



New York State Assembly
2011 ANNUAL REPORT

committee on
**CHILDREN AND
FAMILIES**

Amy Paulin
Chair



Sheldon Silver
Speaker

THE ASSEMBLY
STATE OF NEW YORK
ALBANY



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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

January 6, 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 2011 Annual Report. This year, the Assembly has continued its commitment to improving outcomes for New York's children and families. The Committee put forward important policy initiatives this year including improving adult protective services investigations, creating a court mechanism for destitute children, and helping adoptive families access critical services.

Despite the budget shortfall facing the State, the Legislature was able to restore funding to many crucial programs such as Home Visiting, Summer Youth Employment and Senior Centers. The Legislature preserved the integrity of important preventive programs by rejecting a proposal to create a block grant structure which would have forced such programs to compete for reduced funding. The Legislature also approved continued funding for many core programs including child care, foster care, and adoption subsidies.

This year, the Committee put great focus on reforming the State's juvenile justice system. Events of recent years shed light on the reasons why placement should be a last resort. These include the 2009 U.S. Department of Justice report finding violations of the rights of placed youth, and the 2009 Governor's Task Force Report finding that institutional placement does not work to rehabilitate youth. Taking such reports into consideration, a new funding stream dedicated to community-based alternatives to placement programs was established this year. The Legislature worked closely with the Executive during the budget process to fine tune this new program with the goal of reaching the most at-risk youth as effectively as possible.

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,

Amy Paulin
Chair
Committee on Children and Families

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**2011 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CHILDREN AND FAMILIES**

**Amy Paulin
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 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 juvenile offenders. Currently, OCFS operates nineteen 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 March 31, 2011 there were approximately 1,500 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. Prior to adjudication or placement, youth often remain in their home county in a county operated detention facility for a limited period of time. 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, programs that may also include persons other than victims of domestic violence, 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. In 2010, there were 165 residential programs statewide, with a total of 3,033 beds. Non-residential programs include telephone hotline assistance, information, referral, counseling, advocacy, community education and outreach services. In 2010, approximately 47,000 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 continue to support the quality of child care, while also making it more accessible and safer for children of low-to moderate-income families.

1. 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 amount of Temporary Assistance for Needy Families (TANF) funding dedicated to child care subsidies was held constant at \$393 million.

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 \$3.4 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 2011-12 Enacted Budget included a total of \$3 million for SUNY and CUNY Child Care that was appropriated in the budgets of SUNY and CUNY. The Executive budget proposed to eliminate funding for these programs which provide child care to low-income college students so that they are able to obtain an education.

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. Warrants and Orders of Protection in PINS Cases (A.7599-B, Robinsion; Passed Assembly)

A parent, whose child does not attend school, is incorrigible or habitually disobedient, may seek recourse through the filing of a Person in Need of Supervision (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

Several important measures dealing with juvenile justice were included in the SFY 2011-2012 budget. In light of mounting evidence that alternative to detention and placement programs yield much better results than placement, the Legislature worked with the Executive to craft the Supervision and Treatment Services for Juveniles Program (STSJP). The STSJP is a dedicated source of funding for alternative programs under which eligible localities receive 62% State reimbursement, up to a capped allocation, for alternative to detention and placement programs for at-risk, alleged, and adjudicated juvenile delinquents. Additionally, the Legislature worked to ensure that these funds could also be used to serve PINS and juvenile offenders. For SFY 2011-12 only, the 38% local match requirement for STSJP was eliminated and \$8.38 million was appropriated for this purpose. The SFY 2011-12 Enacted Budget also contains language that allows local districts to access funds within a \$76.2 million capped appropriation for either 49% State reimbursement for detention services or 62% State reimbursement for alternatives to detention, thus providing additional financial incentives for local districts to create and sustain effective alternatives to detention programming.

The Budget also contained a measure to enhance the ability of localities to serve youth in the least restrictive setting by authorizing the placement of PINS youth in foster care, rather than a detention facility, while they await the outcome of their Family Court proceeding. When placing any youth in detention, a locality must utilize a risk assessment instrument approved by OCFS. This instrument informs detention decisions by using certain criteria to determine whether the youth is low-, medium- or high-risk.

