

2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON
CHILDREN AND FAMILIES



Sheldon Silver, Speaker

William Scarborough, Chair

THE ASSEMBLY
STATE OF NEW YORK
ALBANY



WILLIAM SCARBOROUGH
Assemblyman 29th District

CHAIRMAN
Committee on Children and Families

COMMITTEES
Banking, Corporations, Authorities and
Commissions, Correction, Energy

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

December 15, 2008

Dear Speaker Silver:

As Chair of the Assembly Standing Committee on Children and Families, it is my distinct pleasure to submit to you the 2008 Annual Report. This year, the Assembly has continued its commitment to improving outcomes for New York's children and families. Despite spending reductions in State Fiscal Year 2008-09, the Legislature approved continued funding for many essential programs including: preventive services, child care subsidies and adoption subsidies. In addition, the Legislature introduced new funding for alternative community based programs for juvenile delinquents.

The Committee put forward policy initiatives this year concerning all areas under its jurisdiction. Highlights include: establishing permanent guardianship for foster children, enhancing the rights of adjudicated youth, improving the safety of children in residential care, and establishing an independent Office of the Child Advocate. Significantly, the Committee advanced legislation, signed into law, to treat sexually exploited youth as victims instead of criminals by setting up support services and providing alternative dispositional options to Family Courts.

As we approach the 2009 Legislative Session, the Committee will continue to address the needs of children and families in our State, as always, keeping the best interests of children as a priority. In particular, the Committee is looking to improve juvenile justice by reducing recidivism, and to enhance the supportive services and educational opportunities available to older youth aging out of foster care. The Committee will reassess legislation allowing former foster youth to re-enter foster care until they are 21 years of age. This goal remains a top priority for the Committee in order to ensure that a safety net exists for former foster youth who are in need of basic supports and services.

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

Sincerely,

William Scarborough

Chair

Committee on Children and Families

**2008 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CHILDREN AND FAMILIES**

**William Scarborough
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 all 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; and 4) other services and programs for children and their families, including Family Court processes.

This year, the Assembly advanced significant legislation in nearly all policy areas affected by the Committee. Among them are several groundbreaking initiatives designed to enhance long term outcomes for New York's most vulnerable children and their families. Signed into law is legislation designed to treat commercially sexually exploited youth as victims instead of criminals. This law will provide judges with the option to adjudicate these youth as PINS, rather than juvenile delinquents, and place them in a long-term safe house where appropriate services will be available. Short-term safe houses and other community based services will also be made available upon funding.

In addition, the Assembly passed legislation to draw down increased Federal funding for foster children. This bill would provide wage reporting data to the Office of Temporary and Disability Assistance regarding the income of the family of a child for the month that child came into foster care. This data would be confidential and would allow more children to be eligible for Title IV-E, the funding stream used to support the needs of children in foster care.

The Assembly also passed a bill this year to establish waiting lists for child care subsidies in each local social services district. Such information is vital in assessing the child care needs of low-income families and to assess whether existing child care services are sufficient. Child care subsidies are crucial in enabling families to maintain employment and self-sufficiency.

Two bills backed by the Office of Children and Family Services expanding permanency options for foster youth were signed into law. One of these laws allows a permanent guardian to be appointed for a foster youth, thereby ending the Family Court's involvement. The other law allows a guardianship or custody order to be granted while a child abuse proceeding is ongoing. In the past, there was confusion among cohorts whether such persons could seek custody or guardianship prior to an order terminating the parent's rights. This law will enable permanency to be reached earlier.

Finally, to demonstrate an ongoing commitment to improving services and outcomes for children and families, the Assembly forwarded legislation pertaining to: the reduced use of physical restraints, protection of child abuse victims, and increased attention to the health care needs of foster children.

As we approach the 2009 Legislative Session, the Committee will continue to focus on thoughtful, comprehensive and progressive public policies that will improve the lives of children and families in our state.

II. SUMMARY OF COMMITTEE ACTION

A. ADOPTION

All children deserve the opportunity to grow up in a safe and permanent family environment. Unfortunately, despite preventive and family preservation efforts, reuniting families is not always possible. For the children of these families, the establishment of a permanent home is crucial. The Committee has continuously stressed the need for effective permanency planning as well as the need to create a more timely adoption process.

1. Legislative Initiatives

a. **Abandoned Infants** (A.10528, Paulin; Re-referenced to Judiciary Committee)

This bill removes inconsistencies arising out of the Abandoned Infant Protection Act of 2000 and ensures that no legal inconsistencies will result from its enactment. Although the Abandoned Infant Protection Act gave an affirmative defense to mothers who safely abandon their infants in the first five days of life, the Social Services Law still mandates that local social services districts commence a search for the parents of an abandoned baby.

This bill would provide that women who abandon their infants in this way will be allowed to remain anonymous, thus encouraging a desperate mother contemplating the abandonment of her infant to do so in a safe, legally permissible manner. This bill would accomplish this by specifying the procedures that must be followed once a suspected abandoned infant is found.

The bill would ensure that infants who are abandoned at birth are not caught in the lengthy proceedings that accompany foster care placement help to expedite the adoption of such infants and encourage mothers who abandon their infant to do so in a safe manner.

