

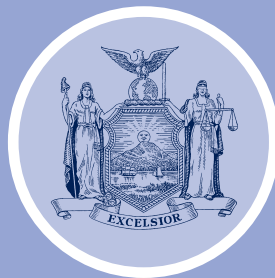


NEW YORK STATE ASSEMBLY

ANNUAL

2012

REPORT



**Committee on  
Children and Families**

**Amy R. Paulin, Chair**

**SHELDON SILVER, SPEAKER**

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY



Amy Paulin  
Assemblyman 88<sup>th</sup> District

CHAIR  
Committee on Children and Families

COMMITTEES  
Education, Health, Higher Education

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

December 15, 2012

Dear Speaker Silver:

As Chair of the Assembly Standing Committee on Children and Families, it is my distinct pleasure to submit to you the 2012 Annual Report. This year, the Assembly has continued its commitment to improving outcomes for New York's children and families. The Committee implemented important policy initiatives this year such as establishing in the law the legal means for children who are without a parent to sufficiently care for them to enter foster care and obtain necessary services. Previously, a gap in the law left these destitute children to subsist on their own without assistance or support. As a result of the new law, destitute children will also be eligible for the kinship guardianship assistance program. This program provides financial assistance to eligible relative caretakers upon an order of guardianship by the Family Court, enabling grandparents and other relatives to care for children who cannot be returned home or adopted.

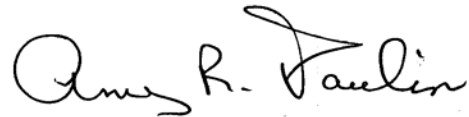
The Committee also directed its attention to safety and quality in child day care settings. In addition to ensuring access to child care for working families, the Committee seeks to promote high standards of care and learning programs, essential to a child's success in school, in all child day care settings.

This year, the Committee again put great focus on reforming the State's juvenile justice system. In an effort to improve the rehabilitation of juvenile delinquents during and after placement, the Legislature supported the Close to Home Initiative during the budget process. The Close to Home Initiative recognized that New York City youths who are placed in non-secure and limited secure facilities away from their homes would benefit greatly from a placement with educational, mental health and community resource support services closer to their homes in New York City in order to promote a safe and healthy transition after leaving placement.

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 preserved the current reimbursement payment structure for Child Welfare Financing. The Legislature also continued funding for many core programs including child care, for which federal funding had been cut, Runaway and Homeless Youth, and Safe Harbour for Exploited Children subsidies.

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

Sincerely,

A handwritten signature in black ink that reads "Amy R. Paulin". The signature is written in a cursive style with a large, looped initial "A".

Amy Paulin  
Chair  
Committee on Children and Families

## TABLE OF CONTENTS

<b>I. INTRODUCTION</b> .....	5
<b>II. SUMMARY OF COMMITTEE ACTION</b>	
<b>A. CHILD CARE</b> .....	7
1. Legislative Initiatives.....	7
a. Notification of Funding Cuts to Child Day Care Assistance .....	7
b. Cost Evaluation of Child Care .....	7
2. Budget Initiatives .....	8
<b>B. JUVENILE JUSTICE/YOUTH PROGRAMS</b> .....	8
1. Legislative Initiatives.....	9
a. Parental Notification .....	9
b. The "SAFETY Act" .....	9
c. Permanency Planning For Juvenile Delinquents and Persons in Need of Supervision .....	10
d. Warrants and Orders of Protection in PINS Cases .....	10
2. Budget Initiatives .....	11
<b>C. CHILD WELFARE</b> .....	12
1. Legislative Initiatives.....	12
a. Destitute Children .....	12
b. Kinship Guardianship Assistance Eligibility .....	13
c. Office of the Child Advocate.....	13
d. Notification of Post-Adoption Services .....	13
e. Notification of Change in Placement.....	14
f. Findings in Child Abuse Cases .....	14
g. Licensure and Certification of a Foster Parent .....	15
2. Budget Initiatives .....	15
<b>D. ADULT PROTECTIVE SERVICES</b> .....	16
1. Legislative Initiatives.....	16
a. Manageable Workloads for Adult Protective Services Workers .....	16
2. Budget Initiatives .....	16
<b>III. PUBLIC HEARINGS</b> .....	17
A. The Utilization of Informal Child Care .....	17
B. New York State Funded Programs for Vulnerable Children and Youth.....	17
APPENDIX A - 2012 Summary Sheet .....	19
APPENDIX B - 2012 Bills Signed Into Law .....	20
APPENDIX C - Outlook for 2013 .....	21

