



New York State Assembly

Sheldon Silver
Speaker



2013

ANNUAL REPORT

Committee on
Children and Families

Donna Lupardo
Chair



THE ASSEMBLY
STATE OF NEW YORK
ALBANY



Donna Lupardo
Assembly 123rd District

CHAIR
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Honorable Sheldon Silver
Speaker of the Assembly
State Capitol, Room 349
Albany, New York 12248

December 15, 2013

Dear Speaker Silver:

As Chair of the Assembly Standing Committee on Children and Families, it is my distinct pleasure to submit to you the 2013 Annual Report. This year, the Assembly has continued its commitment to improving outcomes for New York's children and families. The Committee put forward several policy initiatives this year that were enacted into law, including clarifying the standard for severe abuse in the Family Court and ensuring best practices for vulnerable adults.

The Committee also directed its attention to safety and quality in child day care settings. In addition to ensuring access to child care for working families, the Committee seeks to promote high quality standards in all child day care settings. This year the Committee advanced legislation supporting both of these goals, such as a bill to provide advance notice prior to a parent losing eligibility for child care assistance and a bill requiring child care providers use cordless blinds. The Committee also supported budget restorations including additional funding for the Facilitated Enrollment program, which provides subsidies for parents up to 275% of the poverty level.

This year, the Committee was active in seeking public input on important policies affecting communities around the State. The Committee sponsored two hearings on child protective practices to better understand how the State can support localities in effectively protecting vulnerable children. The Committee also sponsored a hearing to explore the current age of criminal responsibility in New York State. Important information was gathered regarding the treatment of 16-year-olds as adults and how a shift in this policy would affect children, families and communities.

Despite the budget shortfall facing the State, the Legislature was able to restore funding to many crucial programs such as Settlement Housing, Advantage After School, and Community Reinvestment. The Legislature continued funding for many core programs including child care and foster care block grant funding. The Legislature also restored funding for programs serving youth in need of shelter and care such as Runaway and Homeless Youth and Safe Harbour for Exploited Children.

In closing, I would like to express my appreciation to you, the members of the Committee and the many hardworking advocates across the State for continuing to support these efforts.

Sincerely,

A handwritten signature in cursive script that reads "Donna h. Lupardo".

Donna Lupardo
Chair
Committee on Children and Families

**2013 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CHILDREN AND FAMILIES**

**Donna Lupardo
Chair**

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I. INTRODUCTION

The Assembly Standing Committee on Children and Families, established in 1975 as the Committee on Child Care, has jurisdiction over legislation affecting: 1) child welfare, including foster care, preventive services, and adoption; 2) child care; 3) juvenile justice, including youth development and delinquency prevention programs, Persons in Need of Supervision (PINS), and the detention and placement of adjudicated youth; 4) adult protective services; 5) residential and non-residential domestic violence services; and 6) other services and programs for children and their families, including Family Court processes.

In New York State, there are 62 counties and 58 local social services districts. Each county represents a local district, with the exception of New York City which operates as one district for all five counties. The Office of Children and Family Services (OCFS) oversees local district provision and administration of child welfare, child care, youth programs, adult protective and other publicly funded services for children and families. In addition, in New York City, the Administration for Children's Services (ACS) is responsible for the provision and administration of child welfare services, juvenile justice services and child care assistance.

Each local social services district is required by law to provide child protective services, preventive services where a risk of foster care exists, and foster care services for children who are at imminent risk in their own homes. After a child protective investigation, a district will make a determination regarding the need for preventive services, as well as foster care. The district may provide preventive and foster care services directly or through contract with a private not-for-profit agency. Preventive services may help the family avoid foster care or help a child to return home from foster care. Such services may include counseling, drug treatment and home management skills.

If a child is placed in foster care, that decision must be affirmed by a Family Court judge. The court will also determine whether the local district has made reasonable efforts to reunite the child with his or her family and set forward a permanency goal for the child. Foster children may reside in a variety of settings, including foster family homes, group homes and residential institutions. Foster parents receive subsidy payments, comprised of Federal, State and local funds and issued by the local social services district.

Local social services districts also issue subsidy payments to child care providers on behalf of low-income families eligible for child care assistance. This assistance is comprised of Federal, State and local funds and helps families maintain employment while their children are being cared for in a safe environment. Outside of New York City, child care providers are licensed and certified by OCFS, which also conducts inspections to ensure compliance with State regulations. In New York City, the New York City Department of Health and Mental Hygiene is the licensing agency for child care providers, while ACS contracts with and issues payments to providers. These payments may also come in the form of a voucher given directly to the eligible family. Statewide, child care is provided in a variety of settings such as child care centers, group family day care homes and family day care homes. Informal child care is also available statewide, for providers that serve no more than two children or serve children for no more than three hours a day. These providers are not required to be registered or licensed.

The juvenile justice system in New York State is comprised of State, local and privately operated programs for youth. Youth may be placed by the Family Court in a private voluntary agency, contracting with either the local social services district or OCFS. OCFS operates secure, limited-secure and non-secure juvenile justice facilities, where adjudicated youth may be placed as juvenile delinquents or by the Criminal Court as juvenile offenders. OCFS currently operates 11 such facilities statewide. The “Close to Home” reform enacted in the SFY 12-13 budget requires that adjudicated youth from NYC be placed with the Administration for Children’s Services (ACS) rather than OCFS. This reform lowered the number of youth placed with OCFS by transferring NYC youth in non-secure facilities to, and by placing all newly adjudicated youth with, ACS. It is expected that all NYC youth placed in limited-secure facilities will be transferred to ACS in the near future, pending the approval of the city’s plan to care for such youth.