Actions were also taken to address issues related to OCFS-operated juvenile justice facilities. Last year, the Legislature approved funds to hire staff in the four facilities identified as needing

improvement in the Department of Justice investigation. This year, \$26 million in appropriation authority was approved by the Legislature to hire 414 new medical, mental health and direct care staff in the remaining OCFS facilities over a multi-year period. Additionally, the Legislature rejected the Executive proposal to repeal the twelve-month notification requirement prior to closing or downsizing a facility. Instead, the Legislature requires OCFS to provide 60 days advance notification and to make such determinations based on specific criteria, including the ability to meet the needs of the youth and ease of transportation for the family.

In an extremely difficult fiscal climate, the Legislature restored funding to vital programs aimed to keep youth out of the juvenile justice system and promote positive youth development. Summer Youth Employment provides low-income youth with employment during the summer months, and has been shown to provide lasting skill sets and lower at-risk behaviors. The Governor proposed a full elimination of this program in the amount of \$15.5 million in TANF funding. The Legislature was able to fully restore \$15.5 million to keep the program going. Additionally, the Legislature rejected an Executive proposal to create a block grant, at a reduced level of funding, for preventive programs which traditionally receive distinct appropriations. The Legislature was able to line out funding for each of these programs, including the Youth Development and Delinquency Prevention program, intended to keep at-risk youth from entering the juvenile justice system, and the post-placement program which provides services to youth leaving juvenile justice facilities so they can safely transition back into their communities.

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 December 31, 2010 there were 23,182 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. Office of the Child Advocate (A.644-A, 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.

b. 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, but constrained by fiscal concerns, this legislation was drafted to notify 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.

c. Camp Directors as Mandated Reporters (A.5519, Englebright; Chapter 91)

Camp directors interact with many children on a daily basis during the duration of their programs. Therefore, they are first-hand observers in the well-being and safety of the children in their care. While camp directors are required to report abuse that takes place at the camp to the Department of Health, they are not required to report suspected child abuse that takes place outside of the camp.

This law will make camp directors mandated reporters of child abuse and neglect. As such, they

will be required to report to the Statewide Central Register of Child Abuse and Maltreatment (SCR) any suspected abuse. This law will enhance the safety of children by adding another responsible party to the comprehensive network of mandated reporters.

d. Differential Response (A.6823, Paulin; Chapter 45)

The SCR accepts calls of suspected child abuse and neglect. In many cases, these are converted into reports to the local social services district, which must conduct a child protective investigation of the family. Yet, not all reports of suspected child abuse contain a safety threat, but rather the need for services to address the underlying issues facing the family. In 2007, a law was signed establishing a pilot program for the Family Assessment Response (FAR) program for handling reports of suspected child abuse or neglect which do not constitute a serious safety threat. FAR allows districts to interview the family in a less intrusive way, and to connect them with necessary services in the community. This method of intervention has shown to be effective in meeting the needs of the family as a whole, and in conserving the resources of the district.

This law makes permanent the FAR program, and provides New York City with the option of participating.

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. Destitute Children (A.7836-A, Paulin; Delivered to Governor)

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 have sought legislation to establish a legal means to bring destitute children into foster care.

This bill would establish a court proceeding to enable local social services districts to legally obtain custody of destitute children. The local social services district would 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 would have dispositional options of placement with the district or guardianship with a relative or suitable person and could order services to facilitate such order.

g. Access to Differential Response Records (A.8108-A, Paulin; Chapter 377)

Chapter 452 of the Laws of 2007 established the FAR program to provide an alternative approach to non-safety related child protective reports. The FAR program has so far been successful in engaging families by connecting them with services to meet the needs in the home without a full scale investigation. FAR records are confidential and may only be disclosed to a limited number of entities, which do not include the courts. Although strict confidentiality is appropriate to protect such records, there are instances when information contained in a FAR record is critical to the outcome of a court proceeding. This may be the case when services under FAR are not yet completed and a custody decision is pending. This may also be the case when a participant wants to demonstrate his or her compliance with services through FAR. It is therefore appropriate that limited access to such records be given in narrowly defined circumstances.