**2012 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON CHILDREN AND FAMILIES**

**Amy Paulin  
Chair**

**Committee Members**

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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. OCFS operates secure, limited-secure and non-secure juvenile justice facilities, where adjudicated youth may be placed by the Family Court as juvenile delinquents or by the Criminal Court as juvenile offenders. Currently, OCFS operates fifteen such facilities statewide. Youth may also be placed by the Family Court in a private voluntary agency, contracting with either the local social services district or OCFS. As of June 30, 2012 there were approximately 322 youth placed in voluntary agencies as juvenile delinquents. OCFS also provides after-care services to youth leaving placement, based in thirteen 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.

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. The rate was raised in 2012 to include Cost of Living Adjustments. In 2011, there were 163 residential programs statewide, with a total of 3,015 beds. Non-residential programs include telephone hotline assistance, information, referral, counseling, advocacy, community education and outreach services. In 2011, approximately 43,000 adults and children received non-residential domestic violence services.

## **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 not only restore the federal funding that had been reduced, but also increase the 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. Notification of Funding Cuts to Child Day Care Assistance (A.509, Peoples-Stokes; Passed Assembly)**

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 twenty percent of income above the poverty line to twenty seven percent and stopped accepting new applications for Title XX funding which provides subsidies to families earning between 200 percent and 275 percent of the federal poverty level.

This bill would require the local social services districts to provide 90 days notice to OCFS prior to lowering eligibility for child care assistance or increasing the co-payment. OCFS would then have 30 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.

##### **b. Cost Evaluation of Child Care (A.7135, Jaffee; Reported to Ways and Means)**

State and Federal law require the level of child care assistance a family receives be adequate to ensure access to child care equal to families who do not receive child care subsidies. Every two years, OCFS contracts with a market rate firm to conduct a survey of regulated child care providers to determine the market rate. OCFS sets the subsidy rate at the 75th percentile of the market rate determined, which is the level of payment the Federal government has established is



sufficient to provide equal access. Some child care providers question the results of the market rate survey as not adequately representing the true cost of providing child care.

This bill would require the Commissioner of OCFS to contract with an external research organization to evaluate the cost of providing child day care in the State, as well as the costs associated with child day care at each level of rating under Quality Stars New York. The study would include, at a minimum, child day care centers, group family day care homes and family day care homes. The findings of the cost study would be reported to the Governor and the Legislature.

## 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. Therefore, each year the Assembly works to ensure that an appropriation is carved out of existing flexible funding to support child care subsidies. This year, the enacted State budget provided \$539.4 million to child care investments. The Legislature was able to restore the federal budget cut of \$93 million in Temporary Assistance for Needy Families (TANF) funding dedicated to child care subsidies with State dollars. The Legislature was also able to provide an additional \$2 million to child care subsidies.

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 restore funding to these programs in the amount of \$1.2 million.

The Legislature took further action to ensure that essential child care programs are preserved by restoring partial funding for SUNY and CUNY Child Care, in the amount of \$334,000. Further, the SFY 2012-13 Enacted Budget included an additional allocation of \$653,000 for SUNY and CUNY Child Care in community colleges that was appropriated in the budgets of SUNY and CUNY.

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. Parental Notification** (A.4408, Perry; Passed Assembly)

Teenagers often depend on their parents or caregivers for financial, emotional and moral support. Parents can help a youth navigate the challenges of becoming an adult, including avoiding behaviors that may lead them into the juvenile or criminal justice systems. In order for a parent or caregiver to provide such guidance, he or she must be aware of the difficulties the youth is experiencing. If the youth is arrested, it can be vital that a parent step in to help prevent the youth's future involvement with the law.