OCFS provides after-care services to youth leaving placement, based in 14 Community Multi-Services Offices statewide. Each youth leaving placement in an OCFS-operated facility receives after-care services to help with the transition back into the community. Pursuant to the “Close to Home” plan submitted by ACS, the city provides after-care to youth transitioning out of placement in voluntary agencies.

Localities also operate and provide juvenile justice programs and services. Counties operate detention facilities where a youth may be held prior to adjudication or placement. Counties also operate or contract with providers for non-mandated services for youth involved, or at risk of involvement, in the juvenile justice system. These programs include alternatives to detention and residential care, where an at-risk youth may receive services such as supervision and counseling. While the State provides funding for alternative programs, the number and types of programs available vary statewide.

Local social services districts are also responsible for providing adult protective services for adults who, because of mental or physical impairments, are unable to manage their own resources, carry out activities of daily living, or protect themselves from physical, sexual or emotional abuse, and have no one willing or able to assist them. Districts are mandated to accept and investigate reports of persons alleged to be in need of protective services and provide such services without regard to income. These services may include arranging for medical and mental health services, assisting in relocating the adult to a safe location, drug treatment and assuming guardianship of the adult.

Domestic violence services are also provided by each local social services district, as required by the New York State Domestic Violence Prevention Act of 1987. OCFS issues regulations establishing standards for such services, which include both non-residential and residential domestic violence programs. The residential programs are licensed by OCFS and include shelters with ten beds or more, safe dwellings for victims and their children and safe home networks providing emergency services coordinated by a not-for-profit organization. OCFS also sets the per diem rate for residential domestic violence programs.

II. SUMMARY OF COMMITTEE ACTION

A. CHILD CARE

The availability of child care is tied to both the social and economic development of New York State. Quite often, the child care expenses for a family of four can exceed the cost of food, rent and other household expenses, resulting in the cost of quality child care becoming the single largest expense in the family's budget. The Committee on Children and Families has continued to stress the critical need for accessible, affordable, safe, and quality child care. Parents must have reliable child care in order to maintain their employment, and young children need quality settings for appropriate educational and social development. This year, the Assembly fought to ensure that the State budget would preserve funding for quality child care, while also making quality child care more accessible and safer for children of low-to moderate-income families.

1. Legislative Initiatives

a. Cordless Window Coverings (A.812-A, Rosenthal/S.3678-A, Gallivan; Passed Assembly)

Cords on blinds and window coverings pose a major hazard to children. According to the Consumer Protection Agency, many children strangle themselves with cords resulting in injury or death. To date, there have been 549 strangulations reported in the U.S according to the advocacy group "Parents for Window Blind Safety." Voluntary standards put in place by the Window Covering Manufacturers Association have been criticized by the CPA, along with parents and advocates, for failing to correct this hazard.

This bill would require public institutions for children, child care centers and foster care agencies installing new or replacement blinds after October 1, 2014, to use cordless window coverings or inter-looping mechanisms which would hide the cord. Such providers and agencies not having cordless window coverings in place prior to this date would be required to comply with regulations promulgated by OCFS and SED.

b. Teen Income (A.1077-A, Jaffee/S.2516-A, Savino; Passed Assembly)

Eligibility for child care subsidies varies throughout the State. Local social services districts may choose the income level that qualifies a family for a subsidy and how to count that income. Currently, many counties do not count the earned income of a teenager in the household for the purposes of eligibility. In counties that do count such income teenagers are deterred from engaging in work because doing so penalizes the family and disqualifies them from receiving child care assistance.

This bill would require counties to disregard the earned income of teenagers younger than 18 years of age for the purposes of calculating eligibility for child care subsidies. The income of teenagers ages 18 and older would be disregarded unless including such income would make the family eligible or lower the family share.

c. Waiting List (A.2581, Scarborough/S.1424, Montgomery; Passed Assembly)

Many low-income families rely on subsidized child care in order to maintain employment and ensure financial security. New York State strives to secure adequate funding each year for child care assistance. In order to do this, it is necessary that an accurate estimate be made of the outstanding need in local social services districts for subsidized child care. By establishing mandatory waiting lists, the number of families and the length of time they must wait for child care assistance can be determined. In addition, the income level of families receiving child care assistance must be determined so lawmakers can understand who the subsidies are reaching and whether current income eligibility requirements are appropriate.

This bill would require local social services districts to maintain waiting lists for child care assistance as well as data pertaining to the income level of the families receiving assistance. This bill passed the Assembly during the 2013 session.

d. Notification of Funding Cuts to Child Day Care Assistance (A.3498-A, Peoples-Stokes/S.5743, Grisanti; Vetoed memo #236)

In February 2010, with only 10 days notice, the families of 1500 children in Erie County were notified that their child care subsidies would be terminated because the county was lowering its eligibility levels from 200% to 125% of poverty. This short notice left many families in the lurch and required some to leave their jobs and others to remove their children from safe, secure and known child care providers with no time to arrange satisfactory alternatives. Families were left without adequate time to plan or react.

Similarly, in 2012, Westchester County raised the parent contribution from 20% of income above the poverty line to 27% and stopped accepting new applications for Title XX funding which provides subsidies to families earning between 200% and 275% of the federal poverty level.

This bill would require the local social services districts to provide 60 days notice to OCFS prior to lowering eligibility for child care assistance or increasing the co-payment. OCFS would then have 20 days to notify all child care providers and child care resource and referral agencies within the county. These entities must then post such change within their facility or home where child care is being provided.

