
Public Hearing

of

ASSEMBLY ADVISORY COUNCIL ON WOMEN

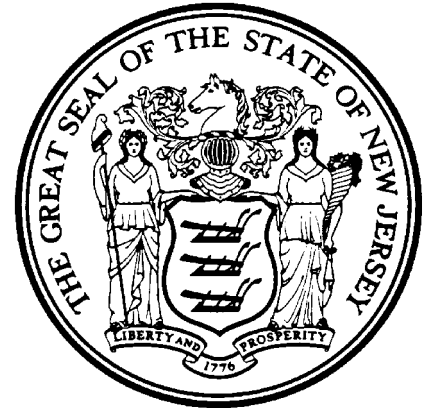
“Testimony from representatives of State and private entities concerning the current adoption process and will investigate recommendations to improve and expedite the adoption process”

LOCATION: Committee Room 3
State House Annex
Trenton, New Jersey

DATE: February 11, 1999
2:00 p.m.

MEMBERS OF COUNCIL PRESENT:

Assemblywoman Rose Marie Heck, Chairwoman
Assemblywoman Marion Crecco, Vice-Chairwoman
Assemblyman E. Scott Garrett
Assemblywoman Carol J. Murphy
Assemblywoman Nellie Pou



ALSO PRESENT:

Miriam Bavati
Office of Legislative Services
Council Aide

Tasha M. Kersey
Assembly Majority
Council Aide

Michael H. Harper
Assembly Democratic
Council Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ASSEMBLYWOMAN ROSE MARIE HECK (Chairwoman):

We thought this would be a very important discussion, and we've discussed adoption over the years, and we feel that we have to move in a positive way. We feel that placement of children is so very important to the well-being of children. We've seen, through the Blue-Ribbon Panel, so many of their suggestions coming through. And working over the years, we do know that children should come first. Children's rights are very important, and what we believe is necessary is that we try to bring the families together but within a short period of time or a reasonable period of time. We remember that the child is growing without parents-- And when I say parents, I mean adoptive parents as well as natural parents -- birth parents. That we give them the opportunity to be loved and to be able to give love. To me that is what adoption is all about.

There is a need. Children need guidance, children need love. Love is, to me, just as important as food. It's food for the soul. Children can grow up to be very upset and unconnected with the world when they are not given the nurturing and the guidance they need from the time they are very young. Certainly, we know that some things go array regardless, but in the larger sense, children do have a need. And we say, "Well, there is a selfishness that you're born with. You want to eat, you want to be safe, you want to be clothed, you'll cry for everything you need." But the nurturing part comes from the parent, and the guidance comes from the parent. Therefore, to us, to me, to all of us, the well-being of the child is paramount. We know, in the Juvenile Justice System, that many, many of the children have grown into

adults who came before us to tell us how unconnected they felt and how their lives were damaged because they didn't have that love that they so needed.

So to all of us here today-- I know that we all care about children; otherwise we would not be here.

Our first speaker is Donna Younkin, Administrator of Foster Care and Permanency, Division of Youth and Family Services.

How are you?

D O N N A Y O U N K I N: Hi, how are you?

ASSEMBLYWOMAN HECK: Good to see you again.

MS. YOUNKIN: Good to see you. We've got a nice day for February out there.

ASSEMBLYWOMAN HECK: Yes, we do.

MS. YOUNKIN: I brought a copy of my testimony and some goodies for you, too.

ASSEMBLYWOMAN HECK: Good.

MS. YOUNKIN: Thank you for having us.

My name is Donna Younkin, and I'm the Administrator for Foster Care and Permanency for the Division of Youth and Family Services. Joining me today is Eileen Crummy who is currently the Acting Administrator for Adoptions Operations.

On behalf of the Division, I'd like to thank you for the opportunity to testify today and to share with you information pertaining to adoption policy and practice.

The last two years have been one of incredible refocusing in child welfare practice, much of it centering on adoption, and driven by such Federal

actions as Adoption 2002 and the Adoption and Safe Families Act, which we call ASFA. In addition, on the State level, Governor Whitman's Foster Care and Permanency Initiative and the Strategic Plan for the Division of Youth and Family Services, which was issued by Commissioner Guhl in June of 1998, have provided even further direction for the refocusing of practice in New Jersey.

It is a time of incredible change, challenge, and most of all, opportunity for children who need and deserve a safe, permanent home.

As I speak today, I hope that you'll remember that I'm here as a representative of a public child welfare agency. As such, the Division's work in the adoption field has elements that are significantly different than that of a private adoption agency.

Almost all of the children who are placed for adoption by DYFS have come to the Division because of a family history of abuse, neglect, or other difficulties, especially substance abuse. That means the birth parents are unable or unwilling to provide a safe, permanent home for the child. However, before these children enter the adoption process, other child welfare activity has occurred.

ASSEMBLYWOMAN HECK: Donna, you can press that button and let it turn red. (referring to PA microphone)

MS. YOUNKIN: How is that?

ASSEMBLYWOMAN HECK: Is it red?

MS. YOUNKIN: Yeah.

ASSEMBLYWOMAN HECK: Good.

MS. YOUNKIN: Okay.

First, as appropriate, there may have been reasonable efforts to prevent a child's removal from his or her home. The law presumes children belong with their family if at all possible. Thus, the Division is mandated to try, through service provision, to allow a child to remain with his or her family without compromising the child's safety and well-being.

Secondly, when a child is removed from his or her home because of safety issues and enters foster care, the law requires DYFS to work with a family for at least 12 months to try and resolve the problems that led to placement.

I should note that there are only a few exceptions to this proviso to reunify families. In 1997, New Jersey's CCAPTA law and the ASFA delineated these circumstances. The exceptions are when a court has determined that a parent has committed crimes such as murder, manslaughter, felony assault, or similar aggravated circumstances. ASFA also includes a provision that reasonable efforts to reunify are not required if the parent's rights to a child have been terminated involuntarily. Most cases do not meet the reasonable efforts to reunify exceptions. Instead, the Division determines that reunification with the birth family in a timely manner is unlikely, despite its efforts to assist the family.

At this point, the case moves from one of the Division's district offices to one of the five Adoption Resources Centers. The ARCs take the steps necessary to clear a child for adoption, to secure an adoptive home for the child, and to finalize the adoption.

A child becomes legally cleared for adoption, basically, three ways: through the voluntary surrendering of parental rights or through involuntary court action that results in a termination of parental rights.

Most of the children DYFS places for adoption are legally cleared for adoption through a termination of parental rights action, something we refer to as TPR. Title 30 is the New Jersey statute under which DYFS files for termination. Attached to my testimony is a fact sheet that sets forth the grounds for termination of parental rights in New Jersey. In practice, best interests is the reason generally used for termination cases other than abandonment.

