

S.693

Senator Mega

This bill would prohibit DFY Employment as a Youth Division aide of any person convicted of a felony. Additionally, persons convicted of misdemeanors could be disqualified as candidates by action of the Division Director.

S.1355

Senator Tully

This bill redefines the age of runaway youth and Persons in Need of Supervision, raising the age for both boys and girls to 18 years. Current law has been ruled unconstitutional because it specifies different ages for boys and girls, (the age of 16 for boys and 18 for girls) beyond which age a petition cannot be brought in Family Court to ask for supervision of an ungovernable young person. The result of the court decision has been to make 16 the age for PINS petitions for both sexes. Many parents want the PINS jurisdiction to be raised to individuals under age 18 regardless of gender to help them exercise greater control over their adolescent children.

S.3054

Senator Goodhue

This bill would give local probation departments access to sealed juvenile delinquency records when directed to conduct a preliminary juvenile delinquency investigation by family court.

S.2628-B/A.3845-B

Senator N. Levy

This bill includes within the crime of assault in the second degree, an assault upon a school district or BOCES employee while such person is engaged in the instruction or supervision of students. (Codes Committee)

S.5448-A

Senator Velella

This bill prohibits the granting of youthful offender status to certain youth charged with first degree rape, first degree sodomy or aggravated sexual assault. (Codes Committee)

CHILD HEALTH AND WELFARE

A number of other bills became law in 1990 which will improve the health and welfare of children in New York State. Medicaid eligibility was extended to more children, a new child health insurance program will be offered to families without health insurance for their children. In addition, several bills seeking to protect children from sexual exploitation passed the NYS Senate.

ENACTED LEGISLATION

S.3915-A/A.10309-A - Chapter 380

Senator Libous

This law permits transfer of prior year grants and appropriations to the Task Force on Integrated Projects for Youth and Chemical Dependency to appropriate State agencies to carry out prevention treatment and education services to chemically

dependent youth, including multiply disabled children.

(Alcoholism and Drug Abuse Committee)

S.4763-C/A.12067 - Chapter 453

Senator Rolison

This new law establishes New York's Job Opportunities and Basic Skills Training Program (JOBS) to implement the federal welfare reform legislation. This law will require that local social service districts offer training, child day care and employment assistance to public assistance recipients, including mothers of preschool children. As each county implements the JOBS program and parents take training and jobs, the need for more child day care openings in New York will undoubtedly rise. Currently, the supply of legal child day care does not equal the number of working parents.

S.5440-B/A.6581-B - Chapter 4

Senator Tully

This law requires that every pregnant woman be tested for Hepatitis B, at the same time a currently required test is performed for syphilis. Children born to women testing positive for Hepatitis B would be immunized to prevent the serious consequences of the disease.

S.7924/A.3508-B - Chapter 248

Senator Mega

This bill clarifies the inheritance rights of non marital children if such children would have rights to inherit from their parents in intestacy. (Judiciary Committee)

S.8063-A/A.12068 - Chapter 651

Senator Rolison

This law extends health services to more children in need of access to health care by granting eligibility for medical assistance to children in families with incomes at or below 133% of the federal poverty level. This law conforms New York State's law to federal law on medical assistance for children.

S.8242/A.11816 - Chapter 334

Senator Tully

This law authorizes breast health programs at the secondary school level for breast cancer detection and education so that more women will have access to screening and breast cancer information. (Health Committee)

S.8267/A.11752 - Chapter 462

Senator Volker

This law extends for one year authorization for current school health services which are important programs for pre-school and school aged children.

IMPORTANT LEGISLATION WHICH PASSED THE SENATE ONLY

S.256-A/A.30006

Senator Tully

This bill conforms section 263 of the Penal Law (prohibiting the sexual performance of a child) to another Penal Law section, 130.05, 3(a), dealing with lack of consent in other sex offenses, to make the age of consent in both statutes consistent at age 18. (Codes Committee)

S.674/A.5557-B

Senator N. Levy

This bill makes it unlawful for a person of at least 18 years to give away tobacco to a person under age 18. The bill also prohibits a manufacturer or a distributor of tobacco from hiring a person less than 18 years of age to give away tobacco in any form. (Codes Committee)

S.3276/A.4830

Senator Volker

This bill includes within the definition of criminal acts under the Organized Crime Control Act, the crimes of obscenity and of disseminating indecent material to minors. (Codes Committee)

APPENDIX A

BUDGET HIGHLIGHTS

CHILD ABUSE AND DOMESTIC VIOLENCE

-- Children and Family Trust Fund: \$1,583,000 for local, regional and statewide programs to prevent family violence such as child abuse, domestic violence and elder abuse.