2. Budget Initiatives

Child care subsidies provide low-income families with access to quality child care. The Assembly has found that child care assistance is most successful when a dedicated, stable funding source is provided from year to year. This year, the Assembly approved a budget that maintained child care funding from the previous year, with an additional \$1 million over the proposed Executive budget.

The Executive budget proposed eliminating certain vital child care programs important to families struggling to maintain self-sufficiency. Child care demonstration projects, located

throughout New York City, the Capital Region and Monroe County, serve families up to 275% of the poverty level and make enrollment in child care easier and more efficient. The Assembly was able to not only restore funding to these programs, but add an additional \$6 million over the prior year's level. The Legislature took further action to ensure that essential child care programs are preserved by restoring funding for SUNY and CUNY Child Care, in the amount of \$334,000.

The Legislature was also able to provide \$500,000 in funding for the Advantage After School Program. This program provides structured after-school activities in order to reduce negative behaviors and offer a safe environment for children.

B. JUVENILE JUSTICE/YOUTH PROGRAMS

The Committee has jurisdiction over issues facing families and youth at every stage in the juvenile justice process. Policies concerning preventive services, alternatives to detention and placement programs, treatment of youth in care and after-care supervision all fall under the Committee's purview. The Committee has continually emphasized the need for an integrated, community-based approach in order to prevent youth from being placed in State-operated facilities. For those who must be placed, the Committee traditionally supports a rehabilitative approach to treatment while in care, and intensive after-care services so that youth can effectively and safely integrate back into their communities.

1. Legislative Initiatives

a. Permanency Planning (A.2601, Paulin/S.4083, Felder; Passed Assembly)

This measure is vital to address the current conundrum faced by the Family Court: the Court is charged with responsibility to conduct permanency hearings, monitor permanency planning and issue fact-specific permanency orders in juvenile delinquency and Persons in Need of Supervision (PINS) proceedings, but is not given the information or authority required to discharge that responsibility. If Family Court and all parties are provided with specific service plans, if needed services are ordered, if representation by the juveniles' attorneys is continued without interruption and if the agencies' responsibilities to work with, and provide appropriate visitation to, the juveniles' parents and other legally responsible adults are clearly articulated, the likelihood of successful permanency planning is significantly increased. This would benefit not only New York State in its efforts to demonstrate compliance with the federal Adoption and Safe Families Act (ASFA), but also the juveniles, their families and the communities to which the juveniles return.

This bill would add permanency planning to juvenile delinquency and PINS proceedings consistent with requirements for child abuse and neglect proceedings. This includes an additional requirement to hold permanency proceedings for youth placed in limited-secure facilities, review of steps taken to ensure immediate enrollment in school, notification to parents of proceedings and continuation of attorney representation. These additions are analogous to requirements for foster children.

b. Violation Procedures (A.2602-B, Paulin/S.3831-A, Gallivan; Passed Assembly)

In a juvenile delinquency or PINS proceeding, the Family Court may order a youth to comply with certain terms and conditions with the goal of dismissing the case. Such orders occur as part of an adjournment in contemplation of dismissal, suspended judgment, conditional discharge, and direction that the youth be placed on probation. If the youth is successful in meeting the terms of the order, he or she may avoid a fact-finding that could lead to a disposition of placement. Currently, there are no standards or procedures guiding the court for restoring a matter to the calendar if a violation of such terms is alleged. The youth has no due process for which to show evidence that such violation did not occur, or that mitigating circumstances exist.

This bill would provide a process in juvenile delinquency and PINS proceedings for restoring the matter to the calendar after an alleged violation. In a juvenile delinquency proceeding, a petition would be served upon the youth and the youth provided with an opportunity to respond and to be represented by counsel at a hearing. In a PINS proceeding, similar to existing juvenile delinquency proceedings, a judicial allocution procedure would be required before the court may accept the youth's admission. A petition would be served upon the youth and the youth would be represented by counsel at a hearing. A finding by competent proof that the youth committed the alleged act would be sufficient to restore the matter to the calendar.

2. Budget Initiatives

This SFY 2013-14 Budget enacted legislation to streamline the Youth Development and Delinquency Prevention (YDDP) and Special Delinquency Prevention Programs (SDPP) into one program called the Youth Development Program. Municipalities will now receive funding from OCFS to operate such programs according to an approved plan. The consolidated application for these funds will result in greater efficiencies so that municipalities can conserve resources for services rather than administration. The Legislature improved upon the Executive proposal by requiring that the factors to be considered for distribution of funds include the number of youth in poverty and that such factors are established pursuant to regulation. The Legislature also ensured that the statute continue a definition for youth bureaus. The Legislature was able to provide an additional \$1,285,544 in funding for the Youth Development Programs.

Additionally, the Legislature was able to provide \$1.75 million in funding for the Community Reinvestment Program, which is an initiative that OCFS designed with stakeholders to invest in, expand, and enhance community resources with multi-phase interventions in order to prevent family court placements. The ultimate goal is to provide youth and families in high-need communities with a comprehensive community network of supports. This program is intended to help teach healthy behaviors, reduce gang involvement and/or violence, and improve attendance at school and court proceedings.

The Legislature also successfully rejected a proposal to transfer adjudicated youth placed with OCFS to their home county outside of NYC. After extensive conversation with stakeholders, the Legislature determined that such transfer would not necessarily be in the best interest of the

youth and the community. Services vary widely throughout the State and the location of such placement would not necessarily be closer to the youth's home.

C. CHILD WELFARE

Child abuse and neglect continue to be a reality in the lives of many children in New York State. Victims of abuse and neglect can suffer long-term adverse social and psychological consequences. Therefore, it is imperative that children in these situations are protected and that families are able to receive appropriate services in order to prevent further trauma, thereby lessening the after-effects of abuse.