2. Budget Initiatives

a. **Adoption Subsidies** (A.9803-D, Budget Bill Signed Chapter 53)

This year the Assembly approved a budget increase of approximately \$13,000,000 for adoption subsidies. This additional funding will help to ensure permanency for children leaving the foster system for adoptive homes.

B. 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. In 2006, there were 27,187 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 we provide a wide array of services to support the reunification of stable and healthy families.

1. Legislative Initiatives

a. Establishing the Office of the Child Advocate (A.304-D, Clark; Passed the Assembly)

Recent events within the state's juvenile justice and child welfare systems have shed light on the need for greater oversight and reform. Juveniles throughout the state's residential facilities remain in need of an independent mechanism for dealing with concerns and complaints that arise while they are incarcerated before they result in tragedy.

After the beating death of 7 year old Nixmary Brown in 2006, Mayor Bloomberg called for a report on the practices of the city's Administration of Children's Services (ACS). The report found that ACS often fails to follow up on allegations of child abuse. It described how correct, thorough methods of investigation had not been followed in the deaths of 10 children. These instances illustrate the need for more oversight to provide support for overburdened agencies.

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

b. Adding Members of Clergy to List of Mandated Reporters of Suspected Child Abuse and Maltreatment (A.1336-A, McEneny; Passed Assembly)

The incidence of child abuse perpetrated by members of the clergy has been deeply troubling to many within our State. The problem of abuse committed by clergy and hidden from authorities and the public demand that legislative action be taken to protect the welfare of children left vulnerable to such abuse.

This bill attempts to address the issue by adding members of the clergy to the list of mandated reporters of child abuse and neglect, and also, by requiring all mandated reporters to report to the police any child abuse committed by another mandated reporter. The bill also requires members of the clergy to review their institutional records for the past 20 years for allegations of child abuse, and to report such allegations to the local District Attorney. This bill provides that clergy are mandated reporters of information gained in non-privileged/non-confessional ways.

c. Establishing Community Services Response Teams (CSRT) (A.2027-A, Robinson; Referred to Codes)

Educational neglect is defined by a certain number of times a youth is absent unexcused from school. The definition varies across school districts statewide, and there is currently no clear policy for coordination between school districts and child protective services in potential cases of educational neglect.

This bill would establish a Community Services Response Team (CSRT) to investigate excessive school absences before they rise to the level of educational neglect. The bill would also establish a requirement for a regular review of school attendance by school districts, providing an opportunity not only to make initial contact when suspicious absences are first noticed. The absences would be reported to the CSRT, which would be comprised of community service providers who may already be familiar with the families, and who the families may feel much less threatened by. The CSRT will then report back to the team and provide or make necessary referrals for services, reporting the outcome of the intervention back to the school district. If there are further concerns raised by the CSRT, contact will be made to the proper authorities.

d. Child Abuse Medical Services Act (A.3011, John; Referred to Ways and Means)

Children from birth to 17 years old make up 70% of the reported cases of sexual assault victims nationwide. It is critical that these children receive immediate and direct access to specially trained medical providers. Child abuse medical providers at child advocacy centers provide a comprehensive, multidisciplinary, culturally competent, and provide a child-friendly setting in response to the medical needs of an abused child.

This bill would assure that a child who has been sexually abused has direct access to a specially trained, child abuse medical provider at a child advocacy center. These child advocacy centers are accredited by the National Children's Alliance and recognized by the New York State Office of Children and Family Services. These centers are dedicated to providing medical help to children and adolescents that are in need.

This bill also recognizes that the medical evaluation, diagnosis and treatment of the sexually abused child requires additional time and involves additional cost. The bill seeks to assure adequate reimbursement for medical services to sexually abused children.

e. Access to Criminal History Reports (A.4425-A, Mayersohn; Signed Chapter 602)

Access to criminal history record checks of persons residing in the residence, or who are named in a report of a child alleged to be abused/neglected or maltreated, will assist CPS workers in making appropriate assessments about the safety of the child(ren), and would reveal persons who have violent criminal histories or who have previously committed crimes against children. By having this information in advance, CPS workers could make appropriate decisions for a safer

response and would themselves be less at risk as well as having a fuller understanding of the child(ren)'s situation. This bill authorizes a manager or person with a law enforcement background in child protective services units with access to the conviction records of such persons. The previous criminal history check cannot be the sole grounds for an indication.

f. Increasing Housing Grants to a Parent of a Child in Foster Care (A.4634-A, Lopez, V.; Referred to Ways and Means)

There are instances where the lack of adequate housing becomes the only reason why some families are prevented from reuniting families after other adverse circumstances have been alleviated or remedied. While a public assistance allowance contains a certain amount to cover rent, that amount has proven to be inadequate in many cases. The result of such situation is undesirable not only because it is counterproductive to keeping families intact and promoting permanency, but it is also fiscally unsound. This bill increases the housing subsidy made available to prevent foster care placement and to help reunite families if lack of adequate housing is identified as the only reason that foster care would be necessary. The housing subsidy is also available to foster children aging out of foster care into independent living.

g. Services for Sexually Exploited Youth (A.5258-A, Scarborough; Signed Chapter 569)

When a child is sexually abused by an adult, the response of the State is to seek help for the child and punishment for the perpetrator. Yet, those sexually exploited youth who are victims of the sex trade are treated as criminals and denied vital services. This is an inconsistency in the law and the result is unjust and ineffective. Instead of receiving appropriate protection, housing and health care, children as young as eleven are forced into the juvenile justice system and many return to their abusers to be sexually exploited again.