This law will allow courts to access FAR records during the duration of the services provided under FAR pursuant to a judicial subpoena and a finding that such information is necessary to a determination before the court. This law will also provide the subject of a FAR report with access to such records and the authority to disclose them in any relevant proceeding. Local social services districts will be authorized to disclose records from a FAR case in a subsequent child protective proceeding before the Family Court.

h. Kinship Guardianship Assistance Eligibility (A.8339, Paulin; Delivered to Governor)

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 bill would clarify 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.

2. Budget Initiatives

Despite a difficult economic climate, the Legislature worked to preserve vital programs in the area of child welfare. Significantly, the Legislature rejected a proposal by the Executive to merge funding for preventive programs into a block grant, called the Primary Prevention Incentive Program (PIIP). Under this structure, programs which traditionally receive distinct appropriations would have been forced to compete for reduced funding. The programs to be included were: the Youth Development and Delinquency Prevention Program, Community Optional Preventive Services, Runaway and Homeless Youth, Caseload Reduction, Kinship/Caretaker Relative, Settlement Houses, post-placement, Hoyt Trust Fund and Home Visiting. Providers and advocates expressed deep concern that such a structure would inhibit their ability to keep children out of foster care, prevent family violence and provide essential services to underserved communities. The Legislature rejected this proposal and lined out funding for each of these critical programs.

One of the programs which had been proposed for inclusion in the PIIP is the Home Visiting program. The Home Visiting program has been proven effective at keeping families together and creating better outcomes for children. This proposal would have caused a loss of Federal funding to the State, as the Federal government had made additional money available to States maintaining a certain level of funding for Home Visiting programs. With this in mind, the Legislature was able to make a full restoration to the Home Visiting program. The Legislature also restored funding to post-adoption services, so that adoptive families have a better chance of success and fewer children re-enter foster care post-adoption. The Executive had proposed an elimination of \$2.6 million for post-adoption services. The Legislature restored \$106,000 in TANF funding.

The Legislature also provided relief to foster care agencies by rejecting the Executive proposal to increase the fee for SCR checks on employees from \$5 to \$60. The Legislature was able to decrease the fee to \$25. Additionally, the Legislature rejected a proposal to shift all State costs for special education placements to school districts, and was able to restore half of the original State share for such placements.

The Executive proposed extensive cuts in the area of child welfare. Fortunately, core funding streams avoided reductions. The Foster Care Block Grant stayed at a flat level of funding and open-ended child welfare services funding was preserved.

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.

In response to the tragic death of a 23-year old mentally disabled woman in Erie County, the Committee advanced several important pieces of legislation this year which were signed into law. These laws will improve adult protective services investigations, so that victims of abuse and neglect will be more likely to receive the care and protection they need.

1. Legislative Initiatives

a. Access Orders (A.5458-A, Scarborough; Chapter 412)

Local social services districts are charged with investigating cases of adults who, due to physical or mental impairment, may be unable to care for themselves. An essential part of the investigation is to interview the alleged victim and his or her caretakers. If the official is denied access, he or she is authorized to seek a warrant to gain access to the alleged victim if there is reasonable cause to believe he or she is in need of protective services. Until this law was enacted, the decision about whether or not to seek a court order was left solely to the discretion of the investigating official. The case of Laura Cummings, a 23-year old mentally disabled woman who was murdered by her caretakers in 2010, shed light on the need for a more thorough review of this process. In the Cummings case, the investigating official was denied access and chose not to seek a court order.

