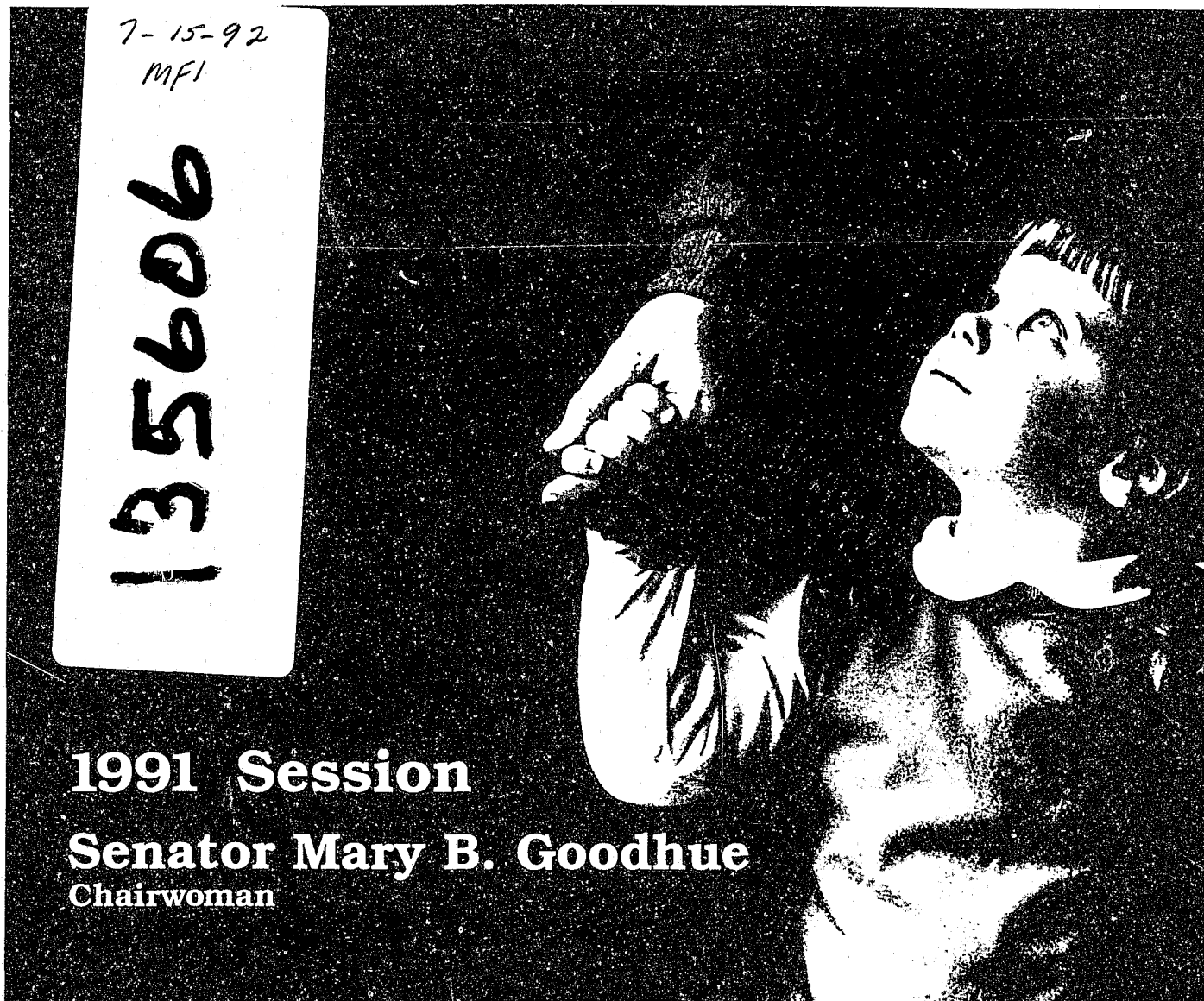


Chairwoman's Report

New York State Senate Standing Committee on Child Care



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1991 Session

Senator Mary B. Goodhue
Chairwoman

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SENATE STANDING COMMITTEE ON CHILD CARE

1991 ANNUAL REPORT

SENATOR MARY B. GOODHUE, CHAIRWOMAN

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I. CHAIRWOMAN'S COMMENTS

The 1991 Session of the New York State Legislature encompassed one of the most serious fiscal crises in the State's history. With declining State revenues, all areas of expenditure, particularly those involving human services and child welfare programs, were targeted for radically reduced appropriations by the Governor in his 1991-92 Executive Budget.

It became the primary task of the Senate Child Care Committee, working in concert with the Senate Majority, to mitigate these harmful cuts and develop fiscally sound alternatives to the Governor's proposed reductions. Of particular concern were those cuts in State aid to localities which threatened Title XX, preventive services programs and youth bureaus, a meaningful core of services to children and their families. Funding for the important area of day care was a bright spot in this otherwise gloomy picture, because of first-time availability of new federal block grant funds to New York.

Committee program activities for 1991 focused upon adoption, foster care and adolescent issues. In the area of adoption, the Legislature enacted and the Governor signed into law important Committee legislation to encourage single-parent adoptions and streamline proceedings for the adoption of abandoned children in foster care.

New statutes affecting abused and neglected children gave courts the authority to videotape interviews of sexually abused children; required the State's Child Abuse Hotline to accept phone calls even when an alleged perpetrator cannot be identified; shortened child abuse investigations by requiring local child protective units to complete their work within 60 rather than 90 days; and ensured that due process rights are observed and appellate courts

are given full information, in deciding on stays of orders to return abused children to their families.

New foster care legislation will allow social services districts to place certain foster children in mental hygiene facilities. This change in the law should save New York taxpayers more than \$1 million a year by qualifying such children for federal aid. Other new legislation establishes new procedures to expedite appeals in child welfare proceedings.

Finally, legislation enacted this year affecting adolescents will give counties permanent authority to offer adjustment services to teenagers who might otherwise be adjudicated and placed in foster care as Persons in Need of Supervision (PINS).

These and other 1991 enactments are detailed in the following pages, as are ongoing Committee activities and plans for the next Legislative Session.

The Committee held two public hearings in 1991, which are detailed in Appendices B and C. The first hearing, held in White Plains, addressed the problems which can arise concerning group homes for adolescents located in residential neighborhoods. The second hearing, held jointly in Albany with the Assembly, focused on the Child Abuse Prevention Act of 1985, the current system for investigating and mitigating institutional child abuse. Legislation to improve this process will be a key Committee concern in 1992.