This bill establishes, upon funding appropriated, at least one safe house which would provide long-term housing, crisis intervention and supportive services for sexually exploited youth. Each county would be required, to the extent funds are available, to provide a short-term safe house providing secure and appropriate housing and services. Community based programs would be established to offer services such as street outreach, counseling, education and vocational training and health care. Furthermore, this bill would require courts in certain cases to classify sexually exploited youth as PINS, rather than juvenile delinquents. In doing so, these children would not be incarcerated in youth facilities, but rather, would receive the services established by this legislation.

h. Orders of Protection in Termination of Parental Rights Proceedings (A.8861-A, Scarborough; Referred to Codes)

The termination of parental rights marks a new phase in a foster child's life in which permanency becomes possible through adoption. Yet, many times this permanency is jeopardized by the stalking behavior of the birth parent towards the foster parent, adoptive parent or child. The law does not allow orders of protection in these instances equivalent to those allowed in more typical family offenses.

This bill would provide the same protection to foster children, foster parents and pre-adoptive parents as is provided to other types of families. In response to the Shena D case decided by the New York Court of Appeals, this bill would authorize the Family Court to issue orders of protection protecting such persons, as well as to extend the length of time of the order to two years, or five years if aggravating circumstances exist.

i. Mandated Reporter Training (A.8980, Scarborough; Referred to Ways and Means)

At four public hearings held by the Assembly, participants highlighted a major concern. Reports to the state central register by mandated reporters, such as doctors and teachers were being rejected because they did not satisfy the requirements established by the state central register.

This bill would require that certain mandated reporters, who are likely to encounter children in the course of their professional duties, receive enhanced training on the identification of child abuse and the requirements for reporting such abuse. The training would be provided by entities that already provide mandated reporter training on the process and requirements for reporting child abuse and maltreatment including the Office of Children and Family Services, hospitals, school districts, state and local police.

j. Allowing Court Appointed Special Advocates Access to Certain Records Associated With Child Abuse and Neglect Cases (A.10115-B, Cahill; Referred to Rules)

CASA (Court Appointed Special Advocates) is a volunteer based program of advocates for children in Family Court proceedings who have been abused, neglected, are at risk or are in foster care. These specially trained and closely supervised volunteers, appointed directly by Family Court judges, get to know each child and report to the Family Court in great detail about the child's circumstances. They ensure that children receive adequate medical and educational attention, access to necessary services and assist with compliance with court orders. In order to best serve children, it is necessary that CASA volunteers have access to records pertaining to the circumstances and needs of those children in order to make comprehensive reports to the Family Court.

This bill would allow CASA volunteers with access to certain, specific foster care and child protective records necessary to fulfill their duties to the Family Court. Such records would remain confidential and shall not be re-disclosed.

k. Removes Special Powers Granted to the Society for the Prevention of Cruelty to Children; Repealer (A.10516-A, Millman; Passed Assembly)

Societies for the Prevention of Cruelty to Children (SPCC) were first established in New York State in the mid-1870s, in response to a need for protecting children from abuse and neglect. At that time, there were no state laws or authorities to protect children from abusive situations. For over a century these organizations helped to protect the children of our state. However, with the

enactment of the Child Protective Services Act in 1973, the state assumed the role of protecting children against abuse and neglect.

This bill would repeal unnecessary powers of SPCC organizations so that child protective services may only be handled by the appropriate local social services district.

l. Persons Credentialed by the Office of Alcoholism and Substance Abuse Services Designated as Mandated Reporters of Suspected Cases of Child Abuse (A.10664, Ortiz: Signed Chapter 366)

The Office of Alcoholism and Substance Abuse Services (OASAS) has expanded the number and types of credentials which may be given to employees. These employees interface with vulnerable children and families, and therefore have been included as mandated reporters of child abuse in State Law. In efforts to strengthen and increase the number of mandated reporters, this bill includes all persons credentialed by OASAS.

m. Disqualifies People with Convictions of Certain Felonies from Becoming Certified Foster or Adoptive Parents (A.10803, Titus: Signed Chapter 623)

This bill disqualifies persons who have committed certain felonies from becoming certified as a foster or adoptive parent. Until this year, states could qualify such persons if it could be proved that a failure to certify would create an unreasonable risk of harm to the child. This year the Federal government passed legislation that removes this option. This bill is necessary for federal compliance and failure to act would put the state at risk for loss of federal foster care funding.

n. Trial Discharges of Youth in Foster Care (A.10667-B, Scarborough; Passed Assembly)

Experience has demonstrated that, all too often, when adolescents age out of foster care upon reaching age 18 or shortly thereafter, they are wholly unprepared to function in society. Although the law now permits them to consent to continued foster care with its attendant supports and services up until age 21, many make precipitous decisions to their independence and refuse consent to remain in care even when they desperately need it.