Under current law, law enforcement is required to notify parents of a youth's arrest and whereabouts only if that youth is a juvenile offender. The statute defines juvenile offenders as youth ages thirteen through fifteen who have committed certain serious crimes. If a youth does not fit this definition, his or her parent or caregiver may never know of the arrest and may never have an opportunity to help. Older teenagers who do not fit this definition often rely on parental support just as much as younger youth.

This bill would require that law enforcement provide parental notification of the arrest of youth ages sixteen, seventeen or eighteen years old. The officer would also notify the youth's parent or caregiver if the youth is issued an appearance ticket. The bill carves out an important exception to the notification requirement. If notification would endanger the health and safety of the youth, and the youth is not also a juvenile offender, then the officer would not need to provide such notification. This provision protects youth while still maintaining the notification requirement for juvenile offenders, who are younger and have committed serious crimes.

### **b. The "SAFETY Act"** (A.4426, Scarborough; Passed Assembly)

Youth in the State's juvenile justice system are placed there in order to achieve rehabilitation while keeping the community safe. The presence of harassment and discrimination in programs and facilities undermines these goals. Clear and consistent guidelines are necessary to promote a safe and healthy environment for youth to better themselves. Such guidelines assist staff and youth in establishing appropriate boundaries and respecting one another.

This bill would establish the "SAFETY Act", which would require OCFS to develop anti-discrimination training, model policies, and a procedure for reporting incidents of discrimination and harassment of youth in OCFS facilities and programs.

**c. Permanency Planning For Juvenile Delinquents and Persons in Need of Supervision**  
(A.10348, Paulin; 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.

**d. Warrants and Orders of Protection in PINS Cases** (A.10639, Robinson; Passed Assembly)

A parent, whose child does not attend school, is incorrigible or habitually disobedient, may seek recourse through the filing of a PINS petition in Family Court. If the judge adjudicates the youth a PINS, an order may be made placing the youth in foster care if necessary.

The PINS reform of 2005 requires that prior to filing such a petition, the family undergo diversion services intended to avert the need for a petition. Such services are meant to address and resolve the underlying issues facing the youth and his or her family. In certain instances however, the provision of diversion services may not be feasible or safe. This may be the case when the youth has absconded and cannot be located, or if the youth poses a danger to his or her family. Current statute does not make an exception for these circumstances.

This bill would allow a PINS petition to be filed without diversion services, and a warrant issued, if a youth has absconded and cannot be located. The bill would also allow a PINS petition to be filed, and an order of protection issued, if a youth poses an imminent threat to his or her family. Once the issue is resolved, diversion services may be ordered at any time by the Family Court.

## 2. Budget Initiatives

As a part of the SFY 2012-2013 budget, landmark changes were made to New York State's juvenile justice system through the "Close to Home" initiative. As a result of this initiative, New York City's adjudicated juvenile delinquents currently in or entering into court ordered placements in State non-secure and limited secure facilities are being moved closer to their home communities in City-administered programs and facilities. With a block grant of \$8.6 million from the State and additional City and federal funds, ACS began transferring youth in non-secure State facilities to its own non-secure facilities on September 1, 2012 based on a plan approved by OCFS. ACS is authorized to transfer youth in limited secure State facilities to its own limited secure facilities beginning April 1, 2013 pursuant to a plan ACS will submit to OCFS for approval. Such plan is not expected to be approved before the SFY 2013-2014 begins.

The Close to Home initiative will allow for easier visitation of youth in placement by their families and attorneys and foster improved aftercare connections within the communities to which the youth will be returned. This budget legislation also requires ACS, working closely with the City's probation department, advocates, and other stakeholders, to develop and submit to OCFS for approval a new risk assessment instrument and process to be utilized by probation officers in making recommendations for the placement of youth. Such instrument must be evidence-based and empirically validated.