The foster care system provides temporary placement, care, and services to children and families in crisis while promoting the goal of family reunification. As of June 30, 2012, there were 21,568 children in foster care. In an effort to achieve family reunification and stability, Federal and State laws have driven the development of preventive, protective, and rehabilitative programs to provide needed services. Adequate care for these children and their families is critical, and it is imperative that a wide array of services is provided to support the reunification of stable and healthy families.

For many children who cannot be reunified with their families, adoption may be the final step in obtaining a permanent family environment. Such permanency is crucial to a child's development and greatly enhances successful outcomes into adulthood. The Committee has continuously stressed the need for effective and timely permanency planning, incentives for adoption and continued post-adoption support for families in need.

1. Legislative Initiatives

a. Licensure and Certification of a Foster Parent (A.2178-A, Espinal/No Same as; Passed Assembly)

When a child enters foster care, the State assumes the responsibility of providing a safe and secure environment for the child. However, this is not always the case. According to agency reports and hearing testimony, there continues to be instances where children are further abused or even killed by their foster parents.

This bill would require that a social services district or authorized agency, prior to issuing a license or certificate to board a child, determine whether an applicant to be a foster parent has previously had a license revoked or not renewed or whether a child was removed from the home.

b. Notification of Change in Placement (A.2599-B, Paulin/S.4081-B, Felder; Passed Assembly)

The removal of a child from his or her home is often a traumatic and life-altering event for the child and family involved. Once the child is placed in foster care, changing such placement brings additional instability and potential trauma into a foster child's life. Currently, local social services districts have the authority to remove a child from his or her foster home into a different

setting, such as a group home or a residential facility, without informing the parents or the attorney for the child. As these parties play a vital role in the child's life, they should be informed prior to a district's decision to change placement. Such advance notice provides an opportunity to determine whether such a move is necessary and in the best interest of the child.

This bill would require local social services districts to provide 10 days advance written notice to the attorneys for the parties and the attorney for the child when a change in foster care placement is deemed necessary. If the need to change placement is an emergency, such notice would be required as soon as practicable after removal. This bill would also require the district to notify the attorneys for the parties and the attorney for the child within five days of an indicated report of child abuse in the home of a foster child.

c. Findings in Child Abuse Cases (A.2600, Paulin/S.4082; Chapter #430)

In 1981, the State Legislature added subdivision 8 to Social Services Law S 384-b to create two additional grounds to support terminations of parental rights: severe or repeated child abuse. These grounds, however, were almost never utilized because of difficulties of proof. In light of the lower quantum of proof required for a child abuse finding under Article 10 of the Family Court Act as compared to that which is required for termination of parental rights, a preponderance of the evidence as compared to clear and convincing evidence, the Article 10 child abuse findings that precipitated a child's entry into foster care could not be used as proof of severe or repeated child abuse in a subsequent termination of parental rights proceeding. The original child abuse allegations would thus need to be retried, often long after the fact, utilizing the higher standard of proof. In an attempt to obviate the need to retry the child abuse charges, the Legislature later amended Family Court Act §1051 regarding fact-finding orders as part of the State statute implementing the Adoption and Safe Families Act (ASFA). Family Court was thereby authorized to render an additional finding of severe or repeated child abuse as part of its fact-finding order in a child abuse proceeding so long as the requisite proof by clear and convincing evidence had been adduced.

This bill clarifies that a finding of diligent efforts by the social services district to reunify the parent and child is not part of the definition of severe and repeated abuse in a child abuse (Article 10) fact-finding hearing. This is a required finding currently for a subsequent termination of parental rights proceedings. It is not an appropriate requirement at the child abuse fact-finding stage, as it is not possible to complete diligent efforts at that time. This confusion has resulted in the reversal of severe abuse findings in child abuse proceedings because diligent efforts had not been included. This bill would also add predatory sexual assault and predatory sexual assault against a child as defined in the Penal Law to the list of sexual offenses and other felonies that constitute severe abuse in the Social Services Law.

d. Office of the Child Advocate (A.2676, Clark/S.5778, Parker; Passed Assembly)

OCFS is responsible for programs, services and systems providing care and protection for many of the State's vulnerable children and families. New York State is unique in that local social services districts administer many of these programs and services. While OCFS and local districts maintain internal oversight and accountability mechanisms, the complex needs of children and families across the State often require additional review and support. Currently, there is no independent State entity solely dedicated to the oversight of vulnerable children served by the State's juvenile justice or child welfare systems. Such an entity would better enhance the State and localities' ability to promote the well-being of children and families.

This bill would establish the independent Office of the Child Advocate and recommend systemic changes in State policies concerning the juvenile justice system and the child protective services, preventive services, and foster care system.

e. Notification of Post-Adoption Services (A.2891, Clark/No same as; Passed Assembly)

Adoption is intended to be a permanent option for children and parents. And while the majority of adoptions are highly successful, some children may have emotional, behavioral, or medical circumstances resulting from prior abuse and neglect that may create a hardship on the family unit as a whole. Many of these conditions are not obvious at the time of adoption, but become apparent years after the adoption is finalized.

Post-adoption services are intended for families who adopt children privately, internationally or through a foster care agency. Services vary throughout the State and are dependent on a combination of Federal, State and local funding. Because of the variation of services throughout the State, many parents are unaware of the availability of services in their area.