This law will require that a social services official investigating an adult protective case consult a supervisor about whether or not to seek a court order if denied access to the alleged victim. Additionally, the reasons for whether or not to seek a court order are required to be documented in the investigation file.

b. Access to Child Maltreatment Records (A.7633, Paulin; Chapter 440)

A person may be in need of adult protective services if he or she is over the age of eighteen and cannot care for him or herself. Often, investigations into whether a person is in need of protective services seek to uncover whether abuse or neglect is taking place in the home. The caretakers responsible for the alleged victim may be the same caretakers responsible for that person when he or she was a child. A history of child abuse or neglect may provide critical information to the investigation of whether that person is being abused as an adult.

This law will provide social services officials with access to indicated reports of child abuse or neglect if such information is necessary to further an adult protective services investigation, and the official has reasonable cause to believe that an adult may be in need of protective services due to the actions of an individual who had access to him or her as a child.

III. PUBLIC HEARINGS/ROUNDTABLES

A. The Reauthorization of Child Welfare Financing

On September 19, 2011, the Committee held a public hearing on the Reauthorization of Child Welfare Financing which is set to expire on June 30, 2012. The purpose of the hearing was to gain feedback from stakeholders on how these funding streams are working, and how they can be improved. Such feedback will help guide the upcoming budget discussions for SFY 2012-13.

The intent of child welfare financing is to reduce foster care rates by encouraging the use of preventive services, and to provide support to programs that keep children safe, both in their homes and in foster care. The three major components of child welfare financing are: a capped Foster Care Block Grant; open-ended State reimbursement for preventive services; and a Quality Enhancement Fund used to increase the availability and quality of children and family services programs. Since the enactment of child welfare financing, localities have utilized these funding streams to establish and expand vital programs aimed at keeping families together and keeping children out of foster care, as well as the juvenile justice system.

Witnesses at the hearing included advocates and providers who testified to the importance of maintaining open-ended funding for preventive services and a fully funded Foster Care Block Grant. Testimony also provided suggestions for improving these funding streams. These included merging funding for out of home placement into one block grant, and merging funding for alternatives to detention and placement with preventive services. Witnesses spoke to the importance of incentivizing services that keep children safe and prevent out-of-home placements, while capping funding for less desirable outcomes such as foster care and detention.

B. Child Product Safety

On October 31, 2011, the Committee on Consumer Affairs and Protection and the Committee on Children and Families held a public hearing to examine various child product safety issues. In recent years, several new child product safety laws have been enacted, including the Federal Consumer Product Safety Improvement Act and the State's Children's Product Safety and Recall Effectiveness Act of 2008. While these new laws significantly raised child product safety standards and improved the nation's product recall system, there have been recent reports of hazardous products, such as children's clothing with unsafe drawstrings, remaining on store shelves.

Several child product safety issues were discussed at the hearing, including the effectiveness of State and Federal product safety laws and how the State can further protect children from hazardous products. The Committees also reviewed several bills that have been introduced in both the Committee on Consumer Affairs and Protection and the Committee on Children and Families, including legislation that would regulate the sale of novelty lighters and a measure that would require child day care programs and certain residential foster care programs to discontinue the use of hazardous products. The Committees heard testimony from the Department of State,

child safety advocates, consumer advocacy groups, the retail industry, and manufacturers of juvenile products. The hearing marked a successful dialogue on advancing child product safety. The Committees plan to continue the dialogue with government, consumer, and industry participants.

APPENDIX A

2011 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)	1	0	1
TO WAYS AND MEANS	6	0	6
TO CODES	14	1	15
TO RULES	1	0	1
TO JUDICIARY	0	0	0
TOTAL	22	1	23
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>Health</u>	1	0	1
TO _____			
TO _____			
TO _____			
TOTAL	1	0	1
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		1	1
RECALLED		0	0
TOTAL		1	1
BILLS DEFEATED IN COMMITTEE			
BILLS HELD FOR CONSIDERATION WITH A ROLL- CALL VOTE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	82	3	85
BILLS HAVING ENACTING CLAUSES STRICKEN	5	0	5
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	110	5	115
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	6		