DYFS is proud of the fact that 80 percent of the children it places for adoption are adopted by their foster parents. For these children, this means one less move in their lives, one less situation of separation and loss. However, for the 20 percent of children who are not adopted by their foster parents, DYFS must aggressively recruit adoptive families for them. We call these children, who are legally free and in need of an adoptive home, our waiting children.

We are endeavoring to turn this situation around. Our goal is to have waiting families, not waiting children. With this in mind, the Division mounts various recruitment efforts to have a pool of adoptive families available for a child when he or she becomes free. This pool is supplemented by adoptive home placements that DYFS purchases from private adoption agencies in New Jersey as well as neighboring states.

Despite our best efforts, there are children for whom no adoptive home is immediately available. At any given time, there are approximately 100

children in New Jersey in this situation. When that occurs, the Division engages in child specific recruitment. We do that through working collaboratively with other agencies and to doing things such as -- we have a Web site, and we have something called the New Jersey Adoption Exchange.

DYFS's adoption recruitment efforts have been recognized on the national level in recent years. We were cited as a model with regard to the Multi-Ethnic Placement Act. We received the Administration for Children and Families Regional Administrator's citation, and we have been asked to make presentations at various Federal conferences.

Beginning in Fiscal Year 1998, we have received \$600,000 annually for the Governor's Adoption Recruitment Initiative. This has allowed us to expand our recruitment efforts as the need for adoptive homes increases, especially given the challenge presented by Adoption 2002.

Attached to this document is a fact sheet on the Governor's Adoption Recruitment Initiative. We are especially proud of the *Profiles of Waiting Children* booklet, our posters, and brochures that are available in English and in Spanish, and our public service announcement on the need for adoptive homes. We have these and other materials to share with you today. And I think you all got copies of a booklet that looks like this, (indicating) and it has all sorts of information in there that we use to recruit adoptive families.

I mentioned Adoption 2002 earlier today. This is the Federal initiative issued in February 1997 that challenged the states to double the number of adoptions by the year 2002. For the Division's adoption program, a baseline of 621 adoptions was established. This means that by Federal Fiscal Year 2002, New Jersey should reach 1242 adoptions. Baselines were also set

for each year leading up to 2002. For the first year, Federal Fiscal Year 1998, New Jersey's target was 660 adoptions.

I am very, very proud to tell you that DYFS not only reached, but exceeded that target. As Commissioner Guhl announced in November, the Division finalized the adoptions of 788 children in Federal Fiscal Year 1998. This is the largest number in the Division's history. A fact sheet on New Jersey's response to meeting Adoption 2002 goals is attached for you.

By achieving this record number of adoptions, New Jersey may receive up to \$750,000 in one-time incentive funds to be used for services to children and families. It is important to note that the incentive funds are tied to the provision of services. It points out the need to support adoptive families and make adoptions work. The children placed by the Division have experienced major separation, loss, and trauma in their lives. The families who open their hearts and their homes to these children need assistance in making these adoption placements work. Adoption is a lifelong process that may require assistance along the way. The Division presently provides assistance in several ways.

One is through the Adoption Subsidy Program. The Adoption Subsidy Program provides adoptive families with a board payment equal to that of the foster care payment that was being made for the child, a clothing allowance, Medicaid, legal fees for the adoption finalization, and, in extraordinary circumstances, special services tied to a child's needs. The adoption subsidy is tied to a child's hard-to-place status and is meant to help remove the barriers to adoption. Adoption subsidy in New Jersey is a

combination of State and Federal funds. A fact sheet on the subsidy program is attached.

Another form of assistance is through what is referred to as the Postadoption Counseling Program. Begun in the 1980s, the Division contracts with private adoption and mental health agencies in the state to provide counseling to families involved in the adoption process. Over the years, this program has been used most frequently prior to the adoption finalization. It is hoped that the incentive funding anticipated from Adoption 2002 will allow us to provide more postadoption services.

As I mentioned earlier, adoption is a lifelong process. Those who are adopted may wish to obtain nonidentifying information, need medical information, or search for birth parents. The Division's Adoption Registry is there to help them. A brochure on the registry is attached.

When I began today, I talked about the last two years bringing incredible change to child welfare, especially adoption. I believe that there is still more change to come.

The laws that relate to child welfare, including adoption, will need to be changed. The first step in New Jersey occurred earlier this week with the signing of the Paramount Safety bill. New Jersey must enact further State-level ASFA legislation by April 1, 1999. Numerous changes are needed to both Title 9 and Title 30. If New Jersey fails to do so, there are serious financial consequences from the Federal government. I have brought with me a copy of a videotape, produced by the Dave Thomas Foundation for Adoption, which was made specifically for legislators with regard to ASFA.

There are presently two cases before the New Jersey Supreme Court that deal with termination of parental rights actions. They clearly challenge us to define when children should be adopted or if it is permissible for them to grow up in foster care. The outcome of these cases may affect adoption practice and require future legislative changes.

I also would like to point out that adoption doesn't occur for most of the children in the DYFS system without the involvement of the court. The Division and the Administrative Office of the Courts have been working together to ensure our systems act in concert to achieve a permanency outcome for children in a timely manner. This past year, DYFS funded additional law guardians and deputy attorneys general to expedite cases through the legal process. There remains much work to be done, however, ranging from using shared information technology to cross-training.

DYFS has been piloting the use of concurrent planning through a Federal Adoption Opportunities Grant. This method of service delivery is aimed at expediting a permanency outcome for children through dual tracking of service delivery. A recently awarded Federal IVE Demonstration Waiver will expand this further, and the Division is committed to implementing this statewide in the future.

DYFS also intends to expand its fost-adopt program into a statewide program. The goal of this program is to provide children who enter foster care with the promise of one foster placement that will become their adoptive should family reunification not be possible. A brochure on our fost-adopt program is attached.

All of these are things that will help us achieve adoption outcomes for our children. Sessions as today's are another example of how we can build further collaborative efforts to increase adoptions.

We appreciate your interest and your support. The Division is happy to be of any further assistance to you if we can.

Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Any questions? (no response)

I just want to commend you on the program.

MS. YOUNKIN: Thank you.

ASSEMBLYWOMAN HECK: You've been doing very well. I'm very pleased about that -- for the children involved. It's very exciting.

MS. YOUNKIN: Thank you.

ASSEMBLYWOMAN HECK: That we're all moving in this positive direction for children--

MS. YOUNKIN: It's a great program. It's more than a job. Adoption is something that gets into your blood, and you can't let it go. It's a wonderful thing.

ASSEMBLYWOMAN HECK: And thank everyone on your staff for us, too.

MS. YOUNKIN: I will. We appreciate you having us today.

ASSEMBLYWOMAN HECK: Thank you for coming.

ASSEMBLYMAN GARRETT: Can I--

ASSEMBLYWOMAN HECK: Do you have a question or a comment?

ASSEMBLYMAN GARRETT: First of all, what are the numerous changes that are needed for Title 9 and Title 30?