This measure would permit a youth between ages 18 and 21 who has been discharged from foster care within the past 24 months upon their failure to consent to continued foster care to apply to Family Court for permission to return voluntarily to such care. Additionally, this bill would allow trial discharges to be extended for six month intervals after a youth leaves foster care. These measures would not only provide adolescents with a means of obtaining assistance in joining the adult community, but would also provide an essential homelessness-prevention.

o. Court Process for Destitute Children (A.10807, Titus; Referred to Codes)

Children are sometimes found in localities throughout the State of New York without parents or other legally responsible people to care for them. These are often the neediest children. The law requires that local social services districts assume care for these destitute children. However,

there is no statutory process for bringing destitute children into the legal custody of the local commissioner of social services. Without a statutory scheme that reflects federally required court findings, children placed in the care of the local commissioner of social services are not eligible for Title IV-E funding. In addition, their placements are not subject to ongoing judicial oversight through the permanency hearing process.

This bill would create a formal court process for these children to come into the custody of the local commissioner of social services in a manner that would make their placements eligible for Title V-E reimbursement and provide the same level of judicial oversight granted to other children in foster care.

p. Reinstatement of Parental Rights and Vacatur of Commitment of Guardianship and Custody of Children (A.10810, Scarborough; Referred to Codes)

Permanency legislation enacted in 2005 recognized that youth in out-of-home care require services to prepare them for independence in adulthood starting at age 14 and also that they need a “significant connection to an adult willing to be a permanency resource.” All too often, the “significant connection” that would fulfill a child’s best interests turns out to be his or her birth parent, even if parental rights had been terminated. However, State law does not provide any procedural vehicle recognizing that reality.

This bill allows children to return to their birth parents whose parental rights had previously been terminated under certain conditions.

q. A Study on the Quality of Health Care Services Received By Foster Children in New York State (A.11061-A, Titus; Passed Assembly)

New York State has a three tiered system for providing health care services to foster children under Medicaid: a per-diem, fee-for-services and managed care system. Currently, many of the children's medical needs are going untreated and unaccounted for. Gathering more information from State agencies, foster care agencies, local districts and advocates to better understand how the Per-Diem, Fee-For-Service and Managed Care financing constructs affect the health outcomes of these children in need, will allow policy makers to make better decisions that will improve the health of children in foster care.

This bill would require OCFS to contract with an external research organization to evaluate the implementation and effectiveness of New York State’s health care delivery system for children in foster care.

r. Improving the Quality and Oversight of Calls Made to the Statewide Central Register (A.11584, Scarborough; Referred to Codes)

This bill aims to better protect children by requiring that calls made by mandated reporters be recorded and retained by the Office of Children and Family Services (OCFS) for specific time periods. Mandated reporters constitute a first line of defense against child abuse and

maltreatment. Intervention is only possible after identification of abuse and/or maltreatment and it is important that those identifications are as accurate as possible. It is known that some calls to the SCR are inappropriately rejected, leading to unnecessary further child abuse and fatalities. Recording these calls will hold SCR workers accountable for following proper procedures for accepting and rejecting calls. The bill limits the recording of calls to the SCR by mandated reporters in attempt to understand how implementation of this policy change will enhance the safety of children. Once the issues of recording and retention are addressed, the state should look to record all calls made to the SCR. Currently, 14 other states record calls to a child abuse hotline.

s. Improved Coordination between Child Protective Services and Law Enforcement
(A.11671, Gordon; Delivered to Senate)

This bill will provide more information in regards to child abuse allegations referred to law enforcement from Child Protective Services. Local districts currently do not maintain data on the number of, or instances where, reports of child abuse are referred to law enforcement. Law enforcement plays a crucial role in helping with the investigation of certain types of child abuse allegations. This bill would help provide information so that the Governor and Legislature can better ensure that coordination between child protective services and law enforcement is appropriate and effective. This bill is part of the Assembly's Jonathan Carey package.

1. Budget Initiatives

a. Caseload Reduction (A. 9803-D Budget Bill Signed Chapter 57)

In 2006, the Office of Children and Family Services (OCFS) completed a workload study to determine the appropriate number of cases child protective workers should have at any given time. OCFS found that many caseworkers are currently overwhelmed and cannot spend the amount of time necessary interfacing with the children and families they serve. Such burdens greatly impact the quality of child protective services. This year, the Assembly put forward funds to allow counties to hire additional child protective workers in order to meet the recommendations in the OCFS study.

b. Portable Technology (A. 9807-C Budget Bill Signed Chapter 57)

The Assembly recognizes the demanding nature of child protective work. Caseworkers are responsible for keeping crucial progress notes that inform child protective agencies on the needs and statuses of present and past cases. The recording and entering of progress notes can consume a great deal of a caseworker's time. This year, the Assembly funded in part the continuation of a portable technology demonstration project which equips caseworkers with blackberries, laptops and other tools which can be used to enter data from the field site or while waiting in Family Court. The project allows caseworkers to spend more time with vulnerable children and families, rather than entering notes.

C. 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 advanced significant legislation that will enhance the quality of child care, while also making it more accessible and safer for children of low-to moderate-income families.