Other priorities for next year include the development of "Early Care" legislation which will assure needed services to handicapped infants and toddlers; creation of an effective mechanism for investigation and treatment of child abuse in the classroom; revision of New York's child abuse and child welfare laws to better protect and promote permanency for our most vulnerable children; enforcement of child visitation orders; monitoring implementation of the State's

new family day care registration law; and development of new initiatives for financing the development of child day care programs.

II. COMMITTEE JURISDICTION

The Senate Child Care Committee was established in 1981, stemming from the Senate Majority's concern 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 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, custody and visitation, 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), county 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 on the needs of infants with AIDS and other drug induced disabilities.

III. SUMMARY OF SIGNIFICANT LEGISLATION AFFECTING CHILDREN

CHILD ABUSE

The Senate Child Care Committee was responsible this year for the enactment into law of nearly a dozen new statutes designed to protect children from abuse and neglect. Significant legislation facilitates the use of videotaping of children's testimony on child sex abuse proceedings. Other legislation strengthens the integrity and efficiency of the State's child abuse investigation and services system.

S.513-A/A.810-A - CHAPTER 113

SENATOR MONTGOMERY

This chapter adds a new Section 1052-a to the Family Court Act to enumerate the duties of respondent's counsel in a child protective proceeding. These responsibilities include the duty to explain the possible reasons upon which an appeal of an unfavorable decision may be based as well as the nature and possible consequences of the appellate process.

S.967-A/A.1849 - CHAPTER 417

SENATOR GOODHUE

This law provides that in appeals from family court orders directing the return of children who have been temporarily removed from their homes, any party to a child protective proceeding or the child's law guardian may apply to a justice of the Appellate Division for a stay of such order, and if requested, oral argument must be had on the application. The measure further requires that the party applying for the stay state in the application the errors of fact or law

allegedly committed by the family court. Finally, if a stay is granted, the bill requires that a schedule be set for an expedited appeal.

This measure was enacted to discourage practices in some counties where a local department of social services had obtained automatic stays by the clerk in the Appellate Division whenever the department appealed from an order directing the return of the child, even though the family court has conducted a hearing and determined that it would be safe to return the child to the home.

This measure will make uniform throughout the State the practice of some appellate divisions which afford counsel an opportunity to appear and argue before the justice on the application for the stay, which gives the justice the most information about the case, thereby speeding up appeals and reducing unnecessary stays in foster care.

S. 2016/A.6400 - CHAPTER 75

SENATOR GOODHUE

This measure consolidates technical amendments to Article 10 of the Family Court Act to clarify that when a respondent makes his initial appearance in a child abuse and neglect proceeding, the reading of the respondent's right to an adjournment, to obtain counsel, and the right to a hearing for the return of the child pursuant to Section 1028 of the Family Court Act, shall not be waived.

The measure makes other changes regarding a law guardian's duty to notify his client of the right to appeal, and the duty of a child protective agency to file, within 60 days of the expiration of an open order, a status report with certain agencies concerning the status or location of the child and the agency's actions or contemplated actions on behalf of the child.

This statute amends Section 422 of the Social Services Law to grant a probation service access to the records of the State Central Register of Child Abuse and Maltreatment, when the probation agency conducts a court ordered investigation of a juvenile delinquency or PINS petition. Current law had limited probation access to situations where the probation agency was conducting an investigation pursuant to Section 653 of the Family Court Act (termination of parental rights) and there was reason to suspect that the subject child or the child's siblings may have been abused or maltreated.

The existence of abuse and neglect are relevant factors to be considered by a family court when making a dispositional order in a PINS or juvenile delinquency case, especially since one of the court's dispositional options is the return of the child to the home. Expanding access of the probation service to SCR information will enable the court to make more informed decisions regarding children and their placement.

This measure amends Section 422 of the Social Services Law to give service providers access to State Central Register records concerning an abused or neglected child's family, or of abused or neglected children and their families when they refer themselves for services at the request of a local child protective agency or social services district.

Current provisions of law had granted service providers access only to SCR records concerning the abused or neglected child. This restriction impeded development and implementation of service plans designed to protect the child and rehabilitate offending family members. The chapter was necessary to assure that

service providers, themselves bound by rules of strict confidentiality governing redisclosure, are provided with comprehensive information concerning the child and family in order to effectively deal with increasingly serious problems of abuse and maltreatment. Further, elimination of statutory obstacles to service delivery regarding families which refer themselves for service assistance, as addressed in this legislation, will facilitate service delivery for those families most receptive to rehabilitation.

S. 2227 - CHAPTER 34

SENATOR GOODHUE

This measure permits appeals as of right, from intermediate family court decisions involving child neglect. Current law had permitted such appeals only in abuse cases. This statutory distinction is inappropriate because neglect cases often involve as much risk to the child as those involving abuse. (Judiciary Committee)

S. 3530/A. 5848 - CHAPTER 69

SENATOR GOODHUE

This statute makes minor technical and clarifying changes to 1991 omnibus legislation designed to improve family court practices for the protection of abused and neglected children.

S. 3652-B/A. 6934-B - CHAPTER 694

SENATOR GOODHUE

This new law gives the family court in child abuse proceedings, express statutory authority to direct that child sex abuse validation interviews be videotaped in their entirety. It enumerates factors to be considered in ordering videotaping and provides that where a validation interview is videotaped, such videotape is to be provided to the court, the law guardian and the parties. The

expert conducting the interview is required to submit to the court a verified statement confirming that the videotape is a complete and unaltered videographic record of such person's examination of the child. Before admitting a videotape into evidence, the proponent must demonstrate that the potential prejudice engendered by the use of the videotape is substantially outweighed by the probative value of the videotape. This measure does not authorize videotaping of any physical examinations of the child and does not affect the admissibility of the videotape in any other proceeding.

A regular practice in the prosecution of child abuse and neglect is the use of "validation testimony" whereby an expert in child behavior and child psychology will meet with and evaluate a child to determine whether or not such child exhibits "Child Sexual Abuse Syndrome." Such validation testimony may supply the necessary corroboration to make a fact finding of child abuse and neglect. Since validation interview process can be subjective, there is often concern that the child who is the subject of the validation interview may be susceptible to the leading questions of the validator, and this may result in the necessity of a second validation interview by the opposing party's validation expert.

Two Family Court decisions regarding validation testimony have requested new statutory authority to direct that validation interviews be videotaped (see Matter of Linda S. 560 N.Y.S. 2d 181 (Family Court Westchester County 1990); Matter of Catina C., Latanya C., Latoya C. and Angelica C. N.Y.S. 2d. (Family Court Monroe County 1991).

Clearly, in this most traumatic of all family court proceedings, videotaping of validation interviews which are stressful in themselves will serve to protect the integrity of the testimonial and evidentiary process and will assist the court in

determining the truth of alleged allegations of abuse and neglect. This statute is an important step forward in assisting the court's inquiry into the truth in child protective proceedings.