MS. YOUNKIN: They are extensive. They could be as simple as things where the law talks about diligent efforts right now. It should be changed to reasonable efforts to be more in concert with what the Federal legislation says.

There are things we need to add -- safety throughout it. Our law does not underline safety in a lot of places. And I say underline, I mean really put emphasis or stress on it. So there is extensive changes that need to be made to convey that safety is the No. 1 concern.

ASSEMBLYMAN GARRETT: You're, certainly, not suggesting that the DYFS workers are not concerned about the safety of the children.

MS. YOUNKIN: I'm not saying that at all. This is more the law.

ASSEMBLYMAN GARRETT: Yes.

MS. YOUNKIN: The law needs to be very much more specific about safety. In the past, legislation both in the State and nationally has talked about family preservation, and family reunification is No. 1. What ASFA wants to do is shift those scales slightly, so instead of family preservation and family reunification, put safety. Safety is No. 1. You should try and get families back together, you should try and keep them together but not at the cost of safety to the child.

ASSEMBLYWOMAN HECK: May I add to that?

One of the problems is that the courts will sometimes say, if someone goes through drug rehabilitation, the child goes back.

ASSEMBLYMAN GARRETT: Right.

ASSEMBLYWOMAN HECK: And that is like a yo-yo back and forth, back and forth.

One of the things we find -- I find most offensive -- is that the child then is at risk again and, oftentimes, brutalized.

ASSEMBLYMAN GARRETT: I've heard that, but--

ASSEMBLYWOMAN HECK: But it is true.

ASSEMBLYMAN GARRETT: A larger question, and I know this is outside of your area, but why is it that we are forced to comply with the Federal guidelines on this? Is this not something that we have the expertise within the State to make the determinations of what the best role is for raising a child? Is there a reason why the experts in Washington are better than you are?

MS. YOUNKIN: I don't know that they're better than us. I think-- I've had the opportunity to go to Washington while ASFA was being discussed. And the comment on the legislation, while it was being drafted, started a bill -- I think it was the (indiscernible) something bill. It's had many incarnations. Basically, what you'll hear from the folks in Washington is that people were frustrated across the country about family preservation and family reunification happening at cost to children. The cases in Chicago made a lot of headlines, cases in New York -- and that the legislators in Washington felt that child welfare in the states -- the message was wrong. The bill was out in 1980 -- came out of Washington on child welfare. It stresses family preservation and family reunification. And they wanted to, basically, come back and clarify for the states that that was not at the expense of safety of children. And that's what led to ASFA.

ASSEMBLYMAN GARRETT: When was ASFA passed?

MS. YOUNKIN: November of 1997.

ASSEMBLYMAN GARRETT: I don't disagree with any of the intentions of ASFA as far as I know them, as you're expressing to me. My concern is that we have to comply with something on the Federal level when we should be able to make these decisions ourselves. Our Federal dollars should not be restricted to the strings that Washington places on them. We see this in health care as well, where New Jersey is usually, in most cases, at the forefront of regulation. And then the Federal government steps in and says, "No, we have the better idea," which may be the same idea, but now our hands are tied.

My experience with DYFS, in handling cases, is along the lines of -- you were saying cases of the mother would be a multiple -- I don't know how to say this right. The mother has multiple children, and the mother is in drug rehabilitation. And one child after another is born and there is no stopping it, and yet, the children continue to be brought back and put with -- through the foster care system. How come DYFS -- or the State has not, prior to this, changed its view on the kids who are in drug-addicted families? I'm not putting it on DYFS. Why has that been the view?

MS. YOUNKIN: I think that it's the view nationally, it's not just DYFS, it's not just New Jersey. I think nationally the people-- And the law -- our laws, I understand -- I'm not a lawyer -- really go back to talking about children as the property of parents. It goes back to English law.

So all the laws, court decisions practiced over the years have come from that as its roots. And you get into a situation of what the parents' rights

are versus what the children rights are. We have practiced that the parents' rights are very important. There comes a time that we have not, really, ever defined that the child's rights start to take more precedence.

I think what you find ASFA trying to do is say that their parents only have limited time. ASFA tells us that we have to file the termination action after a child has been in foster care 15 of the last 22 months. That is a pretty clear message that we have not had before. And child welfare agencies and the courts have been struggling with that for a long time, so in some ways-- What's really nice about ASFA is that it has brought the child welfare agencies and the courts together working towards a goal within some pretty defined parameters. And we're learning from each other.

The nice thing about the Federal aspect of this is that we're learning from other states what they've done. It's really become a national focus on children, which we haven't had before, in child welfare and on adoptions.

So I happen to think ASFA has really done a lot for kids and gives us a lot of opportunities to work collaboratively with the courts to improve the whole system. It isn't to say that all the kids are going to get adopted, but those that need to be adopted are going to get adopted quick, and those who need to go back home are going to go home quicker. So I think it is a win-win situation for both children and parents.

ASSEMBLYWOMAN HECK: We've made some changes, and some we've lost, even through the legislative process when Legal Services get involved and father's rights get involved, and then we've had problems. But we keep fighting for the goal of children first.

Eileen.

EILEEN CRUMMY: Yes.

ASSEMBLYWOMAN HECK: Fun names. Is this you, Eileen?

MS. CRUMMY: Yes it is.

ASSEMBLYWOMAN HECK: You know, as one person with a fun name, I want to mention to you-- (laughter) Because you're Crummy and I'm Heck.

MS. CRUMMY: I always have been.

ASSEMBLYWOMAN HECK: But I want you to know that I was speaking to a friend of mine this morning. He has a worse time than any one of us. His name is Incognito. (laughter)

MS. CRUMMY: Maybe that's not so bad.

ASSEMBLYWOMAN HECK: But thank you again.

MS. YOUNKIN: Thank you.

ASSEMBLYWOMAN HECK: Oh, another question?

ASSEMBLYMAN GARRETT: If it's all right.

ASSEMBLYWOMAN HECK: Sure.

ASSEMBLYMAN GARRETT: You mentioned your recognition for the Multi-Ethnic-- From what I know and read in the paper, I guess you've been under -- at certain times under fire for those decisions, right?

MS. YOUNKIN: Multi-Ethnic Placement Act is a Federal law.

ASSEMBLYMAN GARRETT: Right, but I guess there is some controversy around that.

MS. YOUNKIN: There is a lot of controversy on a national level about the Multi-Ethnic Placement Act. That was passed, I believe, in 1994,

and then it was amended in 1996 called the Inter-Ethnic Placement Act. It was part of the Small Business Jobs Protection Act. Yes, very strange, but that's its life. It says, basically, that you cannot deny or delay a placement based on race or ethnicity.

Prior to that time, people had tried to place children of same race and same culture, and that law, which was passed by the Federal government, says that you can no longer do that. It tries to convey the idea that it is better for children to have a home and not grow up in foster care, regardless of racial or ethnic considerations.