1. Legislative Initiatives

a. Posting Violations Committed by a Day Care Center (A.640-A, Wright; Referred to Codes)

Working parents rely on day care centers to provide a safe environment for their children, yet there is no mechanism for parents to easily determine the nature of a statutory or regulatory violation that may have occurred. Many providers are also concerned that without a description of the violation, parents will dismiss the child care program as a possibility for enrollment without knowledge of what actually occurred. This bill would allow parents to check on the Office of Children and Families web site to determine whether a violation should be a factor in their consideration of the program.

b. Removing Education as a Barrier to Day Care Services (A.757-A, V. Lopez; Advanced to Third Reading)

The Assembly supports legislation that assists able adults to succeed in the workforce and free themselves from the welfare cycle. Post-secondary education is vital to achieving employment that pays a livable wage. Adults who pursue a higher education often rely on day care services while they are in school. Penalizing adults who pursue education beyond an Associates degree by stripping them of their day care services hinders their ability to complete the degree and achieve self-sufficiency.

This bill would remove educational degree programs from a determination of eligibility for day care services.

c. Limiting Co-payments for Child Care Assistance (A.6087, John; Referred to Ways and Means)

Child care is important for working families, particularly those struggling to get off the welfare rolls. A child care subsidy provides low income parents access to quality child care that they

could not otherwise afford. Yet, many counties charge these families with a co-payment as high as 35% of their income above the Federal Poverty Level. A co-payment this high is not affordable for many of these families. Therefore, such families may opt out of regulated child care and either stop working in order to care for their children, or use unregulated and potentially unsafe child care settings.

This bill would limit the co-payment of families receiving child care subsidies to 10% of a family's income.

d. Maintaining a Waiting List of Families for Child Care Assistance and Data Regarding the Income of Such Families (A.10257, Scarborough; Passed Assembly)

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

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

e. Enforcement of Child Day Care Safety and Standards; Repealer (A.10662A, to Scarborough; Referred to Codes)

The availability of safe, affordable, accessible child care is important to working families and to families that otherwise need child care for a portion of the day or week. Quality child care enormously benefits the development of children and should be available to families seeking such care. The proposal would enhance the Office of Children and Family Services' capability to require child day care providers to meet high standards by further limiting those instances where a provider who is in violation of a statutory or regulatory requirement can avoid a penalty by merely fixing the violation.

2. Budget Initiatives

a. Child Care Subsidies (A.9803-D, Budget Bill, Signed Chapter 53)

Child care subsidies provide low-income families with access to quality child care. Each year the Assembly fights to ensure that a dedicated funding stream is carved out to support child care subsidies. This year the Assembly approved continuing child care subsidies at an amount able to sustain current program levels, despite the budget shortfall.

D. JUVENILE JUSTICE

Current statistics reveal that there are over 2,000 youth in the custody of OCFS' Division of Juvenile Justice and Opportunities for Youth. An overwhelming number of children in placement have a range of significant needs including the need for assistance with mental health and behavioral health problems, treatment for sex offenses, and treatment for addiction to alcohol and drugs. Rehabilitative services attempt to address the myriad of problems facing these youth to reduce the rate of recidivism. The Committee has continually emphasized the need for an integrated, community-based approach in order to prevent youth from being placed in these types of facilities by providing services for these children before they are placed. For those who must be placed, the Committee traditionally supports intensive after-care services so that they can effectively and safely integrate back into their communities.

1. Legislative Initiatives

a. Changing the Juvenile Delinquent Age (A.3778, Titus; Referred to Codes)

Thousands of youths are transferred to adult courts every year. Assigning juveniles to adult courts has always been controversial. Advocates believe exposing youthful offenders to the violent world of adult prisons increase the potential of future criminal behavior. In fact, statistics show youth who are assigned to juvenile courts have lower rates of returning to criminal behavior than those who went through adult courts.

The federal standard puts the juvenile status at the age of 17. New York is currently one of the only states that define a juvenile delinquent as someone below the age of 16. This bill would change the age at which a youth can be charge as a juvenile delinquent from 15 to 16 years old.

b. Rights of Youth in OCFS Facilities (A.9070-A, Scarborough; Passed Assembly)

During recent site visits to OCFS facilities, youth informed Assembly staff of their thoughts and concerns regarding their placement, the environment within the facilities and their relationships with the youth development aids who work there. Based on the information provided, the Assembly has passed this bill which would detail the rights of youth in OCFS facilities. This bill would require that youth be informed of their rights under existing law to a safe and sanitary environment, freedom from discrimination and the right to express grievances without fear of retribution, among other things. This bill would also establish a youth advisory board which would provide a mechanism for youth in care to express concerns to management staff in OCFS facilities.

c. Runaway Youth from Conditional Release or Mental Health Programs (A.10805, Rivera N; Referred to Codes)

Conditional release status, which is also known as "aftercare," continues treatment when the youth returns to the community. Cooperation with conditional release programming is especially

important because the youth's success or failure during aftercare is an indicator of whether he or she is ready to be finally discharged to the community. If the youth runs away or is absent without permission from a conditional release program, further services are usually needed. In some instances, the youth must be returned to a residential facility for a time before conditional release is attempted again. A youth who is absent from conditional release programming without permission is unable to benefit from that program.