S. 3997/A. 8188 - CHAPTER 225

SENATOR GOODHUE

This new statute amends Section 422 of the Social Services Law to protect abused children by providing that the inability of a person calling the State's Child Abuse Hotline to identify an alleged perpetrator shall, in no circumstance, constitute the sole cause for the Register to reject the allegation or fail to transmit the allegation for investigation.

S. 4583-A/A.7312-A - CHAPTER 164

SENATOR GOODHUE

This new law amends Section 424 of the Social Services Law to shorten the period within which a local child protective service must complete its investigation of a report of suspected child abuse or maltreatment, from 90 days to 60 days.

Under provisions of the chapter, where a determination is not made within 60 days, the protective service must document the reason or reasons the determination was not made in 60 days and determine, within 30 days thereafter, whether the report is "indicated" or "unfounded." This latter provision expires on July 1, 1992.

The statute also eliminates anachronistic requirements for certain State Central Register screenings in agency adoptions and in Surrogate's Court guardianship proceedings.

S. 5028/A. 6572-A - CHAPTER 188

SENATOR GOODHUE

This new statute amends Section 422 of the Social Services Law to establish a new uniform procedure governing the release to law enforcement agencies of normally confidential information regarding reports of child abuse and maltreatment.

S. 5208-A - CHAPTER 250

SENATOR GOODHUE

This measure extends the provisions of the Social Services Law relating to the investigation of institutional child abuse by nine months, until March 31, 1992. This extension was required to provide continued protection for children pending re-evaluation of the statute as a result of recent Senate and Assembly public hearings on the subject (See Appendix C).

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 641

SENATOR GOODHUE

In order to minimize trauma for children and facilitate the taking of testimony of child witnesses in child abuse and neglect proceedings, this measure would add a new Part One-A to the Family Court Act entitled, "Fair Treatment of Child Witnesses in Child Protective Proceedings." New statutory provisions, modeled after applicable sections of the Criminal Procedure and Executive Laws, are set forth to govern the use of closed circuit television for these child witnesses and to set out guidelines for the taking of their testimony.

S. 767/A. 7067

SENATOR GOODHUE

This measure would permit school boards to establish policies to screen prospective school district employees against the Statewide Central Register of Child Abuse and Maltreatment and against State criminal conviction records, in order to evaluate employee applicants and protect school children from possible abuse in the public school setting.

S. 1639/A. 8881

SENATOR LIBOUS

This measure would amend section 413 of the Social Services Law to add substance abuse counselors and alcohol counselors to the list of professionals who are required to report suspected incidents of child abuse or neglect to the State Central Register.

VETOED LEGISLATION

S. 2584/A. 3927 - VETO #387

SENATOR GOODHUE

This bill would require the court to determine, at hearings to extend the foster care placement of an abused or neglected child, whether the conditions and circumstances giving rise to the order of placement have changed since the issuance of the original order, whether the child's service plan requires modification, and the extent to which the child's service plan has been complied with by the parent and the supervising agency. In determining whether an extension is consistent with the child's best interest, the court must consider whether an extension is consistent with the permanency goal established in the child's services plan, and whether the child would be at risk of abuse or neglect if returned to the parent.

The measure, reported by the Committee, was based in part upon empirical data contained in its 1990 study, Child Protection and the Family Court. The various provisions of the bill are intended to prompt the court to ask substantive questions at the extension hearing which would enhance permanency for children and thereby mitigate against unnecessary foster care placements, with resultant savings to State and local governments. The Governor in his veto message felt otherwise, maintaining the bill would add costly workloads for social services agencies and the courts.

ADOPTION

New Committee legislation signed into law this year includes measures to encourage single parent adoptions by non-legally separated spouses, and to expedite adoption of foster children. Important legislation which passed the Senate only would, among other things, make it easier to legally free abused children for adoption, and specify when the consent of the father of a child born out of wedlock is required for that child's adoption.

S. 1130/A.1979 - CHAPTER 62

SENATOR GOODHUE

This measure removes an inequitable distinction between surrogate's court and family court practices by amending the Surrogate's Court Procedure Act to eliminate the fee charged to indigent respondents who wish to defend themselves in proceedings brought to terminate parental rights. No such fees are charged indigent respondents in family court. (Judiciary Committee)

S. 1489-A/A. 2423-A - CHAPTER 691

SENATOR LACK

This new statute amends provisions of Section 384-b of the Social Services Law governing legally freeing a child for adoption on the grounds of parental mental illness or mental retardation. It adds certified psychologists to the list of expert witnesses qualified to assess the mental illness or retardation of the parent, conforming with practices under the Criminal Procedure Law where such experts may evaluate the capacities of a criminal defendant.

S. 2020/A. 3010 - CHAPTER 48

SENATOR GOODHUE

This statute makes certain technical corrections involving the transfer of custody and guardianship of foster children necessitated by the enactment of Chapter 479 and 480 of the Laws of 1990, omnibus legislation which created a new system for extra-judicial adoption surrenders of children in foster care.

S. 5029-B/A. 7478-A - CHAPTER 377

SENATOR GOODHUE

The measure amends subdivision 1 of Section 372-b of the Social Services Law to require social services districts to provide adoption services to all children who have been freed for adoption, replacing current provisions restricting these services to legally freed children who have been photo-listed with the State Adoption Services (or Picture Book). Such artificial restrictions have denied needed services to some adoptive families threatened with adoption disruption.

S. 6022/A. 2067-A - CHAPTER 254

SENATOR GOODHUE

This measure amends the Domestic Relations Law to permit "single-parent" adoptions by married persons who have lived apart from their spouses for at least

three years prior to commencing adoption proceedings, even though not legally separated pursuant to a judgment of separation or agreement of separation.

It is anticipated that this measure will encourage adoptions, especially of foster children being cared for by single foster parents who are unable to locate absent spouses to commence matrimonial proceedings or who cannot afford to secure a divorce.

S. 6247/A. 5836-B - CHAPTER 588

SENATOR GOODHUE

This new statute will make it possible to consolidate and materially eliminate, inordinate delays experienced in judicial proceedings affecting the adoption of children whose parental rights have been terminated, thus legally freeing them for adoption. In the same proceeding in which the court accepts a parent's surrender, or enters an order terminating the parent's rights to the child, the same court may now accept a petition to adopt the child and establish a schedule for completion of all inquiries, investigations and hearings necessary for the child's legal adoption.