ASSEMBLYMAN GARRETT: Do you have any problem now implementing that?

MS. YOUNKIN: No, in fact, about 18 percent of our adoptions are transracial adoptions.

ASSEMBLYMAN GARRETT: Okay.

Finally, where is the Department now with regard to homosexual placement?

MS. YOUNKIN: Well, there is nothing in the law. The law is silent on whether we allow gay adoptions or not in New Jersey. As you probably know, there was an action brought against the Division, probably a year ago this pass December, and the Division entered into a consent order which would allow us to consent to adoption by gay parents.

ASSEMBLYMAN GARRETT: And why was that done?

MS. YOUNKIN: Why was that done? We previously only sign a consent for adoption, when it was a gay couple, for one parent because there were concerns about whether the law allowed two gay people of the same

gender to adopt. That was a long-standing policy. And when we had a couple challenge it, we entered into the consent order. There has been a lot of publicity about it. I know it was upheld by the judge out of Bergen County. And that's the way life is today.

ASSEMBLYMAN GARRETT: Why did the Division agree to that? Is the Division in agreement or--

MS. YOUNKIN: I think that that went up the line. It wasn't, certainly, an agreement made by the Division. We had all parts of the Department involved -- Governor's Office, the Attorney General.

ASSEMBLYMAN GARRETT: Is that a consideration of the best interest of the child by doing that?

MS. YOUNKIN: Absolutely. The decision was made that gender, marital status, anything, race, religion -- your decision shouldn't be made on any of those factors. Your decision should be made on what is in the best interest of the children, just like the Multi-Ethnic Placement Act says don't consider race and ethnicity when you are placing a child. It always gets back to what's best for the kids. It's best for the kids to have a home and not grow up in foster care.

ASSEMBLYMAN GARRETT: Right. And is it best for a child to have a mother and father?

MS. YOUNKIN: Absolutely. Children should have parents. They need parents, but parents come in all shapes, sizes, and flavors, and that is where we're at. We have a lot of diversity in this state, a lot of diversity in this country. The children we have in foster care are diverse, and we need to find adoptive homes for them.

ASSEMBLYMAN GARRETT: I have a biblical problem with that. I am concerned that we continue to go down the road to say that it's in the best interest of the child to have a situation where there is not a mother and a father in the life of that child. I cannot believe-- I know the facts behind it, and I cannot believe that the State can continue to abide by the consent order to not allow the case to go to court. I think we are doing a disservice to that child to grow up with two mothers or two fathers. I think a young boy needs to have a male figure in his household to bring him up and not two women. It may not be the best situation in all situations--

ASSEMBLYWOMAN HECK: Excuse me.

ASSEMBLYMAN GARRETT: It may not be the situation in every case. You may have divorce and deaths and that sort of thing, but as a policy-- Those other things happen, divorce and deaths occur, so you have women having to bring up children, and we can deal with that. You come up with programs that address that and what have you. But, as a policy, we should not, as a State, be saying that that is an affirmative step that we should take to allow the situation to occur and allow those adoptions to occur.

But thank you for your comments on that.

ASSEMBLYWOMAN HECK: Okay.

ASSEMBLYWOMAN CRECCO: May I say something?

ASSEMBLYWOMAN HECK: Yes, Marion.

ASSEMBLYWOMAN CRECCO: If I recall that case, that was simply -- the judge had-- They won that case simply because they had that child from infancy, which I believe DYFS gave to those two men. So in that case, they nurtured that child because he was a sick child. And by the time he

was five years old, it was kind of difficult to take him away from those people. But that situation is so very different and alien to what usually happens. Of course, I think it was because of DYFS this happened. But we do know that parents are not-- A child needs a mother and a father. You can call them anything you want, but two mothers and two fathers are not parents. There is one parent--

ASSEMBLYWOMAN HECK: Please don't go into that because I know grandmothers and aunts who raise children.

ASSEMBLYWOMAN CRECCO: We all know that.

ASSEMBLYWOMAN HECK: So love is love, and there are big brothers and big sisters and all that stuff.

But let's not debate that now.

ASSEMBLYWOMAN CRECCO: Well, we're not debating that, but this is-- Madam Chairwoman, this is part of what we're doing -- overseeing. The child's rights are there, absolutely. And we want to be certain that we give them the opportunity--

ASSEMBLYWOMAN HECK: Absolutely.

ASSEMBLYWOMAN CRECCO: --to have a mother and a father before we do anything as drastic as this. This is something we can't help if it happens in a family. But we don't have to encourage it or force this. That's all I'm saying.

ASSEMBLYWOMAN HECK: I don't think we're encouraging any of those things.

ASSEMBLYWOMAN CRECCO: I think it should be for the record. It's being encouraged.

ASSEMBLYWOMAN HECK: You think it's encouraged?

ASSEMBLYWOMAN CRECCO: Well, I just heard our witness say parents are parents, it doesn't matter what they are. That's not a mother and a father, and it should be in the record as such. I would like it to be for myself.

Thank you.

ASSEMBLYWOMAN HECK: That's fine. Everyone has an opinion, and that's fine.

Anything else? (no response)

MS. YOUNKIN: Thank you.

ASSEMBLYWOMAN HECK: Thank you.

MS. YOUNKIN: I'll leave this videotape for you.

ASSEMBLYWOMAN HECK: Carol Allenza -- International Adoption Attorney -- private practice.

Carol.

C A R O L S. A L L E N Z A, E S Q.: Good afternoon. Thank you for this opportunity. I was thrilled when Tasha called and asked me because, as an international adoption attorney, I'm often left out of State matters because, actually, the State doesn't have much to do with the international adoption process until the child is in the United States. But Tasha asked me to explain the international adoption process to the Council, so that is what I'd like to do.

First, I'll give you a little background about myself. I have a law degree from Rutgers School of Law in Camden. I have been involved in adoptions from many different perspectives. I began representing clients seeking to adopt in 1984. I also was the director of an adoption agency in

Flemington. And through that, I was involved in adoption from a social point of view. I have been qualified as an expert witness in contested adoption cases. Since 1994, my law practice has been limited to adoptions. Most of the adoptions I've handled are international adoptions.

On a personal level, two of my four children were adopted internationally from Latin America. And my oldest daughter is almost 11 years old. So you can see that I've had a lot of different experiences in international adoption.

My goal today is twofold: first, to introduce the Council to the process of international adoption including the legal requirements and, second, to point out to the Council some areas, and one in particular, that can be streamlined to simplify and expedite the process. The first half of my testimony goes into great detail because I want you to be able to appreciate the complex maze of the international adoption process.

Adoption professionals believe that children need permanent, loving families in order to reach their full potential and that children deprived of this care suffer effects which may last a lifetime. If there is not a family in the child's country of origin ready and able to care for the child, then international adoption comes into play as being in the best interest of the child. Most agencies and adoption professionals follow a standard of practice which includes integrity, honesty, service to families and children, and a commitment to seeking knowledge and understanding.