-- Crisis Intervention Centers: \$150,000 for a demonstration program to provide 24-hour comprehensive emergency services to families in crisis (those facing removal of their children, homelessness or institutionalization).

-- Services for Battered Women and Children: \$3,000,000 for non-residential services.

-- Intervention Programs for Batterers: \$350,000 for educational programs to reduce battering behaviors by persons involved in domestic violence.

TEEN PREGNANCY PROGRAMS

-- Adolescent Pregnancy and Prevention Services: \$4,760,000 for grants to communities in receipt of coordinated service grants.

-- Family Planning: \$15,000,000 for funding of 250 statewide clinics for adolescents and women for education and screening.

-- Prenatal Care: \$3,800,000 for state funded community outreach education programs to ensure that expectant mothers

learn about and utilize prenatal care programs which are now available to mothers and infants under Medicaid.

-- Supplemental Nutrition Assistance Program: \$67,370,000 - This State Health Department program supplements the federal Women, Infant and Children Nutrition program (WIC).

-- AIDS Services: \$11,475,200 - Community Service program to minority and high risk women - \$800,000 for outreach and case management for high risk women and children. \$4,000,000 for HIV testing and counseling in family planning and prenatal clinics.

DAY CARE

-- Subsidies for Day Care for Low-Income Families: \$36,866,000 for 87.5% state support for subsidies. Provides that the 12.5% local match may be "in kind."

-- Start up Funds for Child Care Programs: \$2,700,000 for start up funds to family day care providers and child care centers that are starting or planning a major expansion, \$600,000 of this is designated for school age programs.

-- JOBS: \$5,250,000 for start-up funds targeting programs which will create more child care for JOBS participants;

-- Child Care Resource and Referral Centers: \$1,957,000 for centers to provide parents and employers with information on child care programs and offer technical assistance to providers;

-- SUNY Child Care Centers: \$1,658,000 for centers on SUNY four-year campuses and \$1,165,000 for those on SUNY Community College Campuses;

-- CUNY Child Care Center: \$1,195,000 for centers on CUNY four year campuses and \$1,030,000 for those on CUNY Community College Campuses;

-- Experimental Pre-Kindergarten: \$47,000,000 for 1990-91 to support and expand school year program grants for 2 1/2 hour programs for three and four year olds;

-- Migrant Child Care Programs: \$3,048,900 to provide child day care to the children of migrant and seasonal farm workers;

-- Intergenerational Day Care Centers: \$340,000 for programs combining a senior citizen center or a residential health care facility with a child day care center;

-- Salary Enhancement Funds and Head Start Programs: \$1,800,000 for salary and benefits for child care workers at Headstart centers for three to five year olds from low-income families and \$2,000,000 for staff of other not-for-profit child care centers.

YOUTH EMPLOYMENT AND ASSISTANCE

-- At-Risk Youth and Community Partnership Program: \$7,300,000 for fiscal year 1990-91 to coordinate education and social services for youth at risk of not completing school. (\$9,635,000 for 1991-92 school year.)

-- Homeless Youth Employment Program: \$182,000 to provide counseling and employment placement for homeless youth.

-- Youth Education, Employment and Training Programs: \$17,891,800 for vocational training, employment skills, job placement and entry into post-secondary education for

disadvantaged youth.

-- Schools as Community Sites: \$6,000,000 to enable schools to coordinate community resources for disadvantaged youth.

-- Science and Technology Entry Program (STEP) \$10,971,000, including support for a program where high school students tutor at-risk school children.

-- Stay in School Partnerships: \$2,000,000 for drop-out prevention programs in conjunction with local school districts and colleges.

-- Runaway and Homeless Programs: \$5,313,700 to provide temporary housing and transitional independent living services to runaway and homeless youth.