Another provision of the law also requires that, if a child was placed in foster care as a result of a child abuse or neglect proceeding, a termination of parental rights proceedings affecting that child will, whenever possible, be brought in the same court which placed the child. Moreover, the child will be assigned the same law guardian who represented him or her in the prior proceeding.

In addition, the statute provides that applications for adoption subsidies must be accepted by a social services official prior to but contingent upon legally freeing the child for adoption. Finally, the measure permits the filing of the adoption petitions in the same court that termination of parental rights

proceedings are pending, whereupon the clerk of the court would be required to initiate statutorily mandated inquiries for the qualification of adoptive parents to expedite the processing of the adoption.

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 388

SENATOR TULLY

This measure would amend the Domestic Relations Law to permit a private placement adoption proceeding to be instituted in the case of adoptive parents residing outside the State in the county where the adoptive child was born. Current law restricts venue to the county where the adoptive child resides.

S. 830/A. 1684

SENATOR GOODHUE

This measure would require family court judges to give formal consideration to a parent's felony convictions for physical or sexual abuse of a child when determining whether to terminate the parent's rights to the child. The bill amends subdivision 8 of Section 384-b of the Social Services Law which sets forth the definitions of severe abuse and repeated abuse for the purpose of determining whether a parent's rights to a child should be terminated and the child freed for adoption. The bill would authorize a family court judge to find that a child has been severely abused by his or her parent based on that parent's criminal conviction for murder, manslaughter or first degree assault committed against the child or the child's sibling. Similarly, a judge deciding whether a child had been repeatedly abused by his or her parent could take into account the parent's criminal conviction(s) for second degree manslaughter or assault, or for rape,

sodomy, sexual abuse, or aggravated sexual abuse committed against the child or his or her sibling and count each felony conviction as a finding of abuse.

At present, only family court findings of abuse pursuant to Article 10 of the Family Court Act (child protective proceedings) may be considered for the purposes of this statute, making it difficult or impossible to establish severe or repeated abuse as a ground for termination. The effect of this practice is that in some cases, children who have been horribly abused by their parents linger in foster care and cannot be freed for adoption.

S. 1693/A. 2665

SENATOR GOODHUE

This bill amends Section 384-b of the Social Services Law to add a new subdivision 9 concerning termination of parental rights of parents who are incarcerated on a long term basis. This bill defines a long term incarcerated parent as one who is presently incarcerated and will be required to serve a minimum of three years incarceration prior to any possibility of release. The measure clarifies both agency and parental responsibilities to care for and plan for the future of the child and establishes criteria for the court to use in determining whether or not to terminate parental rights.

S. 3776-B

SENATOR GOODHUE

This proposal amends paragraph e of Section 111 of the Domestic Relations Law, to specify when the consent of the father of a child born out of wedlock and less than six months old, is required for adoption of such child. This legislation was introduced in response to the Court of Appeals decision in Matter of Raquel Marie X. (76 N.Y. 2d 387) which invalidated this statutory provision and created considerable procedural obstacles to the adoption of children in New York State.

The Court had objected to the provision of current law which made living together with the child's mother for six months preceding the child's placement a condition for the father's consent. The bill eliminates this mandate and establishes a series of requirements to evince the father's interest and concern for the child.

S. 3810/A. 6943

SENATOR GOODHUE

Chapter 314 and 315 of the Laws of 1989 conferred long-arm jurisdiction upon the courts of the State of New York to recover exorbitant adoption fees charged by out-of-state adoption placement agencies. As a result of these enactments, the State Department of Social Services promulgated regulations which require its Interstate Compact Administrator to review each and every interstate adoption application for compliance with specific restrictions on the fees charges. Departmental regulations are overly broad and inconsistent with the statutory mandate, and tend to slow down the processing of adoption.

This measure would direct the Compact Administrator to promulgate a schedule and classification of adoption fees which are authorized to be paid in connection with placement of children for adoption by out-of-state adoption agencies. The schedule and classification of fees would be made available for the guidance of all courts of adoption jurisdiction in New York State.

Significantly, the Compact Administrator would not be required to review and approve on an individual basis all fees paid in connection with the placement of children within the State for the purposes of adoption. Where the Compact Administrator reviews an adoption and feels that the fees charged in connection with such placement are in excess of statutory classification and fee provisions the Administrator would grant a conditional approval for the placement, and

notify the court where the adoption is to be commenced of such violation with a recommendation that, as a condition of final approval of the placement, legal action be taken to recover that portion of fees in violation of New York law.

S. 6001/A. 8686

SENATOR GOODHUE

This bill would provide for a conditional order of certification as an adoptive parent pending receipt of a completed criminal record or State Central Register screenings. It also establishes a provision for extension of an adoptive parent certification without the requirement for complete repetition. Finally, this measure requires non-residents adopting New York children to be certified as qualified adoptive parents under New York Law.

FOSTER CARE

Legislation enacted in 1991 will expedite child welfare judicial appeals, improve the management of New York's child welfare foster care system, and secure significant new federal aid to reduce taxpayers costs. A major new statute will, on a demonstration basis, make preventive services funds available for housing subsidies designed to avert foster care placements. Important legislation which passed the Senate will impose penalties on social services officials for wilfully violating court orders to provide services to children and their families. Another measure will improve standards and enhance community protections regarding adolescents placed in group homes.

S. 969-A/A. 1851-A - CHAPTER 267

SENATOR GOODHUE

This measure amends Sections 374-b, 374-c, and 374-d of the Social Services Law to require that a local social services districts placing a child in an agency operated boarding home, group home, and public institution, certify that such placement is the most appropriate and least restrictive level of care, that such care is more appropriate than foster family care or that the placement is necessary because there are no qualified foster parents available. In addition, the State Department of Social Services will be required to assist districts in recruiting and training foster parents if the number of county placements in group facilities instead of foster homes so warrants.

It is expected that this measure will encourage local social services districts to place children in foster homes in preference to placement in more costly public institutions.

S. 1813-D/A. 2844-D - CHAPTER 582

SENATOR GOODHUE

This measure is intended to expedite judicial appeals involving children in foster care, in order to reduce the length of time involved in moving a child from foster care to a permanent placement, through either return home or placement with an adoptive family. It sets forth uniform procedural requirements for the appeals process, fixing the duties and responsibilities of the parties, their counsels and the child's law guardian, and imposes distinct time frames for completion of the appeals process, including the request for and receipt of transcripts of the proceeding appealed from, and perfecting an appeal.

S. 2348/A. 3610 - CHAPTER 55

SENATOR GOODHUE

This statute adds a new subdivision 7 to Section 372 of the Social Services Law which provides that, when a child is to be placed with or discharged to a relative or other legally responsible person pursuant to a child protective proceeding, child care agencies must provide such relatives with the same background information concerning, and essential for proper care of, the child as is currently shared with foster parents.