Through the long, arduous, time-consuming, and emotional process, a prospective adoptive family deals with many different bureaucracies like the homestudy agency, a placement agency, the United States Department

of Justice, the Department of State, the Immigration and Naturalization Service, the child's country of origin, and the State of New Jersey.

The first step for an adoptive couple is to seek a homestudy from an agency licensed by the State of New Jersey. Couples are provided with preadoption education including information about the legal, medical, emotional, and cultural issues. They discuss, with a social worker, the uncertainties and risks inherent in any adoption and those particular to international adoption.

The agency is mandated to assess the suitability and eligibility of the couple for international adoption. Not every person is a suitable candidate for international adoption, for a particular type of international adoption, or for the challenges inherent in the adoption of older children.

The homestudy is the central document of an adoption. It is used by the homestudy agency, which is an arm of the State of New Jersey. It is used by the United States Department of State and by INS, or Immigration and Naturalization Service. It is also used by the placement agency and the foreign country to assist in assessing the prospective adoptive couple for international adoption.

What are the requirements of a homestudy? First, there are three or four meetings with a social worker, including one visit in the home. There is a lot of paperwork such as letters of reference, medical reports, employment verification, an autobiography, copies of birth certificates, the marriage certificate, and any divorce decrees. Fingerprinting is also required. These are sent to the State Police and the FBI for clearance. Finally, there is the Child

Abuse Registry Investigation, or CARI, check to search for substantiated complaints of child abuse.

The process of a homestudy takes two to three months. The fingerprint clearances and CARI report often take 45 to 90 days. When the agency has received all required documentation and is satisfied that the couple is emotionally and financially secure, the homestudy report is written and the couple is recommended for adoption.

When a couple begins their homestudy, I also suggest that they begin the process for approval from INS. INS approval is necessary because the child from a foreign country, even if adopted by a United States citizen, is not automatically permitted to enter the United States. That child is a citizen of a foreign country and will travel with a foreign passport. In order to bypass the immigrant visa quota system, the immigration law provides for a special visa. The child will travel as a Resident Alien under a visa issued to an orphan who has been or will be adopted by a United States citizen. For this visa to be issued, the adoptive parents must prove that they are financially and emotionally able to care for and support a child. The couple files an application for advance processing of an orphan petition, also called Form I-600A. Supporting documentation consists of copies of birth certificates, the marriage certificate, any divorce decrees, a copy of the homestudy, and again fingerprint clearance from the FBI. After about three months, the INS sends the notice of favorable determination, Form I-171H. This approval is good for 18 months.

By far, the most paperwork is required by the foreign government. The documents, called the dossier, vary according to the country but typically

including the homestudy, the agency license, birth certificates, the marriage certificate, any divorce decrees, letters of reference, employment verifications, medical reports, a psychological or psychiatric report, police clearances, financial statements, INS approval, a copy of the current Federal tax return, proof of residence, and various applications and petitions signed by the adoptive couple. Some of these documents are the same used for the homestudy and INS approval. However, the preparation of the dossier is notably daunting and intimidating to most adoptive couples. These documents most often are notarized and county clerk certified. Some countries require an apostile from the New Jersey Department of the Treasury or authentication by the Embassy of the child's country. Some countries require New Jersey Secretary of State certification and United States Department of State certification prior to authentication by the Embassy of the child's country. Once the dossier is completed, it is forwarded to the foreign country for translation and processing.

In some cases, the referral, or information about a specific child, is received prior to the filing of the dossier. Other countries require that the dossier be filed in order for the couple to receive a referral.

Who are the children who are referred to United States citizens for adoption? The child must be considered an orphan under the Immigration and Naturalization Act. The definition of orphan is not the one from *Webster's Dictionary*. Under immigration law, a child may be considered an orphan if his or her parents have died or disappeared, if they have unconditionally abandoned or deserted him or her, or if he or she is separated or lost from them. If there is one parent, the child may be considered an orphan if the sole

or surviving parent is unable to provide proper care for the child and has, in writing, irrevocably released the child for immigration and adoption. In other words, a child in an intact family is not eligible for adoption by a United States citizen with immigration to the United States.

After the referral, a family can wait as short as six weeks and as long as one year for the processing in the child's country. Only after all is reviewed and approved by the foreign country does the adoptive family receive the happy news that they can travel to pick up their child. The couple travels to the child's country of origin, sometimes appearing in court or before the other judicial or administrative bodies, obtains the final judgment of adoption and a passport for their child. They then go to the United States Consulate in the child's country of origin. Application is made for a visa for the child to travel to the United States as a resident alien. The Consulate of the United States reviews the documentation from the foreign court, often interviews the biological parent, and otherwise determines the legality of the foreign adoption process. In addition, the adoptive parents have previously been preapproved through their I-600A, and the child has met the qualifications of an orphan. At this point, the Consulate has the authority to approve the visa.

I have discussed, in great detail, the paperwork involved, the issue of fingerprinting, and child abuse clearances and tried to point out that the process is complex, intensive, burdensome, and repetitive even before the child arrives in the adoptive family's home. There is no doubt that a family who accomplishes an international adoption has been proven to be highly qualified, both emotionally and financially, to parent a child.

The typical international adoption is completed in 12 to 18 months, with expenses totaling from \$18,000 to \$25,000. This is from the beginning of the homestudy through the INS approval, the dossier preparation, and the foreign country processing of the petition to adopt.

Upon arrival in the United States with an adopted child, the adoptive family proceeds to tie up loose ends. They obtain a Social Security number for the child. Health insurance coverage is obtained. Child care is arranged, one or both parents take a leave under the Family Leave Act. It is also recommended by adoption professionals, attorneys, and the United States Department of State that the adoptive couple readopt their child in their state of residence, if readoption is permitted. Although the United States and New Jersey respect foreign procedures and recognize the authority of the foreign country in relation to the child, the status of the child can always be subject to challenge in State court unless shown through the emotional and long adoption process that they are committed to their child and to doing the best for that child. They are looking to the courts of the State of New Jersey to establish a formal commitment as a precautionary measure.

In New Jersey, readoption is permitted. However, there is no provision in the New Jersey statutes for readoption of a child previously adopted in a foreign country.

How then are these cases handled by the courts in New Jersey? In most counties, the Surrogate's Office administers and schedules the case. In a small minority, the family case manager does the scheduling.

What are the requirements and procedures for these cases? Simply, they vary from county to county. There is no statewide standard of practice.

The majority of counties handle these cases as they would a grandparent or close relative adoption, one final hearing 60 to 90 days after the filing of the complaint with an investigation and report by an agency. This investigation involves at least one visit from a social worker, current fingerprint clearances not more than 36 months old, a current CARI report not more than 18 months old, and perhaps updated employment and other information depending upon the circumstances. The cost of the postplacement visit and report to the court varies from \$350 to \$500.