Acknowledging the severe need for post-adoptive services, this legislation would require notification to parents of the availability of services in their local area at or before the final adoption proceeding. This ensures that parents who adopt are aware that services are available to them in their specific area. This notification would include a list of names and contact information of any respite, hotline, counseling center, crisis intervention, etc., compiled by the local social services district that may be applicable to the needs of families who adopt.

f. Technical Correction Concerning Unfounded Reports (A.7025, Simanowitz/S.5847, Robach; Passed Assembly)

The current social services statute contains an incorrect reference to the penal law in a section dealing with access to indicated reports of child abuse and maltreatment. This bill would make the correct reference to crimes dealing with false reporting to the Statewide Central Register.

g. Foster Care Re-Entry (A.7339-A, Lupardo/S.4529-B, Felder; Vetoed Memo. 226)

Former foster youth may petition the Family Court to re-enter foster care if they have no suitable alternative. This provides an option for those youth under the age of 21 who left care early and find themselves in need of housing, food or medical care. Currently, the statute does not adequately address whether PINS and juvenile delinquents are considered former foster youth. OCFS policy states that PINS and juvenile delinquents who were formerly placed with the local social services district are considered to be former foster youth however.

This bill would codify OCFS policy and clarify that eligible youth to include juvenile delinquents formerly in the custody of OCFS. This bill was vetoed over technicalities that would require former OCFS placed youth to return to OCFS, rather than the appropriate local social services district.

2. Budget Initiatives

Despite a difficult economic climate, the Legislature worked to preserve vital programs in the area of child welfare. Through the support of the Legislature, many of these programs received continued funding during the SFY 2013-2014, such as Child Advocacy Centers, Safe Harbour, and the Runaway and Homeless Youth program.

The Legislature was able to appropriate \$1.65 million in funding, an additional \$150,000 over last year's level, for the Safe Harbour program created under the Safe Harbour for Exploited Children Act in 2008. Under this groundbreaking law, the Legislature established that commercially sexually exploited children are crime victims, not criminals, and recognized that these children must be provided with critical services, including short-term emergency shelter to keep them off the streets, food, clothing, medical care, counseling and crisis intervention services, and long-term housing with specialized services such as case management, legal, mental health and substance and alcohol abuse services. The Safe Harbour program also contemplates that funding be utilized to train law enforcement to better identify sexually exploited children and obtain appropriate services for them.

The Legislature also restored \$757,000 for Child Advocacy Centers, which provide a comfortable setting for abused children to receive care and treatment. These centers are important places where multi-disciplinary teams of professionals including doctors, mental health providers and law enforcement, can gather information about a case. The child benefits because multiple interviews, which can be a source of additional trauma, are avoided. The Legislature also continued funding for the Runaway and Homeless Youth program in the amount of \$2.6 million in the SFY 2013-2014 budget, an increase of \$254,000 over the Executive's proposed budget, improving the chances of stability and permanency options for these youth.

Through Article VII legislation, the Legislature approved a new program called "Pay for Success" which incentivizes private entities to finance public programs in the areas of health care, early childhood development, child welfare and public safety. OCFS and the Division of Criminal Justice Services will enter into contracts with intermediary organizations for the raising of funds and oversight of service provision, as well as contracts for the verification of program

outcomes achieved. Investors would receive a return on investment based on savings the program achieves.

D. ADULT PROTECTIVE SERVICES

Many vulnerable adults suffer each year due to abuse or neglect on the part of their caretakers. These adults may be mentally or physically ill, developmentally disabled, or elderly, and must rely on someone else to manage their health and financial needs. They are often isolated from the community, which makes the provision of services difficult.

Each local social services district is mandated to investigate cases of adults alleged to be in need of protective services. The district is required to provide services such as counseling, advocacy and case management, finding alternative living arrangements, and long-term interventions such as pursuing guardianship.

1. Legislative Initiatives

a. Best Practice Guidelines (A.7642, Paulin/S.5324-A, Maziarz; Chapter #408)

Local social services districts are responsible for providing services and protection for vulnerable adults who cannot care for themselves. The provision of adult protective services varies throughout the State. Statute provides minimal guidance and unlike child protective services, there are no best practices to guide local social services districts.

This bill, that has been chaptered into law, requires OCFS to create best practice guidelines for use by the local social services district. The guidelines would include procedures for identifying abuse, reviewing past adult or child protective involvement, interviewing, seeking a warrant, making referrals and communicating the rights of the adult.

E. SERVICES FOR THE BLIND

Housed within OCFS, the NYS Commission for the Blind seeks to enhance employment, promote independence and develop the capacities of legally blind persons. The Commission works with State and Federal agencies, as well as non-profit organizations, to provide services and assistance to blind children, adults and senior citizens. One such program is the Business Enterprise Program (BEP), in which legally blind adults gain employment in retail management in a vending facility within a State or Federal office building.

1. Legislative Initiatives

a. Agency Name Change (A.7210, Lupardo/S.4540, Felder; Chapter #265)

This bill, that has been chaptered into law, will change the name of the Commission for the Blind and Visually Handicapped to the Commission for the Blind. This OCFS Departmental was put forward due to advocates and persons receiving services for the blind who did not prefer the term “visually handicapped”.

III. PUBLIC HEARINGS

A. Erie County Child Protective Services (CPS) Practices

On November 14, 2013, the Committee on Children and Families and the Committee on Oversight, Analysis and Investigation held a public hearing on the CPS practices in Erie County. Over the last several years, there has been a series of child fatalities in Erie County in which the children had CPS involvement. Considerable attention has been given to whether the deaths could have been prevented and whether children continue to be at risk. The purpose of this hearing was to examine current Erie County CPS practices. The Committees are also interested to see what improvements can be made to the current practices and whether changes in State law are necessary to improve CPS in Erie County and statewide.