This bill provides that if an adjudicated youth runs away from a conditional release (aftercare) program, OMH program or OMRDD program, the time which they are absent without permission will not be calculated into the time they are assigned to the program. This bill would help adjudicated youth to receive the full benefits of the programs to which they are assigned.

d. Concurrent Guardianship, Custody and Child Protective Proceedings (A.10808 Scarborough; Signed Chapter 519)

Current statutes and case law regarding when and how relatives may act as placement resources for children who are the subject of an abuse or neglect proceeding are unclear and, at times, conflicting. There is often confusion as to whether a family member or suitable person may apply for custody or guardianship while an Article 10 abuse or neglect proceeding is ongoing. This bill would clarify that such petitions may be granted for family members or other suitable persons, thereby increasing the chances of a foster youth experiencing expedited permanency.

e. Alternatives to Incarceration Programs (A.11181, Wright; Referred to Ways and Means)

In an effort to focus on community based alternative to placement programs, OCFS recently initiated the closing of several of its juvenile justice facilities. The Assembly supports such measures to reduce youth placement, which often provides little rehabilitation and increases the likelihood the youth will re-offend. Community based programs have been shown to produce better results, yet they remain under funded in many counties.

This bill does a simple thing. Each time a bed is closed, or savings is achieved for any reason in a residential program, or children are returned from out of state placement (Billy's Law), the funds are reinvested on a 50/50 basis in alternatives to incarceration and home visiting programs. Home visiting programs have been shown to be effective preventive services which decrease the likelihood of child abuse and juvenile offenses later in the child's life. Importantly, the mechanisms created in this bill allow for a level of transparency to the legislature and reporting to the public which has otherwise been unavailable from this agency.

f. Establishes the Youth in Progress Advisory Board for Adolescents in Foster Care (A. 11494-A, Scarborough; Referred to Ways and Means)

The Statewide Foster Care Youth Leadership Team is known as "Youth In Progress" (YIP). The mission of Youth In Progress (YIP) is to enhance and advance the lives of today's and tomorrow's foster care youth by giving them a sense of self and responsibility. The team is comprised of youth leaders and adult mentors from each of the six regional foster care youth

leadership groups, foster care alumni (former foster care youth) OCFS partners (regional office and central office staff), OCFS interns and the NYS Adolescent Services Resource Network members.

This bill would establish YIP in State Law as the statewide foster care advisory board.

g. Establishes a Mentoring Program Within for Adjudicated Youth (A.1577-A, Lopez, V.; Referred to Ways and Means)

The bill addresses an urgent need among the troubled youth in New York City. Although the Office of Children and Family Services has programs in place to treat youths who have run afoul of the law, far too little is now being done for them in the way of after-care. This bill would create a new program, using motivating and successful CUNY students as mentors, to encourage these young people to turn their lives around and become productive members of society, thereby continuing to assist them even after their release from youth facilities.

2. Budget Initiatives

a. Alternatives to Detention (A. 9803-D Budget Bill, Signed Chapter 53)

Community based programs provide an effective alternative to detention for adjudicated youth. Such programs have been shown to reduce recidivism among youth and cost a fraction of the price of placement in a facility. This year, the Assembly added funding to support evidence based alternatives to detention for youth at risk of placement in the juvenile justice system.

b. Restore Funding for Local Detention Costs (A. 9803-D Budget Bill, Signed Chapter 53)

This year, the Executive proposed to end the 50% State share for local detention for juveniles. Youth reside in local detention facilities while awaiting their court date or awaiting adjudication. Shifting the costs entirely onto the local social services districts would have forced counties to make painful cuts to other vital services. Recognizing this hardship, the Assembly funded in part the restoration of the State share for local detention costs.

c. Juvenile Justice Facility Closures (A. 9803-D Budget Bill, Signed Chapter 53)

Placement in costly facilities has been shown to produce negative results for youth, higher recidivism and little evidence of rehabilitation. With this in mind, the Assembly approved the closure of 6 underused juvenile justice facilities. This action saves the State money while supporting the notion that adjudicated youth are better served in the community.

E. OTHER ISSUES

a. Out-of-State Placement Committee (A.11001-A, Millman; Vetoed)

A 2005 Council on Children and Families' Interagency Out-of-State Residential Placement Work Group report found that New York State is spending \$200 million annually to out-of-state residential schools and facilities that house and educate our special needs children and foster children. This is because the State lacks the in-state capacity to serve this population and that the in-state facilities that do exist are in need of extensive renovation and repair. The work group found that for every 100 children who could be served in-state rather than being placed out-of-state, the State would save \$7.8 million.

This bill would direct the Out-of-State Placement Committee to develop a residential bed plan. This bill would also authorize the NYS Dormitory Authority to finance the construction and renovations of beds for children to be placed in-state.

b. Improving the Council on Children and Families Regarding Physical Restraints on Children (A.11231, Paulin; Signed Chapter 470)

In 2006 legislation was signed into law to create the Restraint and Crisis Intervention Technique Committee. The Committee was required to produce a report identifying the most effective, safest, least restrictive coordinated standards for de-escalation techniques to be used to help all children better manage crisis situations, no matter through what agency a child is placed. Although the Committee submitted a report to the Governor and Legislature in 2007, there was not a common set of standards and requirements identified in the report. This legislation charges the Committee with providing the necessary follow-up to result in policies reflecting best practices and inter-agency coordinated standards and to submit yearly reports to the Governor and the Legislature.

c. Residential Services for Victims of Domestic Violence (A.10228, Paulin, Chapter 584)

Last year, New York State passed landmark legislation cracking down on human trafficking and providing services to victims. Under current state law, a social services district must provide emergency shelter and services at a residential program to victims of domestic violence who are eligible for public assistance or who apply for public assistance and care while residing in a residential program. Some emergency shelters with limited and straining financial resources, had to turn away undocumented victims because they would not be reimbursed by the state and local governments.