A minority of counties require the above, but the first hearing is a preliminary hearing with the final hearing scheduled for six months later. This involves an additional two or three meetings with the social worker and a second report to the court at an additional expense to the adoptive parents of \$500 to \$1000.

Are these additional reports, investigations, and expenses necessary? At least one county handles these cases in a manner similar to a stepparent adoption and does not require the investigation or report. The adoptive parents appear in court; they submit copies of their homestudy and adoption documents from the foreign country; they testify as to the circumstances of the adoption, the process in the child's country, and their INS approval. Remember that the United States Consulate would not have granted the child a visa to travel to the United States if all steps had not been

satisfied. These include the adoptive parents' approval, the child's approval of orphan status, and the review of the legality of the foreign adoption.

This country processes foreign adoptions in a way that makes the most sense. It is a simplified procedure taking into consideration the investigations and reviews that the adoptive parents have gone through the complete adoption and obtain approval for the child to immigrate to the United States.

I have assisted more than 300 adoptive families in the adoption process in over 20 countries. Although each country's adoption process may differ, the requirements of INS and the United States Consulates do not vary. The standards are strict and applied consistently in all cases.

Adoptive parents have spent a minimum of one to two years in the adoption process, they have been submitted to extensive investigation, scrutiny and review by their homestudy agency, the placement agency, the INS, and the foreign country. All for a very good reason, a determination of their suitability to be adoptive parents and for the protection of the children. The best interests of the children must always be our primary concern. Let's never forget that.

But, after all of the investigation, paperwork, and financial expense, adoptive couples, who are wisely readopting their foreign-born children, are required to incur more expenses, expend more time, and again to prove that they will be good parents. This final step is overly burdensome and can be streamlined to expedite the process. We can still be assured that the best interests of the children are protected because of the extensive preadoption requirements.

Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Carol.

ASSEMBLYWOMAN MURPHY: Oh, thank you.

The health of the child--

MS. ALLENZA: Yes.

ASSEMBLYWOMAN MURPHY: --which has been the subject of much discussion in the media--

MS. ALLENZA: Yes.

ASSEMBLYWOMAN MURPHY: --of late-- Are there any processes within what you do with that family in terms of the other country that gives you identification of any kind of health factors you can find out?

MS. ALLENZA: Yes, the health information is only as good as the resource in the foreign country. So when I work with a family, I make sure that they are working with reliable, ethical professionals in the foreign country that I had a track record with and that the U.S. Embassy in the foreign country also has a track record with. The children from some of the countries in the Eastern European are of particular concern, so we have to look at the orphanage that they're coming from and the information that we have gotten in the past from that orphanage and the reliability of it. And then the reliability of the follow-up medical--

In the United States there are, I would say, half a dozen international adoption clinics, which are clinics located in different university centers throughout the country. There is one in Minnesota, one in Michigan, there will be one in Yale pretty soon if not all ready there. And these doctors

review the medicals and the videotapes that are received from foreign countries and ask questions to get more information, and we do get that information.

Obviously, there are no guarantees on the health of any child, whether it's a biological child or an adoptive child, but we do the best that we can and work with reliable and ethical people.

ASSEMBLYWOMAN MURPHY: And if I may, Madam Chair--

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYWOMAN MURPHY: When the child has been adopted in the foreign country, does that child then become a citizen, or do they continue to travel under the green card, and until what period of time?

MS. ALLENZA: They are not citizens of the United States. They are citizens of their birth country. They travel with a green card to the United States. In the process-- When I work with families, we do the readoption here first in New Jersey and we get that documentation, and then that documentation is used to apply for citizenship. There is a special citizenship process for children who are adopted by U.S. citizens, so they don't have to go through the naturalization with taking exams. You file one document and one parent goes into the INS office in Newark, signs some papers, and the child has a certificate of citizenship. And that can be done right away.

ASSEMBLYWOMAN MURPHY: So that when you come home, that child can safely become--

MS. ALLENZA: Yes, yes.

ASSEMBLYWOMAN MURPHY: Thank you very much.

Thank you, Madam Chair.

ASSEMBLYMAN GARRETT: Is the family court judge that is making these decisions or is it the assignment judge or the agency?

MS. ALLENZA: Making?

ASSEMBLYMAN GARRETT: The requirement that would have any different procedure in each county.

MS. ALLENZA: It probably is a combination of the assignment judge. The judge handling the case whether it be the family court judge or probate-- Most often they're through the probate -- through the Surrogate's office-- Yes, most cases are handled through the Surrogate's Office, but it's the family part -- chancery division -- family part that we file in. And most often it's a judge from the family part who is assigned those cases. And I think it's a combination of the surrogate court -- the assignment judge -- what has been done in the past--

ASSEMBLYMAN GARRETT: And has the AOC been contacted on this to try to streamline this procedure?

MS. ALLENZA: Not that I know of. This has been something that has been a matter of concern for me for many years, but I work alone, and it takes a lot of time to get the things changed in the government. And that is why I was so thrilled about this.

ASSEMBLYMAN GARRETT: Can we take a note of this issue?

ASSEMBLYWOMAN HECK: Yes, Miriam--

ASSEMBLYMAN GARRETT: Okay.

MS. ALLENZA: It would be wonderful to be able to know every-- I have a listing -- a file for every county because every county requires different paperwork and requires a different process.

ASSEMBLYMAN GARRETT: Thank you.

ASSEMBLYWOMAN HECK: Any other questions? (no response)

That was very enlightening.

MS. ALLENZA: Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

MS. ALLENZA: I'm available if you have any other questions.

ASSEMBLYWOMAN HECK: Is your number on there? (referring to telephone number)

MS. ALLENZA: I don't believe it is, but I believe Tasha has it.

ASSEMBLYWOMAN HECK: Tasha has it.

Jim Miskowski, Esq., adoption attorney.

JAMES W. MISKOWSKI, ESQ.: Good afternoon. My name is James Miskowski. I'm with a law firm in Ridgewood, New Jersey, by the name of MacFall Riedl and Miskowski. I have been practicing law for 25 years. The last 10 of those years my practice has been in specializing adoption law. I'm a trial attorney. I handle most of the high-profile cases that are coming down in the courts today. I represent a lot of adoption agencies. I've represented a lot of adoptive parents. I've probably done about 1000 private adoptions over my career.

In 1995, I served as special counsel to the Office of the First Lady in Washington and was involved in the passage of this Adoption Promotion and Stability Act of 1996. I am a founding member of the American Academy of Adoption Attorneys, which is a national organization of attorneys that just specialize in adoption law. I was a former trustee of that organization. On

behalf of the Academy, I testified before the New Jersey State Legislature in 1994 when the 1994 amendments were put through to the Adoption Act. Last year, I authored a second amendment to the Adoption Act concerning birth fathers' rights. I was the attorney involved in the very famous Baby D case. And as a result of that case, we had to come in and change the laws, so I'm the author of that legislation. I recently published a new chapter in adoption law, which has been published by the West Publishing Company, and I teach adoption law for the judges and court personnel through the Institute for Continuing Education.