The initiative will result in approximately 294 new non-secure beds for youth in the five boroughs of New York City and adjacent areas and a reorganization of the remaining juvenile justice system statewide to accommodate the geographical shift in population. Top priorities in crafting this legislation included quality of education, family engagement, and ensuring that children are placed in the facility most suited to their needs. The Assembly also focused on ensuring proper oversight of the new system by OCFS for which \$3.5 million was allocated in part to employ additional ombudsmen and case managers.

The Legislature was able to provide \$1,285,544 in funding for the Youth Development and Delinquency Prevention (YDDP) and Special Delinquency Prevention (SDDP) programs, intended to keep at-risk youth from entering the juvenile justice system, and the post-placement program that provides services to youth leaving juvenile justice facilities so they can safely transition back into their communities.

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.

## **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. Destitute Children (A.7836-A, Paulin; Chapter 605)**

Destitute children are children who, through no neglect on the part of the parent, are in need of care and custody from the local social services district. These children are most often children whose parents are deceased, children who are human trafficking victims, unaccompanied refugee children or children whose parents are too mentally or physically ill to care for them. The permanency laws of 2005 inadvertently repealed §392 of the Social Services Law, which authorized foster care placement of destitute children and continued court oversight of such placements. Since that time, the local social services districts, courts, OCFS and advocates had sought legislation to establish a legal means to bring destitute children into foster care.

This legislation establishes a court proceeding to enable local social services districts to legally obtain custody of destitute children. The local social services district will be required to make reasonable efforts to prevent the placement of the child, and if the child is in need of temporary placement, to investigate whether any relative or suitable person exists with whom the child may safely reside. The judge may order services to facilitate the return of the child, if appropriate. The judge will have dispositional options of placement with the district or guardianship with a relative or suitable person and may order services to facilitate such order.

**b. Kinship Guardianship Assistance Eligibility (A.8339, Paulin; Chapter 607)**

Chapter 58 of the Laws of 2010 established the Kinship Guardianship Assistance Program. This program authorizes eligible relative foster parents to become permanent guardians of the relative children in their care. Federal funds are drawn down in order to provide a subsidy to such guardians at the same rate as is provided to adoptive parents. Subsidized kinship guardianship removes children from foster care while enhancing the stability of the family.

As foster children, destitute children should be eligible for participation in the Kinship Guardianship Assistance Program. This legislation clarifies that destitute children are subject to the same eligibility criteria for kinship guardianship assistance as other types of foster children, therefore providing them with this important permanency option.

**c. Office of the Child Advocate (A.644-D, Clark; 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.

**d. Notification of Post-Adoption Services (A.1167, Clark; Vetoed memo #40)**

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.

**e. Notification of Change in Placement** (A.7598, Paulin; 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.

**f. Findings in Child Abuse Cases** (A.10051, Paulin; Passed Assembly)

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 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.

**g. Licensure and Certification of a Foster Parent** (A.10143-A, Espinal; 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.

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 2012-2013, such as Safe Harbour, the Kinship Guardianship Assistance Program, and the Runaway and Homeless Youth program.

The Legislature was able to appropriate \$1.5 million in funding 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.

In an effort to increase permanency options for youth in foster care, the Legislature continued the Child Welfare Financing funding levels at 62% state reimbursement to local social services districts. This provided funding for the non-federal portion of child preventive services, child protective services, after care, independent living and adoption administration and services, and continued funding for the Kinship Guardianship Assistance Program. Additionally, the Legislature was able to provide a total of \$389,750 in funding from the OCFS budget and TANF funding for the Kinship Guardianship Assistance Program.

Lastly, the Runaway and Homeless Youth program received \$2,570,256 in the SFY 2012-2013 budget, an increase of \$214,000 over the Executive's proposed budget, improving the chances of stability and permanency options for these youth.



## **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. Manageable Workloads for Adult Protective Services Workers (A.7033, Scarborough; Third Reading Calendar)**

In the SFY 2006-2007 enacted Budget, OCFS was required to study the caseloads of caseworkers in child protective services, foster care, and preventive services. This study has proved to be significant in guiding policy goals and determining fiscal priorities on the State and local level. Local departments of social services are also charged with providing adult protective services to vulnerable adults. This vital service is necessary to protect individuals from abuse or neglect. By requiring OCFS to conduct a similar review of caseloads among adult protective services workers, this bill would enable policy makers to seek to ensure that quality services are being provided.