-- Youth Development and Delinquency Prevention (YDDP): \$41,500,000 to provide local community developmental and recreational youth services programs through county municipal youth bureaus.

-- Special Delinquency Prevention Programs (SDPP): \$13,845,400 for programs designed to reduce juvenile delinquency among at-risk youth.

-- Division for Youth Facilities: \$65,000,000 in bonding authority for renovation and construction of Division operated facilities.

-- Youth Opportunity Centers: \$25,000,000 in bonding authority to build or modernize youth centers operated by municipalities and local not-for-profit agencies to provide programs for positive youth development.

SUBSTANCE ABUSE

-- Family Support Communities: \$46,000,000 Capital development funds for the establishment of eight family support communities for addicted pregnant and parenting women; such services will include child care, vocational and education support services.

APPENDIX B

JOINT PUBLIC HEARING

HELD BY

New York State Senate
Committee on Child Care
Senator Mary B. Goodhue
Chairperson

New York State Assembly
Committee on Children and
Families
Assemblymember Albert Vann
Chairperson

TOPIC: NEW YORK STATE'S PUBLIC ADOPTION SYSTEM

TIME: 9:30 a.m.

DATE: June 8, 1990

PLACE: Senate Hearing Room - 24th Floor
270 Broadway
New York, NY

According to the State Department of Social Services, the foster care caseload in New York State is projected to increase by more than 60% between State Fiscal years 1988-89 and 1990-91, with a large percentage of new entries in foster care expected to be children under five years old. By the end of 1990, it is predicted that more than 72,000 children will be in placement. The number of children having the goal of adoption is growing rapidly and is expected to exceed 7,200 by the end of the year. However, a declining percentage of these children are being freed for adoption and even fewer are being adopted each year.

This hearing focused on the barriers to adoption in the public adoption system and solicited proposals of new legislation intended to increase the number of children adopted each year.

Testimony was received from a wide range of governmental and private agencies and citizens groups. Their testimony addressed the many obstacles to the adoption of children in foster care which pervade New York's child welfare system. Particular attention was paid to serious problems surrounding 1989 statutory changes requiring judicially-approved adoption surrenders for all children in foster care.

Other concerns raised at the hearings included court delays and crowded court calendars. One witness suggested that photographs be taken at the time of a child's entry into foster care and progressively afterwards to insure that the Family Court will become aware how long many adoptable children freed for adoption linger in foster care without being adopted.

There were concerns that there are currently no incentives to agencies to finalize adoptions nor are there post adoptive services available to families. Witnesses observed that the Blue Book does not contain critical medical information. It was argued that the agencies with children listed in the Blue Book do not respond quickly to inquiries from interested adoptive parents.

In addition, there were proposals to oblige the court to consult a child who is 12 years of age or older about his or her adoption. Current law requires the consent of a child at 14.

In the 1991 legislative session, the committee will consider measures to encourage and expedite adoptions.

WITNESSES WERE ASKED TO DIRECT THEIR TESTIMONY TO THE FOLLOWING TOPICS:

1. Pursuant to provisions of the Child Welfare Reform Act, the State Department of Social Services has established regulatory requirements which set specific time frames for setting goals of adoption for children in foster care and, once such goals are established, for initiating proceedings to terminate parental rights, for placing children in adoptive settings and for completion of proceedings for the adoption of children. These time frames are as follows:

-- The goal of adoption must be set within 18 months for a child not free for adoption who will remain in foster care for a continuous period of at least 18 months

-- If a child is not free for adoption, an action to legally free the child must be initiated within 30 days of the establishment of the permanency planning goal of adoption

-- A child must be legally free for adoption within 12 months of the establishment of the permanency planning goal of adoption

-- A child legally free for adoption must be placed in an adoptive home within six months after the child is freed for adoption

-- A child in an adoptive placement must have adoption proceedings completed within 12 months after his/her placement in an adoptive home.

Increasingly social services districts and child care agencies have not adhered to these mandates. Please discuss whether the above referenced mandates are reasonable or whether they, in and of themselves, create barriers to the adoption of children. Also, address other factors that account for such noncompliance and suggest appropriate remedies.