S. 3892-A/A. 5100-B - CHAPTER 198

SENATOR GOODHUE

This measure conforms New York Law to provisions of the U.S. Social Security Act which require the family court, when approving the voluntary placement of a child in foster care or ordering foster care on an involuntary basis pursuant to provisions of the Family Court Act, to make findings concerning the local district's reasonable efforts to avoid placement, as well as to provide services needed to assist a child who has attained age 16 to make the transition from foster care to independent living. It also extends for an additional year, until April, 1992, a state demonstration program to assist custodial parents receiving public assistance benefits to become self-sufficient through the use of child assistance payments and enhanced child support, instead of welfare benefits.

S. 5318/A. 6441-A - CHAPTER 697

SENATOR GOODHUE

This new law authorizes a local social services commissioner to place foster children in facilities licensed or operated by any office of the Department of Mental Hygiene, thereby permitting federal financial reimbursement for eligible children placed in mental hygiene facilities who have until now been cared for

completely with State dollars. Implementation of this measure is expected to save State taxpayers \$1 million a year. Decisions regarding admission of foster child will continue to be made by the Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, the Division of Alcoholism and the Division of Substance Abuse Services while the local social services agency will retain permanency planning and monitoring responsibilities for the child.

S. 6095/A. 8498 - CHAPTER 165

SENATOR TULLY

This new statute, an omnibus cost-control measure for Medicaid and other social services programs, contains a significant provision to materially enhance the use of housing subsidies as a tool to prevent family breakup and averting the need for costly foster care. Governor Cuomo has twice vetoed legislation on this subject that had been initiated by the Committee and passed by both Houses of the Legislature.

Under the measure, the State Department of Social Services is to commence, effective August 1, 1991, a statewide demonstration project encompassing up to one thousand families which offers rent assistance to families of up to \$300 a month. Under the project, to which more than half the counties in the State have already subscribed, a family receiving a housing subsidy must be otherwise eligible for mandated preventive services (those needed to prevent the placement of children in foster care), and have at least one service need other than the lack of housing. Further, a social services official must reasonably believe that the provision of such aid would enable a child to remain at home and stay out of foster care placement.

Under the statute, the Department is charged with evaluating the new program, determining its impact on the need for foster care, and the extent to

which foster care cost avoidance produces net savings to the State and local governments. Expenditures under the demonstration, subject to the availability of funds, will be subject to seventy-five percent State reimbursement (the same matching formula for other mandated preventive services).

S. 6202/A. 8569 - CHAPTER 674

SENATOR GOODHUE

This measure is designed to encourage local social services districts to expand community optional preventive services programs designed to reduce the need for placing children in foster care. Amending Section 409-b of the Social Services Law to allow local districts to substitute in-kind or indirect services, for tax levy funds, or non-tax levy funds, in an amount not to exceed one half of the district's share (which is 50 per cent) for community optional preventive services. This new law establishes equivalent local matching requirements for all optional preventive services programs, which are governed by closed-end appropriations made annually by the Legislature, thus entailing non increase in State or local costs.

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 993/A. 1813

SENATOR SKELOS

This measure amends Section 378-a of the Social Services Law to give social services districts access to the conviction records maintained by the State Division of Criminal Justice Services, for the purposes of reviewing applications of prospective foster parents.

This bill amends the Family Court Act and Social Services Law to clarify that the family court may impose penalties upon a social services official who willfully violates an order of the court directing that services be provided to a child or family. Under the bill the court, upon a finding after notice and hearing, may also impose reasonable costs and/or attorney's fees upon the social services official.

Family Court judges and practitioners have reported serious problems when social services officials have ignored judicial orders and failed to provide needed services to children and families. Allowing the imposition of costs and fees will encourage attorneys to bring motions to enforce family court orders designed to promote permanency for children.

This measure is the product of a Committee hearing on the supervision of adolescents in group home care held in February of 1991 (See Appendix C). It would amend Section 374-c of the Social Services Law, to require that the State Department of Social Services establish standards governing the placement of children in foster care group homes, including timely provision of medical records and other background information to the agency caring for the child, return of the child to the sending agency; requirements governing group home safety and security procedures, programming for and supervision of children, child-staff ratios, shift coverage, employee training and supervision; and requirements for the reporting to law enforcement officials of incidents occurring off the premises of the group home which a facility official reasonably believes constitutes a crime involving a child placed in the group home.

The bill also requires all State agencies operating or regulating group homes to promulgate regulations requiring the establishment of a neighborhood

advisory committee for a group home or for two or more group homes located within the same geographic proximity. Each neighborhood advisory committee would include but not be limited to a representative from the local law enforcement agency of the municipality where such group home is located, as well as residents of the neighborhood in which the group home is located.

CHILD DAY CARE

Committee activity with regard to child day care issues focused on implementation of the new Family Day Care Registration Law (Chapter 750 of 1990), developing the Senate's fiscal priorities for federal block grant funds under the U.S. Jobs Program and reexamining the statute authorizing funding of child care resource and referral agencies to ensure adequate funding levels and access statewide to the services of these vital programs. These important issues will continue to concern the Committee in the coming year.

S. 3996-A/A. 6369-A - CHAPTER 260

SENATOR GOODHUE

Since the middle of the last decade, child day care programs have been required to screen prospective employees against the records of the Statewide Central Register of Child Abuse and Maltreatment. Unfortunately, staff turnover happens too often and many day care centers have had to operate with staff vacancies while prospective employees were awaiting Register clearance. These circumstances produce lower quality programs than parents or centers want. This new law will allow child day care workers to work prior to Register clearance so long as they are supervised while caring for children.

S. 6184/A. 8631 - CHAPTER 394

SENATOR GOODHUE

This bill delays the effective date of the 1990 Family Day Care Registration Law for 90 days, from July 22, 1991, until October 22, 1991. The New York State Department of Social Services had requested the extension because it plans to use a portion of federal block grant funds for implementation of the new law. There will be a public education campaign to inform family day care providers and

parents, orientation sessions in localities to facilitate registration, and new State staff to process the registrations. All currently operating family day care providers will be urged to register and thus gain access to the services of child care resource and referral agencies, State Department of Agriculture food grants, and training in early childhood theory and practice.

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 968/A. 1850

SENATOR GOODHUE

This measure increases penalties for sale of controlled substances in or near day care centers. (Codes Committee)

S. 5072

SENATOR GOODHUE

Under legislation initiated by the Senate in 1984, school districts were authorized to offer child day care in school buildings during non-school hours. Under this bill, school districts would be allowed to offer child day care for the children of public school students and school district employees, provided that the cost of such care is not a school district charge. The Committee believes that the cost of such day care should be the responsibility of the parents or agencies assisting teen parents, and not a cost to local school district taxpayers.