This bill would require OCFS to review and recommend manageable workloads for adult protective services workers. This bill would also require a full report with recommendations on manageable workloads for adult protective services workers be submitted to the Governor, the Temporary President of the Senate, the Speaker of the Assembly, the Chairs of the Senate Committees on Social Services and Children and Families, and the Chair of the Assembly Committee on Children and Families.

### 2. Budget Initiatives

The Legislature was able to provide \$757,000 in funding for the Caseload Ratio programs, which helps to provide manageable workloads for adult protective services caseworkers within OCFS. In doing so, the caseworkers are able to dedicate more time and carefully review the cases that they are currently working on thereby creating a safer environment for vulnerable adults.

### **III. PUBLIC HEARINGS**

#### **A. The Utilization of Informal Child Care**

On May 3, 2012, the Committee on Children and Families, the Committee on Oversight, Analysis and Investigation, the Committee on Social Services, and the Assembly Taskforce on Women's Issues held a public hearing on the Utilization of Informal Child Care. The purpose of the hearing was to examine the quality of care that informal child care settings provide to families. With due regard for the critical need for accessible child care, the Assembly hoped to gather information regarding how such informal care is structured, and identify any areas in need of improvement that would benefit both providers and families.

Informal child care providers are a vital source of child care for many low-income families who require subsidized care in order to maintain employment. According to the latest data from OCFS, 42% of families receiving subsidized child care utilized informal child care in Federal Fiscal Year 2010.

Witnesses at the hearing spoke about the need for additional regulation of these providers. Suggestions for future legislative initiatives included providing for site visits of an enrolled informal child care provider, background checks or inquiries into members of the household as part of the application process for enrollment of an informal child care provider, and requiring local social service districts to provide to parents information regarding the availability of licensed and registered child care providers as well as informal child care providers.

#### **B. New York State Funded Programs for Vulnerable Children and Youth**

On December 10, 2012, the Committee held a public hearing on New York State Funded Programs for Vulnerable Children and Youth, specifically the programs under the Runaway and Homeless Youth Act (RHYA) and the Safe Harbour for Exploited Children Act (Safe Harbour). The purpose of this hearing was to gather information on the effectiveness of the programs receiving funding and how the funds are utilized. As the RHYA program has received a declining amount of funding over the past several years, and Safe Harbour was appropriated \$1.5 million in the SFY 2012-13 Budget, the Committee was interested in hearing how these limited funds could be utilized to serve these vulnerable children.

The RHYA and Safe Harbour programs are often the only resource preventing vulnerable children and youth from sleeping on the streets, in abandoned buildings and subway stations or becoming victims of sexual exploitation. Witnesses at the hearing described the interconnected relationship between youth homelessness and trafficking. One study revealed that almost half of trafficking survivors stated that a lack of a place to stay was the main reason for their initial entry into trafficking. Traffickers purposely target homeless and runaway youth, waiting to prey upon these vulnerable youth in bus and train stations and coffee shops known to be frequented by homeless youth, who often trade themselves for a place to sleep, a few hours out of the cold, or something to eat.

According to the latest data from OCFS, 32 counties, including New York City, provided residential and non-residential RHYA services to 12,476 young people in 2011. Nevertheless, due to declining funding, service providers have had to turn away hundreds of homeless youth each month. Crisis shelter beds for trafficking victims are typically obtained only through the RHYA program. Witnesses uniformly advocated for additional funding for these two programs. For trafficking victims, a safe place to stay and specialized services are critical to preventing them from going back on the street and returning to the persons they have come to rely on for love and support, so that they can successfully break the ties to their exploiters and rebuild their lives.