APPENDIX B

2011 BILLS SIGNED INTO LAW

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter#</u>
A.5458-A	Scarborough	Requires supervisory review of whether or not to seek a court order for a warrant when access is denied during an adult protective investigation.	412
A.5519	Englebright	Makes camp directors mandated reporters.	91
A.6823	Paulin	Makes permanent the Family Assessment Response program and expands Statewide.	45
A.7633	Paulin	Provides social services officials investigating cases of adults alleged to be in need of protective services with access to indicated reports of child abuse and neglect.	377
A.8108-A	Paulin	Expands access to records of Family Assessment Response cases.	440

APPENDIX C

OUTLOOK FOR 2012

A. Juvenile Justice

Evidence continues to grow that outcomes from placement in the juvenile justice system are very poor. This holds 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 the safety of the community. In the SFY 2011-12 Budget, a new funding stream was dedicated to alternative to detention and placement programs. This was a positive step towards assisting localities in developing effective, evidence-based programs that keep youth out of the juvenile justice system. Going forward, the Committee seeks to ensure that these funds are distributed to eligible localities in an effective and timely manner, and in which allows counties to use such funds as most locally appropriate.

Additionally, the Committee is interested in further evaluating which youth would be best served by alternatives versus placement. As required in the SFY 2011-12 Budget, localities must now utilize a risk assessment instrument that has been validated by OCFS to inform detention 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 this information be validated and shared only among necessary authorities. 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 fair and valid.

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 violation 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 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.

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 2012 on improving the State's juvenile justice system.

B. Educational Neglect

State law outlines educational neglect as “the failure of a parent to exercise a minimum degree of care...in supplying the child with adequate...education.” 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 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 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. The report found that local practices on dealing with school absences vary widely, that efforts are not always made to contact the family prior to calling the SCR and that coordination is lacking between the various entities under which the family may already be receiving services. Despite a 2006 law requiring OCFS and the State Education Department (SED) to issue model policies for collaboration among local social services and school districts, few localities have submitted the required plan.

This year, the Committee will engage stakeholders in discussions on the issue of educational neglect. In the upcoming session, the Committee will continue to explore the problems raised during these discussions to identify changes that are both necessary and meaningful.

C. Preventive Services

The Committee on Children and Families is committed to ensuring the well-being of children throughout the State. The Committee recognizes that children have the best chance of success when they can be cared for safely in their own homes, with their own families. With this principle in mind, the Committee will focus on the provision of quality preventive services, aimed at keeping families together. In these tough economic times, it is vital that the State and localities implement innovative methods of serving at-risk families. In the upcoming year, the Committee will closely examine what localities are doing to identify and target and assist these families. The Committee will also monitor the availability of Federal funding for preventive programs. It is important that wherever possible, New York State comply with Federal eligibility criteria in order to draw down additional funding.

In the upcoming session, the Committee will be focusing on the reauthorization of Child Welfare Financing, which is due to expire on June 1, 2012. Child welfare financing supports mandated and non-mandated preventive services, as well as foster care subsidies and maintenance, and grants to enhance the quality of child and family services programs. The Committee held a hearing on September 19 to better understand how these funding streams are currently used to support vulnerable children and families. Although innovative programs have been created to address the needs of the State’s children and families, advocates unanimously asserted that

efficiencies must be created to ease provider access and local district administration of available funding. The Committee understands the crucial need for effective request for proposal and reimbursement procedures and will work with all stakeholders toward the goal of prompt payment for eligible services. The wealth of important information gathered at this hearing will help guide the upcoming budget discussion on ways to both preserve and improve this critical funding source.

Witnesses at the hearing also discussed upcoming changes to the way foster children receive health and mental health services. Currently, foster children are exempt from Medicaid managed care. Rather, they receive Medicaid services through a fee-for-service or per-diem structure. As part of the SFY 2011-12 Budget, foster children will become part of the Medicaid managed care system. The Committee will work with stakeholders to ensure that the implementation of such change will provide foster children with a sufficient level of access to quality medical and mental health services.

D. Improving the Quality of Child Day Care

Quality child care is critical to a child's early learning and development. In the upcoming session, the Committee on Children and Families 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 is being piloted in 13 communities among license 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.