JUVENILE JUSTICE

Committee legislation enacted into law in 1991 will make permanent statutory authority to provide PINS diversion programs and offer preventive services rather than foster care placements. A second measure, introduced as a Budget bill, will establish day placement programs under the State Division for Youth. Other measures will enhance the integrity and security of Division for Youth programs.

S. 2924/A. 4424 - CHAPTER 430

BUDGET BILL

This new statute authorizes the Division for Youth to establish day placement programs for juvenile delinquents or persons in need of supervision for the period of placement imposed by the court. The Division will establish regulations determining the eligibility for such programs for youth whose parents or other caregivers work with the Division to provide an opportunity for the adolescent to attend school and live at home successfully. (Finance Committee)

S. 4511/A. 7914 - CHAPTER 235

SENATOR GOODHUE

This measure extends until September 1, 1992, the authority of the State Division for Youth to transfer juvenile offenders to non-secure Division facilities to facilitate their reintegration into the community.

S. 4587/A. 7467 - CHAPTER 237

SENATOR LIBOUS

This new law will allow the family court in orders affecting PINS and juvenile delinquents to direct an adolescent to an Alcohol Awareness Program,

provided the youth has not been placed in a secure facility. (Alcoholism and Drug Abuse)

S. 4602/A. 7470 - CHAPTER 239

SENATOR GOODHUE

This measure permanently allows districts with approved local plans for adjustment services to divert youngsters from family court proceedings, relating to persons in need of supervision to services. PINS adjustment services, heretofore authorized on a temporary basis, have been highly successful throughout the State in providing needed family services and averting the need for expensive foster care placement.

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 840/A. 1659

SENATOR MEGA

In order to assure oversight over the care of adolescents in Division for Youth facilities, this bill permits State legislators, the Governor, Lieutenant Governor, Commissioner of General Services, Comptroller, Attorney General, judges and district attorneys to visit at their pleasure all DFY facilities for juvenile delinquents and PINS. The Director of the Division is also required to promulgate a general visitation policy for all other visitors, consistent with safety and security needs of DFY facilities.

S. 841/A. 1658

SENATOR MEGA

To establish standards for employment with the Division for Youth, this bill amends the Executive Law to prohibit the Division from hiring any convicted felon as a Youth Division Aide (YDA). Persons convicted of misdemeanors could also

be disqualified from appointment as YDA's at the discretion of the Division's Director.

S. 1176/A. 1945

SENATOR STAFFORD

This bill amends the definition of a Person In Need of Supervision (PINS) to include any individual up to the age of 18. The present statute defines a PINS as a male up to 16 years of age and a female up to age 18. This distinction between the sexes has been declared unconstitutional by the New York State Court of Appeals and the courts of the State have interpreted the ruling as limiting PINS jurisdiction to age 16. This measure would create a uniform, higher age limit, making it possible to provide needed court intervention for older truant or incorrigible adolescents.

S. 3897-A

SENATOR GOODHUE

This measure amends the Executive Law and the Family Court Act to allow the Division for Youth to seek support payments from parents of adolescents served by Division programs. A statutory emphasis on appropriate parental responsibility for child support will produce savings to State and local taxpayers, who now bear the fiscal burden of Division for Youth placements.

S. 4047/A. 4188

SENATOR GOODHUE

This measure amends the Executive Law to authorize the Director of the Division for Youth to request that the Department of Correctional Services take temporary custody of a juvenile offender until a sentencing court acts on the Division's application for transfer of the adolescent to a more secure facility under the Department's jurisdiction. In such cases, the Division must certify

that the youth's continued presence in a DFY facility creates an imminent and substantial risk of serious harm to the youth or others.

S. 4492-A/A. 1798-A

SENATOR TULLY

This bill amends Article three of the Family Court Act to authorize a probation officer to execute a warrant in cases where juvenile delinquents violate conditions of probation or conditional discharge. Probation officers have similar authority in criminal cases.

S. 4892-A/A. 8561-A

SENATOR GOODHUE

This bill amends Article three of the Family Court Act to respond to the Court of Appeals decision in Matter of Randy K, under which a respondent in a juvenile delinquency proceeding absconded, causing a dismissal of the petition for failure to comply with requirements for the presentment agency to periodically petition the court for adjournment of the proceeding.

This bill provides that in such circumstances, the time of a respondent's absence will be excluded in determining when a fact-finding may commence, so long as the presentment agency documents to the court due diligence to effect the respondent's return.

IV. GENERAL LEGISLATION AFFECTING CHILDREN

Two changes in the State's Labor Law will affect young people who have part-time jobs during the school year. A third new law will help communities address problems of teen vandalism.

S. 2368-A/A. 3619-A - CHAPTER 133

SENATOR PADAVAN

This law allows a city to create an anti-vandalism task force to examine the nature and scope of vandalism problems in such city, survey efforts to combat vandalism, and coordinate preventive efforts with local civic organizations.

S. 3186-A/A. 4864-A - CHAPTER 292

SENATOR DALY

This measure amends the Labor Law to make an exception to current restrictions on youth employment to enable 14 and 15 year olds to work at family farm stores.

S. 4499/A. 3750 - CHAPTER 104

SENATOR LEVY

This law increases penalties for violation of child safety seat requirements established to prevent serious injury or death. (Transportation Committee)

S. 5319-B/A. 7286-B - CHAPTER 642

SENATOR LACK

This new law changes Labor Law provisions to permit 14 and 15 year olds who work while school is in session, to work only 18 hours per week, instead of 23 hours as previously. Adolescents aged 16 and 17 will be permitted to work only 23 hours per week, instead of 28 hours, and must stop working by 10 at night unless the minor's parents have given written consent for late hours. The law

also stipulates that a school district may not issue a work permit to a child who has failed four courses unless the school has looked carefully at the student's school record and the teenager's willingness to participate in a cooperative education work study, or other alternative program.

S. 5356-A/A. 7363-A - CHAPTER 368

SENATOR HANNON

This new statute includes families with children within the provision of the Human Rights Law prohibiting discrimination in sale, lease or rental property.

(Investigations Committee)

LEGISLATION WHICH PASSED THE SENATE ONLY

S. 1366-A/A. 2358-A

SENATOR GOODHUE

This bill authorizes the use of "Drug Free School Zone" signs on school grounds. (Education Committee)

S. 2046/A. 4079

SENATOR JOHNSON

This bill makes it a felony to possess materials depicting child pornography. (Codes Committee)

S. 2788/A. 4271

SENATOR MARINO

This bill requires schools to obtain certain parental information and previous school records of students transferring from another school, and to report any student absent for more than 5 days who cannot be located.