Finally, and perhaps most importantly, I am an adopted father. I have three adopted children, and that's why am here today. I have spent my personal and professional life trying to improve the laws of adoption to help other people go through this wonderful process.

Currently, I'm the Legislative Chairperson for the Adoption Parents Committee, which is an organization of adoptive parents in the tristate area with over 2000 members. I'm familiar with what is going on in the United States and what type of laws that other legislators are being asked to consider to improve the adoption process.

I have a couple of suggestions that I would like to propose to this Council today.

ASSEMBLYWOMAN HECK: Is it also in your testimony?

MR. MISKOWSKI: It is in my testimony.

ASSEMBLYWOMAN HECK: Good.

MR. MISKOWSKI: First of all, I'd just like to throw out some statistics so this Council understands the magnitude of adoption that's taking

place in the country. There are approximately 500,000 children in the foster care system in the United States. One of the things we did when I was at the White House is-- The testimony that was coming in from the State Department and everything else was that these kids were being locked in the system for too long. And, thus, the legislation was enacted to say we want to arrange for permanent placement within a 15-month range, which was testified earlier.

There are 3 million children that have been reported to be abused or neglected in 1995. This is the last time that the government has kept statistics on this. In the last six years, there has been about 57,000 international adoptions. And the adoptions that take place -- the private agency adoptions and private adoptions -- there are approximately 27,000 adoptions a year in the country.

The goal of this administration is -- the U.S. administration -- is to try to make more children eligible for adoption, and that is what you're hearing all throughout these proceedings today. There are no hard statistics on how many people are seeking to adopt, but it's estimated at anywhere between 1 million to 2 million couples in the country today that want to adopt a child. There are 5 million adoptees in the country, so they are a real focal point in our society. And one in three families, in a large national survey, reported seriously considering adopting a child. Sixty percent of Americans surveyed reported that they have had personal experience with adoption, meaning that they themselves, a close family member, or a friend--

There are a lot of things that are driving adoption. There are two things, that I've experienced in my practice, that drive adoption. One is

financial, and the other is family situation. I'd say in about 50 percent of the cases, the birth mothers decide to place a child for adoption because they don't feel financially able to raise a child as a single parent. A lot of times these kids have been exposed to alcohol and drugs, I think. There has been a recent study showing that 50 percent of the children -- forget adoption -- 50 percent of the children are exposed to alcohol or drugs sometime during the prenatal period. So it is a problem, and the symptoms of what is going on prenatally, unfortunately, don't surface until the children are about four or five years of age. So this is the context of what we have going on here in the country.

What I do in my firm -- what we do a lot in these private adoptions -- and the private adoptions, primarily in New Jersey, are interstate placements. What I mean by that is that an interstate placement is when a child is born in a state other than the State of New Jersey, and the New Jersey resident is adopting a child from another state. We have a department here in the Division of Youth and Family Services called the Interstate Compact Office which tracks these children. One of their functions is to make sure that the laws of the State of New Jersey are complied with before this child is brought into the State of New Jersey. One of the things that they want -- that the State of New Jersey wants to know is, have the adoptive parents been fully appraised of the medical condition of this child before they accept custody of the child, and do they know their rights and obligations and the risks associated with a placement, particularly if the birth parents' rights have not been terminated as a matter of law?

It is my understanding that one of the purposes of this Council is to come up with some ideas on how you can improve adoptions. I had two

particular thoughts on this process, and I'd like to propose to you some legislation.

Cost is one of the driving factors here that preclude people from wanting to get involved in it. The average agency adoption, I think in my papers-- I estimated the cost range between \$10,000 to \$30,000, in a private adoption, they range between \$8000 to \$20,000, and in international adoptions, what I've seen in my office is that they range from \$15,000 to \$30,000. The biggest variables here are the size of the placement fee that the agency charges, whether the birth mother is going to need any kind of reasonable living expenses during her pregnancy that are particularly paid by the adoptive parents, and whether the adoptive parents are going to have to pay the medical expenses for the prenatal care and the birth and delivery of the child. Those are the major variables.

What the Federal government does -- they've done -- they did-- On a temporary basis, in 1996, they passed this legislation that provides a tax credit from your Federal income taxes up to \$5000 for adoption-related expenses. The Federal government thought that this was a way that they could give something back to these people that had to pay so much money to have a child, and if you wanted to adopt more than one child it was extremely prohibitive. That \$5000 tax credit was available to people who had adjusted gross incomes of under \$75,000 a year, and then it phased out. There was no tax credit available if you had an adjusted gross income of over \$115,000.

This has been such a popular program, nationally, that in October, legislation was introduced to increase the tax credit to \$10,000 and make it permanent. This legislation was to expire in the year 2001. They want to

make this legislation permanent, they want to put in an adjustment for inflation. So there is some real give-back.

What I propose to this Council is that the State of New Jersey follow in the Federal government's footsteps and offers a similar type of State income tax credit for adoption-related expenses. Also, similar to the Federal legislation -- gives corporations, who provide benefits for their employees for adoption-related expenses, a tax deduction. This is what they do for the Federal government, and I think it would be very appropriate to do it here for the State of New Jersey. It's not going to cost the State a lot of money, and it would help out women, it would help out the families, it would help out the birth mothers because there would be more people who would be willing to take on adopting more children if they could afford it.

The second proposal I have, which is very needed, is the issue of the medical insurance. Prenatal care, typically, runs about \$2500. When there is not complications with the pregnancy, a vaginal delivery can cost as much as \$7000 or \$8000 in the State of New Jersey, and if the birth has to come by way of cesarian section, it could run as high as \$12,000. When you have-- If the birth mother doesn't have insurance, the adoptive parents' health insurance does not cover those expenses. Even though they are paying a premium, they have the benefit under their policy, but because they're not, physically, having the child, the insurance companies are not giving them access to this benefit from their policies.

New York, last year, introduced a bill, that was passed through the General Assembly, it was -- it did not -- was blocked in committee in the Senate, they are reintroducing it this year -- that would require these insurance

companies to permit this benefit on all policies. Initially, the insurance companies balked at it. They thought it was going to be expensive; then, they found out that it is going to be less than one-half of 1 percent of the employees in the state are even going to be using this benefit. So it is minimal, at best. This would have a tremendous impact on reducing some of these costs.

It can also help the State of New Jersey because the alternative is, many times, if a birth mother doesn't have her own health coverage, the clinics associated with the hospitals automatically put her on Medicaid, and that's coming out of the State coffers. This would eliminate that, and there would be this insurance available from the private sector, which is already being paid for with premiums. I think it's very responsible legislation, and I would ask you to consider exploring the possibility of doing something similar to that of New York. I also heard, from one of my colleagues, they just passed similar legislation in Arizona. So New Jersey has always been known as a progressive state, and I think this would be one way that you could do that.