The OCFS Deputy Commissioner spoke at the hearing regarding the State's role in overseeing local CPS practices. OCFS is currently reviewing all open cases in Erie County to determine whether appropriate safeguards are being met. Additionally, OCFS will review the next 200 cases prior to closing to ensure that the investigation and conclusions drawn were appropriate.

Other witnesses at the hearing included advocates, family members of child victims, medical professionals and representatives from child advocacy centers. Many witnesses spoke about the need for more information from CPS after a report of alleged abuse is made. Currently, persons reporting suspected abuse receive no follow-up information regarding the outcome of the case. Many were frustrated by the inconsistent responses from CPS and a lack of communication. Others spoke about the need for more funding for preventive services and programs to help families stay together.

B. NYC Child Protective Services (CPS) Practices

On December 5th, the Committee co-sponsored a hearing with the Assembly Committee on Oversight, Analysis and Investigation, as well as the Senate Committee on Children and Families, to examine CPS practices in NYC. Several fatalities have occurred over recent years in which the Administration for Children's Services (ACS) was involved with the victim and his or her family. These deaths prompted the convening of a Brooklyn Grand Jury to investigate whether changes are needed to improve CPS practices. The report produced by the grand jury described ways that ACS can enhance performance, as well as recommendations for changes in State law. The hearing was held to determine what improvements can be made and what the State's role should be in supporting local efforts.

Advocates and attorneys for children testified about the need for more preventive funding, as well as a quicker referral process when the family is in need of preventive services. Testimony also stated the need to prevent unnecessary emergency removals in cases where the child is not at risk. Advocates did commend ACS for taking important steps to improve child protective practices such as reducing caseload, holding weekly meetings to review child safety and family team conferences to develop a safety plan for the child. ACS reiterated these efforts along with others such as implementing specialized training and rigorous quality assurance oversight.

C. Examining the Laws Governing the Age of Criminal Responsibility

On December 6th, the Committee co-sponsored a hearing with the Assembly Committees on Codes, Judiciary, Education, as well as the Black, Puerto Rican, Hispanic and Asian Legislative Caucus, to examine the laws governing the age of criminal responsibility in NYS. Currently, a 16-year-old charged with a crime is tried as an adult, whereas a 15-year-old would be processed through the juvenile justice system. North Carolina is the only other state to set the age of adulthood in the criminal justice system at 16.

Testimony in favor of raising the age of criminal responsibility described how full brain development does not occur until a person is in his or her 20s. Research was cited showing that youth leaving adult prisons have worse rates of recidivism and that youth imprisonment disproportionately affects minorities. Many advocates who spoke favored raising the age of criminal responsibility to 18, similar to a bill introduced in the Codes Committee which would raise the age for all youth.

Judge Lippman supports legislation with a different approach. Rather than raising the age to 18 for all youth, the Lippman bill would create a separate “Youth Division” in Superior Court for 16 and 17-year-olds who are accused of non-violent crimes. Some legal practitioners spoke in favor of this approach. They cited the tremendous impact transferring all 16 and 17-year-old offenders to Family Court would have on existing resources with the existing number of judges to oversee the proceedings. The impact would also be felt by county attorneys who do not receive aid for prosecution. The Corporation Counsel estimates that an additional \$20 million would be needed for staff and infrastructure if all 16 and 17-year-old cases were to be transferred from the district attorney’s office to the county attorneys. Additional aid would also be needed by probation departments throughout the state.

IV. Roundtables

A. Career Paths for Youth Aging out of Foster Care: October 24, 2013

The majority of foster youth who choose to leave foster care between the ages of 18 and 21, or who age out at age 21, do not have steady employment. The State does not track the performance of former foster youth once they leave care, but various studies from across the nation indicate former foster youth are more likely to be homeless, incarcerated, with children, and without jobs than their peers. The goals of the Assembly Roundtable were to identify existing employment and training services and data for youth, qualities that distinguish successful employment assistance programs, and specific steps the State could take to help. The Assembly members learned that foster youth need more: connections with the State’s mental health and social services agencies; supported housing; long-term and committed mentors; paid internships; ways to obtain a high school diploma; and educational assistance.

B. Assembly Child Care Workgroup

Keeping with New York State Assembly's long history of supporting affordable child care, Speaker Sheldon Silver formed the New York State Child Care Workgroup on May 6th of 2013, and appointed six Committee and Task Force Chairs to guide its work: Assembly Member Cathy Nolan, Chair of the Committee on Education; Assembly Member Carl Heastie, Chair of the Committee on Labor; Assembly Member Michele Titus, Chair of the Committee on Social Services; Assembly Member Aileen Gunther, Chair of the Committee on Mental Health; Assembly Member Donna Lupardo, Chair of the Committee on Children and Families; and Assembly Member Addie Russell, Chair of the Task Force on Women's Issues. The New York State Assembly Child Care Workgroup was tasked with examining the challenges families face in obtaining child care, the varying child care needs based on regional and socioeconomic differences, innovative ideas for expanding child care opportunities for working families, and the needs of the current child care provider system for developing and enhancing services. During the fall of 2013, the Workgroup held a series of roundtables to examine these and other issues. The roundtables were designed to review this multi-faceted issue through the eyes of the parents, children, and providers in the many roles they play during a day.