This bill ensures that undocumented victims of human trafficking and domestic violence have emergency shelter available to them without placing an additional burden on local property taxpayers.

d. The Council on Children and Families (A.10806, Titus; Referred to Ways and Means)

The Council on Children and Families consists of agency heads from New York State's health, education and human services agencies. Current law provides that the heads from two agencies, the Commission on Quality of Care and the Office of Advocate for Persons with Disabilities, are members of the Council, but these two agencies have since merged into the Commission on Quality of Care and Advocacy for Persons with Disabilities, which is represented by one chairperson. This amendment would modify the law to reflect the Current state agency structure.

This proposal would remove any reference to the Chair of the Council being responsible for staffing the Council or carrying out its daily functions, as these responsibilities are more appropriately, and already, undertaken by the Council's Executive Director.

e. Powers and Duties of the Commissioner of the Office of General Services (A. 10809: Rivera, N.; Passed Assembly)

Among the functions of CBVH is the operation of a Business Enterprise Program (BEP) for blind vendors. CBVH receives federal funding for this program through the United States Department of Education (DOE), Rehabilitation Services Administration. However, a federal law, the Randolph-Sheppard Act, requires that grievances be submitted to the United States DOE, Rehabilitation Services Administration for arbitration.

This proposal therefore changes the provision of law governing the BEP to reflect that federal statute and regulation do not permit a vendor to grieve the result of an administrative hearing to an arbitration panel convened by the CBVH, as the law currently provides. This bill will avoid potential fiscal penalties for non-compliance with Federal law.

II. PUBLIC HEARINGS AND REPORTS

A. CHILD DAY CARE CENTER CLOSINGS IN NEW YORK CITY

In May of 2008, the Committee sponsored a public hearing to identify the obstacles that New York City child care centers face in staying open and preserving slots. The hearing was in response to the Administration for Children's Services (ACS) decision to close two major child care centers serving over 300 children in low-income areas. This decision upset many families who depend on the centers for subsidized child care. Providers also expressed dismay at the decision to close the facilities. The closings reflected a trend of child care center closing in New York City, affecting many low-income families.

The hearing allowed ACS to share its perspective on the preservation of child care slots. ACS is currently undertaking an initiative called "Project Full Enrollment" which will no longer fund unfilled slots. The Committee is closely watching to see how the implementation affects child care needs in New York City. Providers, advocates and families also testified on how the recent ACS decisions affected them. These insights will further assist the Assembly in its commitment to providing access to quality child care for low-income families.

B. FOSTER CARE OVERSIGHT

The Assembly will hold two public hearings this year on the oversight and quality of foster care services. These services may be provided by local social services districts or contracted foster care agencies. While local districts and voluntary agencies perform much needed services to thousands of foster children throughout the state, OCFS, ACS, and child welfare advocates have consistently reported on the varying degrees of case planning performance. Measuring, tracking and holding districts and agencies accountable for the quality of the services they deliver is essential. Doing so requires that OCFS and local social services districts have detailed insight into the quality of care foster children and families are receiving. The Committee is interested in determining whether current oversight is sufficient and effective to ensure that quality foster care services are being delivered.

The first hearing will be held in New York City and will primarily address the new ACS initiative to transfer case planning services from ACS to the voluntary agencies with which ACS contracts for foster care. This initiative is called "Improved Outcomes for Children" (IOC). The second hearing will be held in Albany, and will address OCFS oversight of foster care services delivered by local social services district and the foster care agencies with which those districts contract. The Committee hopes to gain detailed insight from OCFS, ACS, foster care providers, advocates, families and foster children on the state of foster care services in New York State.

APPENDIX A

**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	2	6	8
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	18	0	18
TO CODES	26	0	26
TO RULES	20	0	20
TO JUDICIARY	0	0	0
TOTAL	66	6	72
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>Consumer Affairs & Protection</u> COMMITTEE	1	0	1
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TOTAL	1	0	1
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		6	6
RECALLED		0	0
TOTAL		6	6
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	114	10	124
BILLS NEVER REPORTED, DIED IN COMMITTEE	0	0	0
BILLS HAVING ENACTING CLAUSES STRICKEN	1	0	1
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	168	15	183
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	9		

APPENDIX B

2008 BILLS SIGNED INTO LAW

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter#</u>
A.4425-A	Mayersohn	Provides certain persons employed by child protective services units access to criminal history reports of adults named in a report of child abuse, maltreatment or neglect, or residing with such child.	602
A.5258-C	Scarborough	Allows Family Courts to adjudicate sexually exploited youth as PINS rather than juvenile delinquents, and sets up support services for such youth.	569
A.7089	Bing	Provides that a person shall not be penalized in child custody hearings for making good faith efforts to protect a child against abuse.	538
A.7858-E	Destito	Relates to protection and advocacy for child abuse victims and fair treatment of child victims as witnesses.	574
A.8358-B	Bradley	Relates to the legal powers of custodians and guardians of children; issues with adoption.	404
A.10228	Paulin	Provides for an alien to be eligible for residential services for victims of domestic violence.	584
A.10664	Ortiz	Adds all persons credentialed by the Office of Alcoholism and Substance Abuse Services to be mandated reporters.	366
A.10803	Titus	Conforms to Federal law relating to restricting certification and approval of foster and adoptive parents who have been convicted of certain crimes.	623
A.10808-A	Scarborough	Relates to concurrent guardianship, custody and child protective proceedings.	519