Suggestions for future legislative initiatives included extending services and resources under these programs beyond the current age of 21 to 24 years old in the case of runaway and homeless youth and beyond the age of 18 in the case of Safe Harbour, extending the length of time a youth may stay in a RHYA crisis shelter for greater than thirty days, extending the length of time a youth may stay in longer-term housing from up to eighteen months to 24 months, and requiring that training and identification screening tools receive input from and are piloted on survivors of sexual exploitation.

*APPENDIX A*

2012 SUMMARY SHEET
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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>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	2		2
TO WAYS AND MEANS	5		5
TO CODES	10		10
TO RULES	2		2
TO JUDICIARY	0		0
<b>TOTAL</b>	<b>19</b>		<b>19</b>
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Aging</u>	1		1
TO <u>Social Services</u>	1		1
TO _____			
TO _____			
<b>TOTAL</b>	<b>2</b>		<b>2</b>
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		0	0
RECALLED		1	1
<b>TOTAL</b>		<b>1</b>	<b>1</b>
<b>BILLS DEFEATED IN COMMITTEE</b>			
<b>BILLS HELD FOR CONSIDERATION WITH A ROLL- CALL VOTE</b>	18	0	18
<b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>	71	4	75
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	1	0	1
<b>MOTIONS TO DISCHARGE LOST</b>	0	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	<b>111</b>	<b>5</b>	<b>116</b>
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	<b>7</b>		

*APPENDIX B*

2012 BILLS SIGNED INTO LAW

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter#</u>
A.7836-A	Paulin	Establishes a court procedure for local social services districts to assume custody and care of destitute children.	605
A.8339	Paulin	Clarifies that destitute children are eligible for the kinship guardianship assistance program.	607
A.8694-A	Paulin	Amends two chapters of the Laws of 2011 in order to improve the care and treatment of destitute children.	3

## *APPENDIX C*

### *OUTLOOK FOR 2013*

#### **A. Juvenile Justice**

We know that outcomes from placement in the juvenile justice system are very poor. This is true both for placement in a State or privately operated facility and for placement in a local detention center for pre-adjudicated youth. The Committee recognizes that alternative programs are needed to effectively meet the needs of at-risk and adjudicated youth, as well as to ensure the safety of the community. In the SFY 2012-13 Budget, the “Close to Home” initiative was realized to provide New York City youths who are placed in OCFS-operated non-secure and limited secure facilities with placements and support services closer to their homes. Closer to home placements will enable City youth to stay in contact with and receive support from their family members and friends, which has been recognized as a beneficial aspect of rehabilitation. In the coming year, the Committee will monitor the implementation of the transfer, which began on September 1, 2012, of New York City youth placed in OCFS non-secure placement facilities to City-run non-secure placement facilities pursuant to a plan developed by ACS and approved by OCFS. The Committee looks forward to reviewing ACS’s plan for the transfer of City youth placed in OCFS limited secure facilities to City-operated limited secure facilities and monitoring the implementation of the transfer, to begin April 1, 2013.

As required in the SFY 2012-13 Budget, probation officers and judges must utilize a risk assessment instrument that has been validated by OCFS to inform placement decisions. It is important that the criteria used to determine whether a youth should be placed in detention, or referred to an alternative setting, is scientifically validated, periodically updated and available for public input. It is also important that the data necessary to complete the risk assessment instrument be shared only among necessary authorities only for the purpose of completing the risk assessment instrument. The Committee negotiated to secure these protections in the law, and will continue to monitor the development of the risk assessment tools in use to ensure they are validated and effective and that their use does not have a disparate impact on the dispositional outcomes of juveniles based on race, sex, national origin, economic status, or other constitutionally protected class.

The treatment of youth placed in the juvenile justice system will continue to be a major issue for the Committee in the upcoming year. The 2009 Department of Justice report detailed serious violations of the rights of youth placed in four OCFS facilities. The Committee will actively engage with OCFS to gather information regarding the implementation of the settlement agreement, as well as the reform taking place among all OCFS facilities. It is important that the additional money allocated for this purpose effectively address the mental health, social, educational and safety needs of placed youth. It is also important that reforms in the juvenile justice system focus on keeping youth across the State close to their home communities. The Committee will work with OCFS, as well as other agencies and advocacy organizations, to promote reform efforts throughout the juvenile justice system across the State.