(Education Committee)

S. 3784

SENATOR SEWARD

This legislation will restrict access of minor to dial-a-porn by requiring telephone companies to provide such service only to those over age 18 requesting access. (Energy Committee)

APPENDIX A

BUDGET APPROPRIATIONS AFFECTING CHILDREN

1991-1992

DIVISION FOR YOUTH

YOUTH DEVELOPMENT AND DELINQUENCY PREVENTION (YDDP)

\$54,721,400 - YDDP funding was reduced by 54 per cent in the Governor's Executive Budget proposal. However, active lobbying on the part of many youth advocates convinced the Legislature that this large a curtailment of YDDP should not stand, and \$16,968,000 of the proposed \$21.2 million cut was restored by the Legislature.

SPECIAL DELINQUENCY PREVENTION PROGRAMS

\$12,620,520 - Always funded without a local match, these programs were to be cut by almost \$2.5 million in the Executive Budget. The Legislature restored \$1,989,920 of the reduction.

ADDITIONS TO STATE OPERATIONS FOR THE DIVISION FOR YOUTH

\$4,336,800 - This amount was restored from cuts proposed by the Governor in the areas of aftercare, intake staff, program services, and group and urban home funding. The Legislature determined that the reductions were too drastic and would cause a radical increase in adolescent recidivism.

CHILD DAY CARE

SPECIAL DAY CARE SERVICES \$41,284,000

\$36,866,000 - For child day care subsidies to low income parents who are teenagers, persons making the transition from the public assistance rolls to employment, or working parents with incomes at or below 200 per cent of the poverty income guidelines. This appropriation is at the 1990-91 level.

\$1,813,000 - For child care resource and referral agency contracts.

\$2,605,000 - For start-up grants for new child day care programs.

The State's low income day care subsidy program is available with 87.5 per cent State funding. In addition, there are subsidies available to low income

families from several federally funded programs including: the JOBS programs for teen parents and others training or becoming employed; the Social Security Act Title IV A program for families at risk of foster care; and the new federal Early Childhood and Development Block Grant. The amounts available under IV A, if fully funded, will total \$19 million and under the Block Grant, \$43 million. Subsidies paid under JOBS can only be calculated after claimed. A portion of the Block Grant will be spent on public education for parents on how to chose quality day care; efforts to coordinate part-day programs to offer full day care for parents; support for resource and referral programs; and for "compliance grants" to child care providers regarding safety regulations for child care.

SALARY ENHANCEMENT REAPPROPRIATION

- \$2,000,000 - For not-for-profit center staff salaries.
- \$1,800,000 - For head start staff salaries. This reappropriation will allow expenditure of fund originally authorized in 1990-91.

PROGRAMS FOR AT RISK YOUTH

YOUTH EDUCATION, EMPLOYMENT AND TRAINING PROGRAM

- \$15,536,960 - For Labor Department programs for disadvantaged youth, vocational training, employment skills, job placement and entry into post secondary education.

AT RISK YOUTH AND COMMUNITY PARTNERSHIPS

- \$3,355,000 - State Education Department local assistance funds for the 1990-91 school year.
- \$1,542,400 - Initial appropriation for 1991-92 fiscal year, representing a \$4 million school year commitment.

SCHOOLS AS COMMUNITY SITES

- \$4,200,000 - For coordinated services offered at schools by community agencies.

SCIENCE AND TECHNOLOGY ENTRY PROGRAM

- \$5,398,400 - For a high school student tutoring program for at risk youth.

LIBERTY PARTNERSHIPS

\$10,320,800 - For college and university sponsored drop out prevention programs to encourage students to stay in school and aim for college educations.

STAY IN SCHOOL PARTNERSHIPS

\$771,200 - For drop out prevention programs operated in cooperation with local schools and area colleges.

CHILD ABUSE PREVENTION

CHILD AND FAMILY TRUST FUND

\$500,000 - For new programs.

\$1,458,000 - For third and fourth year operation of currently funded programs. All of these programs seek to prevent child abuse, domestic violence and elder abuse.

CRISIS INTERVENTION CENTER

\$115,680 - To maintain twenty-four hour comprehensive emergency services centers for families in crisis because their children may be removed from the home or the families are homeless.

FOSTER CARE

TITLE XX SERVICES TO CHILDREN AND FAMILIES

\$25,400,000 - The Governor in his 1991-92 Executive Budget proposed the elimination of the State's share of federal Title XX funds. The Legislature restored 80 per cent of the State's share. However, an additional gubernatorial recommendation to require that 24 per cent of local Title XX expenditures be dedicated to preventive service programs, was retained in the enacted State Budget.

COMMUNITY BASED FOSTER CARE PREVENTION PROGRAMS

\$1,300,000 - For community based programs designed to promote family stability and prevent the placement of children in foster care.

HOME BASED FAMILY PRESERVATION

- \$4,300,000 - For home based family preservation (Home Builders), therapeutic foster homes and respite care programs.
- \$500,000 - To train service providers and evaluate these demonstration programs.

NEIGHBORHOOD BASED INITIATIVES

- \$500,000 - For comprehensive programs in high-risk neighborhoods designed to address children and family problems through integration of disparate approaches and funding arrangements.

FOSTER GRANDPARENT PROGRAM

- \$362,400 - To provide a foster grandparent program to neglected and disadvantaged children.

HOUSING SUBSIDIES

- \$4,000,000 - A new demonstration program to provide housing subsidies to keep families together and prevent foster care placement.

HEALTH CARE FOR CHILDREN

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

- \$62,769,900 - For programs which augment federal funds for nutrition assistance to children and families.

PRENATAL CARE ASSISTANCE PROGRAM

- \$3,432,000 - For outreach and prenatal care services to pregnant women to reach mothers who do not receive prenatal care.

PRENATAL CARE AND OBSTETRIC SERVICES IN UNDER-SERVED AREAS

- \$4,000,000 - For services to medically needed women and children for under-served areas.

FAMILY PLANNING

\$14,979,700 - For programs to increase the availability of contraceptive education and services.

EARLY CHILDHOOD DIRECTION CENTERS

\$1,401,350 - To maintain information and referral programs to help families of handicapped children from birth to age five.

SCHOOL BASED HEALTH SERVICES

\$3,185,600 - For clinics offering primary health care services to preschool, school age and adolescent children in medically under-served areas.

COMPREHENSIVE SCHOOL HEALTH EDUCATION DEMONSTRATION PROJECT

\$771,200 - For development of elementary school comprehensive health programs.