2. When and under what circumstances should children be identified as having adoption as an ultimate goal.
3. Problems in determining and documenting when and if terminating parental rights is appropriate.
4. Problems between and among the districts, voluntary agencies, and the courts which delay, interfere with, and otherwise impede the adoption of children.
5. Difficulties which may arise in bringing proceedings for terminating parental rights on any of the specific statutory grounds contained in section 384-b of the Social Services Law (abandonment, permanent neglect, mental illness, mental retardation, severe or repeated child abuse).

6. Difficulties which may arise in the course of judicial proceedings for terminating parental rights of for the adoption of children.
7. Specific problems regarding the service of process and the termination of the parental rights of absent parents, or of parents of children born out of wedlock.
8. Particular difficulties regarding the termination of parental rights of incarcerated parents.
9. Implementation of New York State statutory requirements establishing standards for the recruitment and selection of adoptive parents.
10. The usage of the State Adoption Registry for children (the Blue Book) and the Adoptive Parent Registry.
11. The use and possible misuse of the State's adoption subsidy program.
12. The adequacy of existing incentives to voluntary agencies to promote adoption.
13. The provision of post-adoption services and problems of adoption disruption.

HEARING WITNESSES

BARBARA SABOL, Commissioner of the New York City Human Resources Administration.

HONORABLE MICHAEL GAGE, Family Court Judge for Manhattan and chair of the Adoption Committee for the State Association of Family Court Judges.

HONORABLE CARMEN J. COGNETTA, JR., Family Court Judge for Staten Island and will be speaking on behalf of Judge Bernard Meyer and the New York Task Force on Permanency Planning for Children in Foster Care.

GOLDA ZIMMERMAN, ESQ., Private attorney who specializes in adoption.

LUCIA B. WHISENAND, ESQ., Chair of the Committee on Juvenile Justice and Child Welfare for the New York State Bar Association.

CAROL R. SHERMAN, ESQ., Lawyer with the Legal Aid Society and chair of the Committee on Family Court and Family Law for the Association of the Bar of the City of New York.

JACQUELINE EBANKS, Policy analyst for the Federation of Protestant Welfare Agencies speaking on behalf of Dr. Megan E. McLaughlin, executive vice president of the organization.

URSULA LA MOTTE, Member of the board of trustees for the Children's Aid Society.

LEORA NEAL, Executive Director of the Association of Black Social Workers.

CESAR A. PERALES, Commissioner of the New York State Department of Social Services.

ELBA MONTALVO, Executive director for the Committee for Hispanic Children.

ERNESTO LOPERANA, Executive Director of the Council on Adoptive Children.

DORA DIGGS, Executive Director of the New York Foster and Adoptive Parents.

ANNE REINIGER, Executive Director of the New York Society for the Prevention of Cruelty to Children.

MARIS BLECHNER, Executive Director of Family Focus Adoption Service.

BENJAMIN ROSIN, ESQ., Private attorney who specializes in adoption.

CAROLYN KUBITSCHER, ESQ., Lawyer for Community Action for Legal Services.

NADIA FINKELSTEIN, Associate Executive Director for Parsons Child and Family Center.

CECILE HEALY, Assistant Executive Director of St. Joseph's Children Services.

JUDITH D. ASHTON, Executive Director of the New York State Citizen's Coalition for Children, Inc.

YVONNE SINGLETON, Social worker for the Harlem Dowling/Westside Center.

MARIAN BROWN, Individual wishing to adopt but has been unsuccessful in her attempt.

FRED BRANCATO, Executive Director for the Council of Family and Child Caring Agencies.

Written Testimony Submitted By:

FRANCIS W. RODE, Ossining, NY 10562

MARY FUSS, Co-Vice President Region #1
New York State Foster and Adoptive Parent Association

PATRICK O'BRIEN, Director
New York Region Doeney Side...Families for Youth

NAN DALE, Executive Director
The Children's Village

SHIRLEY SAMUELS, Ed.D., Clinical Coordinator
The Center for Preventive Psychiatry, Inc.

JANE BARUT, Coordinator
Adoption Action Network

SISTER HELEN MURPHY, Executive Director
The New York Foundling Hospital

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