B1. Early Learning in Child Care as an Asset to Economic Development: Sept. 18, 2013

Decades of research have demonstrated the social, academic, and economic gains that result from increased investment in high quality early childhood education programs. Children who participate in quality early learning programs have higher rates of high school graduation and college enrollment and decreased rates of incarceration and reliance on public assistance. Early childhood programs produce a rate of return of 7-10%,¹ mostly due to the societal savings resulting from decreased reliance on criminal justice and safety net programs. In addition, increased investment in early learning has been shown to increase the productivity of the current workforce and provides an economic boost for local economies. It is estimated that for every dollar spent on early learning in New York State, a \$1.86 return on investment is generated within the state.²

Several options for creating a stronger connection between child care and economic development, and the workforce in general, were discussed during this roundtable. In New York State, several tax credits are currently offered to businesses that commit to the creation and retention of jobs through New York State's Empire State Development Corporation. Furthermore, certain state grants, state licenses, or funding for projects have elaborate weighting factors that are used to evaluate the entities bidding for the grant, project or license. Over the past couple of years, the State has shifted to a regional economic development focus. Plans submitted for competitive funding have included higher education, construction development, technology infrastructure, and resource marketing projects. Child care needs should not be overlooked in

¹ Heckman, James J., Seong Hyeok Moon, Rodrigo Pinto, Peter A. Savelyev, and Adam Yavitz. "The Rate of Return to the High/Scope Perry Preschool Program." NBER Working Paper Series. 15471. November (2009). Web. 19 Dec. 2013.

² "Boosting New York's Economy: Short- and Long-Term Economic Gains through Quality Early Learning." America's Edge, February 2013. Web. 16 Dec 2013

such plans due to its important linkage between quality child care programs and a robust economy with full participation by all.

There are also models across the country of public-private partnerships that have formed to leverage assets to promote early learning initiatives. For example, Pennsylvania created an Early Learning Investment Commission (ELIC) through an executive order in 2008.³ The Commission has built a network of civic and business leaders who understand the importance of making economic investments in early childhood education.

B2. Access and Affordability in Child Care: October 3, 2013

During this roundtable, the Workgroup sought information regarding the cost of child care and difficulties accessing child care programs for providers and parents. Specifically, this roundtable discussed whether the Child Care Market Rate Survey accurately reflects the true cost of care. Participants expressed that often the market rate formula does not result in a subsidy payment that covers the full cost of day care. A downward shift in the rate can negatively impact providers and fail to ensure adequate choice for parents seeking subsidized child care.

Logistical barriers to accessing child care were also discussed. These included conflicting State regulations, burdening licensing requirements, lack of transportation and difficulty in applying for a subsidy. Participants discussed ideas for solutions to such conflicts like re-examining the current requirements for operating a child care program to ensure that they are not duplicative or unnecessary, and creating a streamlined application process that can be completed online.

B3. Quality in Child Care: October 17, 2013

The third and final roundtable in this series sought to examine quality in various child care settings, explore ways in which child care programs can be enhanced in relation to safety and educational programming, and learn what supports are needed within the child care system to implement quality measures. Participants discussed obstacles to participation in the Child and Adult Care Food Program, a Federal program that helps to provide reimbursement for nutritional food in a child care program. Specifically, participants spoke to a lack of technical assistance for providers as well as burdening reporting requirements associated with the program.

Participants also discussed varying ways to promote a more educated and stable child care workforce. Professional development through trainings, credentialing programs, and higher educational opportunities was said to strengthen the quality of providers. Legally exempt providers who participate in additional training may qualify for an enhanced rate. Additionally, participants discussed the need for more stable child care funding to increase employee retention, thereby creating a more knowledgeable and experienced staff.

Lastly, participants in this roundtable discussed Quality Stars New York, a voluntary quality rating and improvement system that has been piloted and operates in 13 communities in New

³ Pennsylvania Early Learning Investment Commission, 2013. Web. 19 Dec 2013. <http://www.pa-elic.org/index.php?option=com_content&view=article&id=52&Itemid=53>.

York. Members of the workgroup and participants discussed the logistics of expanding Quality Stars without creating contrary or duplicative requirements for participating programs.

2013 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE ON CHILDREN AND FAMILIES

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	3	0	3
TO WAYS AND MEANS	4	0	4
TO CODES	9	0	9
TO RULES	4	0	4
TO JUDICIARY	0	0	0
TOTAL	20	0	20
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO _____	0	0	0
TO _____	0	0	0
TO _____	0	0	0
TO _____	0	0	0
TOTAL	0	0	0
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		2	2
RECALLED		0	0
TOTAL		2	2
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS HELD FOR CONSIDERATION WITH A ROLL CALL VOTE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	77	12	89
BILLS HAVING ENACTING CLAUSES STRICKEN	4	0	4
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	81	16	97
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	4		

APPENDIX B

2013 BILLS SIGNED INTO LAW

Bill #	Sponsor	Description	Chapter#
A.2600	Paulin	Clarifies the definition of severe and repeated abuse in child protective proceedings	430
A.7210	Lupardo	Changes the name of the Commission for the Blind and Visually Handicapped to the Commission for the Blind	265
A.7642	Paulin	Requires OCFS to create guidelines for adult protective services	408