INTENSIVE CASE MANAGEMENT SERVICES

\$6,965,920 - For mental health services to severely emotionally disturbed children and adolescents.

APPENDIX B

PUBLIC HEARING

HELD BY:

**The New York State Senate Committee on Child Care
Senator Mary B. Goodhue, Chairwoman**

TOPIC: Group Home Foster Care for Adolescents
DATE: February 8, 1991
TIME: 10:00 A.M. - 2:00 P.M.
PLACE: White Plains Library, 100 Martine Avenue, White Plains, NY 10601

In September of 1990, teenage residents of a group home operated by Cardinal McCloskey Children and Family Services in Peekskill, New York, burglarized the home of a local resident and stabbed one household member. Subsequent investigations of the incident by law enforcement personnel and officials of the State Department of Social Services indicated serious deficiencies in the operation of the group home, including questionable intake policies, inadequate screening of children with prior criminal behavior, and seriously deficient supervisory policies which permitted continued burglaries and neighborhood harassment over long periods of time. These events, combined with reports of problems in other group care settings, point to the need for the Committee to reevaluate the mechanisms governing the selection of sites for foster care group homes, intake criteria for the placement of foster children in group home settings and systems for the administration and supervision of group home care.

The Committee considers it critical that quality care for foster children be provided while at the same time protecting community residents from recurring disturbance and victimization by children who are group home residents.

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

1. What is, and what should be, the obligation of referring counties to furnish background information on adolescents placed on an emergency basis to the agencies operating group foster homes?
2. Should emergency placements in group homes be prohibited or otherwise limited? If so, what limits are appropriate?
3. What are appropriate intake criteria governing any placement of adolescents in group home settings?
4. What program structure is appropriate for adolescents placed in group homes?
5. What are appropriate supervisory controls for adolescents placed in foster care group homes, both within the home itself as well as in the community?
6. What amendments may be appropriate regarding Chapter 365 of 1990 which requires social services agencies to notify municipalities of their intention to operate a foster care group home in a particular community setting?
7. Are additional mechanisms necessary to ensure the safety and security of community residents, prior to and follow up of the commencement of operations of a foster care group home?
8. What role should the NYS Department of Social Services play in the supervision and monitoring of agency operated group foster homes? Should the Department initiate a biennial or triennial process for licensing of agency homes and facilities?

HEARING WITNESSES

NICHOLAS ANGELL - Peekskill, NY

MICHAEL GARBER - Associate Executive Director of the New York Foundling Hospital

ROBERT O'CONNOR - President of Westchester Lake Property Owners Association

JACK GAFNEY - Supervisor, Town of Cortlandt

SUSAN HABEL - Deputy Commissioner of Planning for the City of White Plains

ANONA JOSEPH - Assistant Commissioner of Family and Children's Services (speaking on behalf of Cesar Perales, Commissioner, NYS Department of Social Services)

TED SALEM - Director of Institutional and Group Care for Westchester County Department of Social Services (speaking on behalf of Mary Glass, Acting Commissioner)

FRED BRANCATO - Executive Director, NYS Council of Family and Child Care Agencies (NYSCOFCCA)

POUL JENSEN - Assistant Executive Director of Saint Christopher Otilie

EDWARD DEE - Assistant Executive Director, Cardinal McCloskey Children and Family Services

NAN DALE - Executive Director, Children's Village

DENIS BARRY - Executive Director, Abbot House

JAMES LAVELLE - Executive Director, Saint Cabrini Homes, Inc.

JOSEPH WHALEN - Administrative Director of Green Chimneys Children's Services

ROBERT CORKE - Executive Director, Yonkers Residential Center

MARK FREEDMAN - Assistance Director, Community Residences Information Services Program

CRAIG JORGENSON - Chief of Police, Pound Ridge, NY

JOHN COXEN - Sergeant, Police Department, Ossining, NY

APPENDIX C

JOINT PUBLIC HEARING

HELD BY

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

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

New York State Senate
Committee on Mental Hygiene
Senator Nicholas A. Spano
Chairman

TOPIC: Institutional Child Abuse

TIME: 10:00 A.M. - 4:00 P.M.

DATE: February 26, 1991

PLACE: Courtroom #1, 7th Floor, Justice Building, Empire State Plaza,
Albany, NY 12223

In response to the serious under reporting of abuse and neglect in residential care, as well as major operating deficiencies associated with the prevention and treatment of child abuse, the Legislature enacted the Child Abuse Prevention Act of 1985. The measure, for the first time, defined in statute, abuse and neglect in out-of-home settings and required reporting, investigation, treatment and corrective action within residential child care facilities.

The Act shifted the responsibility for the investigation of allegations of abuse and neglect from operators of facilities where the abuse or neglect allegedly occurred to two State agencies--the State Department of Social Services and the State Commission on Quality of Care for the Mentally Disabled.

The State Social Services Department is responsible for the investigation of reports of abuse or neglect in group home or Division for Youth facilities and New York State Department of Education residential institutions for the deaf and blind. The State Commission on the Quality of Care for the Mentally Disabled is responsible for the investigation of reports of abuse or neglect on children in facilities operated or regulated by the Office of Mental Health and the Office of Mental Retardation and Developmental Disabilities (exclusive of family care homes). The measure expired on March 31, 1990, and was extended by an act of the 1990 Legislature until June 30, 1991.

HEARING WITNESSES

NAN DALE - Executive Director, Children's Village, Dobbs Ferry, N.Y.

CLARENCE SUNDRAM - Chairman, NYS Commission on Quality of Care for the Mentally Disabled

ANONA JOSEPH - Assistant Commissioner, NYS Department of Social Services

SANDRA FORQUER - Associate Commissioner NYS Department of Mental Health

KEVIN WALSH - Director of Child Care Workers, Berkshire Farms, Canaan, N.Y.

BARBARA HAWES - Deputy Commissioner for Program Operations, NYS Office of Mental Retardation and Developmental Disabilities

THOMAS SOBOL - Commissioner, NYS Education Department

RICHARD C. SURLES - Commissioner, NYS Office of Mental Health

GWENDOLYN JONES - Associate Deputy Commissioner, NYS Division for Youth

FRED BRANCATO - Executive Director, NYS Council of Families and Child Caring Agencies

JAMES CAMERON- Director of the Federation on Child Abuse and Neglect

FLO STERN - President, Local 215, AFSCME

GARY GIUDO - Chief Executive Officer for W.A.I.T. Houses, Inc., Schenectady, N.Y.

DAVID GIACALONE - Senior Staff Attorney for Statewide Youth Advocacy

JOHN CARSWELL - Executive Director, Parsons Child and Family Center, Albany, N.Y.