A.11231	Paulin	Relates to the future responsibilities of the restraint and crisis intervention technique committee; provides additional duties and responsibilities for the committee.	470
A.11753	Rules (Gordon T)	Clarifies and enhances provisions of law relating to the protection of children in residential facilities from child abuse and neglect.	323

APPENDIX C

BILLS VETOED BY THE GOVERNOR

BILL #	SPONSOR	DESCRIPTION	VETO #
A. 11001-A	Millman	Directs the Out of State Placement Committee to develop a residential bed plan and authorizes the Dormitory Authority to finance new facilities.	81

APPENDIX D

OUTLOOK FOR 2009

A. Improvements to the Juvenile Justice System

Nationwide studies have shown the benefit of community based alternatives for adjudicated youth. Such programs have been shown to produce lower recidivism rates and a more successful transition out of the juvenile justice system for youth, at a fraction of a price of placement in facilities. In SFY 2008-2009, the Assembly supported the OCFS initiative to close underused facilities and added funds for alternatives to detention for youth at risk of placement in the juvenile justice system. This year, the Committee will examine initiatives and legislation related to transforming the current model of juvenile justice into one that better serves the needs of at-risk youth. As part of this effort, the Committee will again put forward legislation to ensure the rights, safety and fair treatment of youth in placement.

B. Identify Existing Child Care Needs and Ensure Access to Child Care

Many low-income families depend on child care subsidies in order to access quality child care and maintain employment. The amount of child care funding available to local social services districts is negotiated annually, yet the need for such funding is unknown. In order to ensure that appropriate funds are secured, it is necessary for each local district to maintain waiting lists of families who need child care subsidies but are not receiving them. In this time of economic crisis, it is necessary to determine funding levels fully informed with all necessary data.

Access to child care is also being impacted by local social services district initiatives to change funding and eligibility formulas. In New York City, ACS is currently implementing "Project Full Enrollment" which will terminate funding for unfilled child care slots. The Committee is committed to ensuring that such processes do not unnecessarily decrease existing child care slots in a way that negatively impacts families. The Committee will also examine issues relating to the ability of child care providers to navigate complex regulations in order to maintain their programs.

C. Increase Foster Care Eligibility for Social Security Act Title IV-E Federal Funding

In this time of economic crisis, it is crucial that the State take action to secure Federal funding for our most vulnerable populations. Foster children who meet certain criteria are eligible for Federal funding through Title IV-E of the Social Security Act. This funding supports the care and maintenance of foster children; saving precious state and local dollars for other vital services such as preventive and child protective.

The Committee has advanced several pieces of legislation in the past which will ensure that more foster children are IV-E eligible. This year, the Committee will again put forward bills authorizing wage reporting of the foster child's family and establishing a court process for

destitute children. These measures are necessary to meet certain IV-E eligibility criteria. Additionally, the Committee will examine new Federal legislation authorizing IV-E funding for foster children until their 21st birthday, and lay the grounds for drawing down these funds.

D. Youth Aging Out of Foster Care

In 1999, Congress enacted the Chafee Foster Care and Independence Act to improve services provided to youth aging out of foster care and to facilitate their transition to independence. New York provides basic aftercare services to youth who are discharged from foster care for a trial discharge period and allows local districts to spend up to 30% of their independent living funding on room and board for youth ages 18-21 that have aged out of care. However, the need for housing, education, health care, employment, life skills training, and assistance from a supportive adult remains a serious issue for many youth aging out of the foster care system. The Assembly is committed to advancing legislation to assist youth aging out of care with the services they need to be successful and independent as they transition to adulthood.

Last year, for the first time, the Assembly Committee on Children and Families, jointly with the Subcommittee on Foster Care, held a hearing to address the needs of youth aging out of foster care. The hearing included testimony from a variety of stakeholders, including state agencies, advocates and foster youth. The Committee gathered valuable information leading to the advancement of crucial legislation allowing youth to re-enter foster care until they are 21 year of age. Additionally, the Committee will examine legislation to better prepare youth to age out of foster care and ensure that all necessary services are in place.

E. Undocumented Foster Children

Children in foster care who lack legal residency in the United States face extraordinary barriers to independent living. Such children are not eligible for legal employment, post-secondary education assistance, or public benefits such as housing, cash assistance, Medicaid and food stamps. It is of the utmost importance that undocumented foster children be assisted as soon as possible to obtain legal permanent residency. This can be achieved through obtaining Special Immigrant Juvenile Status (SIJS), which begins with the collection of appropriate documents and the filing of a petition before Family Court. The process can be lengthy and must be completed before the youth's 21st birthday. This year, the Committee will examine solutions to ensuring that the process for SIJS is initiated for all consenting, undocumented foster youth.