2013 ALL BILLS ACTED ON

Bill #	Sponsor	Description	Last Action
A.812/S.3678-A	Rosenthal/Gallivan	Requires the installation of cordless window coverings in day care centers and other institutions for children	Passed Assembly/Referred to Senate Rules Committee
A.1077-A /S.2516-A	Jaffee/Savino	Requires that the earned income of a teenager shall not count towards the family's eligibility for child care assistance	Amended on 3 rd Reading/Reported to Senate Finance
A.1196/No Same as	Jaffee	Requires eligible parents who work at night receive a subsidy in order to sleep during the day	Reported to Ways and Means
A.2178-A/No Same as	Espinal	Requires any previous revocation or suspension of license be considered prior to approval of a foster parent	Passed Assembly
A.2312/S.828	Crespo/Parker	Establishes the temporary State Commission on Intimate Partner Violence	Passed Assembly/Referred to Senate Finance
A.2321/No Same as	Jaffee	Provides that calls to hotlines operated by OCFS are confidential	Reported to Codes
A.2581/S.1424	Scarborough/Montgomery	Requires social services districts to maintain waiting lists of persons applying for child care assistance	Passed Assembly/Referred to Senate Committee on Rules

A.2599-B/S.4081-B	Paulin/Felder	Requires advance notice of the transfer of a foster child from one home to another	Passed Assembly/Referred to Senate Committee on Rules
A.2600/S.4082	Paulin/Felder	Clarifies the definition of severe and repeated abuse	Signed, Chapter # 430
A.2601/S.4083	Paulin/Felder	Enhances permanency planning in juvenile delinquency and PINS proceedings	Passed Assembly/Referred to Senate Committee on Children and Families
S.2602-B/S.3831-A	Paulin/Gallivan	Establishes procedures for alleged violations during adjournments in juvenile delinquency and PINS proceedings	Passed Assembly/Referred to Senate Committee on Children and Families
A.2676/S.5778	Clark/Parker	Establishes the Independent Office of the Child Advocate	Passed Assembly/Referred to the Senate Committee on Rules
A.2891/No Same as	Clark	Requires agencies to provide prospective adoptive parents with information on services the child would lose by leaving foster care	Passed Assembly
A.2892/No Same as	Clark	Allows parents to place their child with the social services district for behavioral or emotional services without relinquishing custody	3 rd Reading
A.3498-A/S.5743	Peoples-Stokes/Grisanti	Requires that districts provide 60 days advance notice to OCFS prior to changing the eligibility for a child care subsidy	Vetoed, Memo #236
A.4969/S.110	Morelle/Gallivan	Exempts certain child day care providers from paying a fee for SCR clearances	Reported to Ways and Means/Reported to the Senate Committee on Finance
A.5543/No Same as	Perry	Requires police officers to notify the parents of a youth upon arrest	Reported to Codes
A.5567/S.3209	Rozic/Parker	Establishes a mentoring program within OCFS for youth leaving juvenile justice facilities	Reported to Ways and Means/Referred to Senate Committee on Children and Families

A.7025/S.5847	Simanowitz/ Robach	Makes a technical correction concerning false reporting to the SCR	Passed Assembly/Referred to Senate Committee on Rules
A.7210/S.4540	Lupardo/Felder	Changes the name of the Commission for the Blind and Visually Handicapped to the Commission for the Blind	Signed, Chapter #265

APPENDIX C

OUTLOOK FOR 2014

A. Juvenile Justice

Over the past several years, reforms have been enacted to improve upon the State's juvenile justice system. In SFY 2011-12, a new funding stream was established for programs aimed at diverting youth from placement. In SFY 2012-13, the "Close to Home Act" required the transfer of OCFS placed youth from NYC to the care and custody of ACS. This reform commenced the process of moving youth closer to home and building upon a network of services to help them rehabilitate. Meanwhile, OCFS has been building on reforms in light of the 2009 Department of Justice report to improve conditions for youth in placement.

While these reforms move the system in the right direction, there is still work to be done. Currently, NYS is one of two states that have set the age of criminal responsibility at 16. This means that upon such age if a youth is arrested for a crime, no matter the seriousness of the allegation, such youth is tried as an adult. Advocates and stakeholders have been building the case that NYS should raise the age of criminal responsibility so that youth can be processed through the juvenile system instead. Research suggests that the impact of the adult prison system on youth have a negative effect on recidivism rates, mental health and ability to transition back into the community. This year, the Committee will draw on testimony heard at the public hearing, held to examine the laws governing the age of criminal responsibility, in order to work on ways to approach this issue. It is in the best interest of the youth in placement and the communities they come from to develop an age appropriate approach to the criminal justice system.

B. Child Care

Following up on the work of the Assembly Child Care Work Group, the Committee, in cooperation with Committee Chairs participating in the workgroup, will be exploring ways to promote access to quality child care. Quality child care is critical to a child's early learning and development. The Committee will continue to support measures that enhance access to child care for working families while ensuring high standards of care.

It is well known that child care provides a crucial work support to low-income families, helping them to maintain stability and self-sufficiency. This year the Assembly passed a bill that would provide families with 60 days advance notice prior to losing a child care subsidy due to a local district decision to lower eligibility. Such notice is vitally important to give the parent time to find alternative and reliable child care and to maintain employment while doing so. This bill passed both houses and was vetoed by the Governor. The Committee will seek to resolve any issues with this legislation preventing its enactment.

The Committee will continue to explore safety and quality measures among all child care settings. Research shows that early learning and development reduces risk factors later in a child's life. Whether such settings are child care centers, group family day care homes, family

day care homes, school-age child care or legally exempt child care programs, it is of critical importance that high standards of quality are being met.

C. Child Protective Services (CPS)

This year the Committee sponsored two hearings on child protective services practice. In light of recent child fatalities in which there was CPS involvement, the importance of effective local practices cannot be overstated. This year the Committee will review information gathered to determine whether legislation is necessary to assist local districts in developing an immediate, effective and successful response to cases of alleged abuse and neglect. The Committee will also explore whether there are other ways the State can support effective CPS practices and examine funding streams not only for CPS but for prevention and intervention for families in crisis.