Transitioning back into the community can also be challenging for youth leaving placement. This year, the Committee will continue to examine initiatives to ensure these youth are receiving

appropriate aftercare. Education, health care, and housing are vital components of reintegration, and the Committee will work with all stakeholders to support programs that give youth the necessary supports to succeed in the community. The recommendations of the Governor's Task Force on Transforming Juvenile Justice regarding aftercare and other critical issues facing adjudicated youth will continue to help to guide the Committee's focus in 2013 on improving the State's juvenile justice system.

## **B. Educational Neglect**

Educational neglect is the failure of a parent to exercise a minimum degree of care in supplying his or her child with adequate education. Under current law, allegations of educational neglect are processed in the same manner as child abuse reports. A call is placed to the Statewide Central Register of Child Abuse and Maltreatment (SCR) alleging that a child under the age of eighteen is not attending school. The local social services district is then required to investigate the report within twenty-four hours. If the report is indicated, a petition may be filed in the Family Court triggering a child abuse and neglect proceeding.

Evidence is growing that this response is not entirely effective or appropriate. Particularly for older children, school absences are often not the result of abuse or neglect. Rather, there are underlying school and family issues and other circumstances that may require various solutions inside and outside the realm of child protective services. The Vera Institute of Justice issued a report in 2009 and a follow up report in 2010 which illustrated the need for alternative solutions. Through informal discussions with local social services departments, local probation departments, Family Court judges and advocates, the Committee has learned that addressing educational neglect requires a multi-faceted approach and collaboration among the stakeholders.

This year, the Committee will continue to engage stakeholders in discussions on the issue and explore possible solutions. Legislative initiatives to be investigated include requiring school districts to report on a periodic basis chronic absences from school and facilitating the use of Family Assessment Response to address educational neglect.

## **C. Youth in Foster Care**

Recent publicity about the high numbers of medicated children and youth in foster care has raised concern about inappropriate prescribing of psychotropic medications to these children and adolescents. Based on a 2010 multi-state study conducted by the Tufts Clinical and Translational Science Institute, the estimated use of psychotropic medication in foster care youth is higher, ranging from 13-52%, than use in the general youth population (4%).

The Committee will explore the issue, examine whether our current policies and practices with respect to this population warrant revision, and consider appropriate alternative means of addressing the needs of these children and youth—many of whom have experienced trauma because of abuse or neglect and removal from their parents, without reliance on psychotropic medication.

## **D. Child Care**

Quality child care is critical to a child's early learning and development. In the upcoming session, the Committee will continue to support measures that enhance access to child care for working families while ensuring high standards of care. One of these measures is Quality Stars NY (QSNY). This program rates child care programs according to various factors identified as key to early learning and positive social development. QSNY enables families to become more empowered consumers who can evaluate a child care program based on their QSNY rating while also encouraging providers to increase quality standards. Currently, QSNY has been piloted in 13 communities among licensed child care providers.

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.

## **E. Commercially Sexually Exploited Youth**

A critical component of the Safe Harbour for Exploited Children Act was the express intention that essential services be provided to commercially sexually exploited youth under the age of eighteen. These services include short-term safe houses that provide food, shelter, clothing, medical care, counseling and crisis intervention services at the time such youth are taken into custody by law enforcement, at least one long-term safe house that can provide specialized services such as case management, legal, mental health and substance and alcohol abuse services, and community-based services such as drop-in services, counseling, family therapy, and referrals.

The Committee learned how vital these services are to meet the needs of sexually exploited youth so that they can stay off the streets and begin to rebuild their lives. \$1.5 million was appropriated for Safe Harbour services in the SFY 2012-13 Budget. The Committee will continue in the coming year to advocate for additional funding for these services to ensure the safety and welfare of these vulnerable young girls and boys so that the intent of the Safe Harbour Act is realized. In addition, the Committee will look to support changes in the law to improve the State's response to human trafficking so that we may end the sexual exploitation and victimization of our youth.