The last thing that I want to touch upon, because I try all of these nightmare cases, is what is happening in the international adoption arena.

ASSEMBLYWOMAN HECK: Page 7?

MR. MISKOWSKI: Page 10.

What's happening across the country is that adoption agencies are starting to be sued under--

ASSEMBLYWOMAN HECK: We don't have Page 10. But I see you say, "My final comments have to do with international adoption."

MR. MISKOWSKI: Right. That's not Page 10?

ASSEMBLYWOMAN HECK: That's Page 7.

MR. MISKOWSKI: I have a different copy.

ASSEMBLYWOMAN HECK: You have a different copy.

MR. MISKOWSKI: We're on the same page.

What's happening is that because of the lack of domestic placements in the country, everybody started to go international. They thought it was easier, it was smoother, they didn't have to get personally involved in a search for a child, and so, over the last six years or so, a lot of people have been adopting internationally. What we're seeing now is-- There have been some lawsuits that are starting because some of these children that are being adopted and come back to this country have severe emotional, psychological, or medical problems which the information was never disclosed to them by the foreign agents. And these -- a lot of these cases, and I have a couple in the courts right now, are very tragic cases. There's no accountability. There is no accountability for anybody in these orphanages. You can't sue them because there is immunity because they're a sovereign entity in the government. The only way that this is going to get straighten out is if there are some lawsuits and some standards are made. There are no standards in this international arena right now. There is some legislation. I don't know if you know the (indiscernible) treaty that is being proposed. It hasn't passed Congress yet. They're trying to do something along those lines, but it's the Wild West out there.

And what these cases are arising out of is either gross negligence or misrepresentation. An adoption agency does not warrant the health of any particular child. But when they start making representations--

ASSEMBLYWOMAN HECK: May I interject?

I remember the different programs we've seen on the children, I believe, from Romania, that physically they would not have had problems except that there were so many of them who were not stimulated and nurtured at early ages, so it would not be obvious--

MR. MISKOWSKI: Right.

ASSEMBLYWOMAN HECK: --that the normal health of the child would appear to be good, but that other things transpired.

MR. MISKOWSKI: The cases that we're seeing--

ASSEMBLYWOMAN HECK: So I don't think they could have evaluated that in the beginning, could they?

MR. MISKOWSKI: No. What we're seeing now-- For example, I was presented with a case, about four months ago, where a child was adopted from the Republic of Russia. The child was diagnosed with hepatitis. That diagnosis was removed from the medical records that were given to the U.S. agency and given to the adoptive parents. So they went in there, they adopted this little boy, they got blindsided, they came back here, they had hepatitis. When confronted-- When the agency confronted its foreign counterparts, they said, "Well, the reason why we took it out was because we were afraid that the couple wouldn't adopt him."

When you're talking about \$30,000 for international adoption, and \$15,000 is going to foreign nationals, and they're-- For example, Russia-- The average Russian lives on about the equivalent of about \$30 a month. When you give somebody over there \$15,000 U.S. dollars, you could imagine the situation that you're being set up with.

Now, I heard the other attorney here today say she only uses reputable people that are projected-- But that is not the case with all these adoption agencies. And what the problem is here is that we don't have control over it. There is only one or two licensed adoption agencies in New Jersey, that I know of, that have employees that work overseas or have a foreign office. So what is happening here is that the so-called international adoption agencies in New Jersey are hooking up with some people -- somehow they're finding out who they are. They have very little control over these foreign agents. And what I suggest to you is that, I think, the Bureau of Licensing should really scrutinize who the foreign partners are and make the U.S. agencies accountable for their actions. Because if they are not accountable for their actions, then the poor, perspective adoptive parents have no recourse because they can't go after anybody over here.

The other thing is, none of these agencies have insurance to cover this stuff. They're all uninsured. So there is no pot to go in. They don't even cover malpractice insurance if there is gross negligence. And I don't like to speak in absolutes. I'm not saying none of them do, but my experience with them is that many few have the insurance because this insurance is very expensive to carry.

ASSEMBLYMAN GARRETT: So what happens when you sue, right now, the New Jersey agency?

MR. MISKOWSKI: Most of them don't have coverage.

ASSEMBLYMAN GARRETT: I understand that, but what I mean--

MR. MISKOWSKI: And then-- What we're trying to do-- Right now, we're suing the agency, and we're trying to sue the foreign counterparts.

ASSEMBLYMAN GARRETT: It would be hard to do that. So when you sue--

MR. MISKOWSKI: It is very, very difficult to do that. And that's what we're running up against. And when an agency doesn't have any assets, then what happens? We're bringing the suits now just to try to establish some type of legal protocol through all these things. Who's responsible on a principle-agency relationship? Who is responsible? And I think there's got to be some accountability for all these adoption agencies that are doing this international work for the actions of the foreign counterparts. And then I think it could be cleaned up.

ASSEMBLYMAN GARRETT: What's been your results? Have none of them gone to trial yet?

MR. MISKOWSKI: No, none of them have gone to trial yet. This is a new area of the law. There's about-- I'm aware that there are about 15 such cases in the country, but there will be a lot more coming down. It's pretty frustrating representing these people that have been victimized by the set of circumstances that, had they known, they would have never adopted any of these children. I think the problem is going to get worse before it gets better. I think it's something that the Bureau of Licensing should look into, and there should be some mechanism where, whoever these foreign agents are, the State of New Jersey, who's licensing these agencies, should know who they are and what they're all about and a background check and that type of thing to protect New Jersey residents.

ASSEMBLYWOMAN HECK: It's a good thought.

MR. MISKOWSKI: And that's all I have.

ASSEMBLYWOMAN HECK: You raised some interesting points.
Any other questions?

ASSEMBLYMAN GARRETT: Just a comment on the -- as I walked in on the insurance aspect. You said if it's being paid for right now, by Medicaid, that's one thing; otherwise it's going to come out of premiums. Obviously, someone is paying those premiums. So it's a cost shift to someone. Medicaid, I guess, is being paid both by the dollars that are coming from the taxpayers of New Jersey and also Federal tax dollars as well.

MR. MISKOWSKI: Right.

ASSEMBLYMAN GARRETT: So as long as it's going through Medicaid, you probably have the widest distribution of payment for those services. If it's coming out of premiums, it could be coming out of an individual who is paying \$5000 or \$7000 or \$8000 a year for an individual policy. It could be coming out of an employer who is already paying some of the highest rates in the country.

MR. MISKOWSKI: The point I'm trying to make here is--

ASSEMBLYWOMAN HECK: You said one-half of 1 percent in adoption?

MR. MISKOWSKI: One-half of 1 percent of the employees will use this benefit. I think it doesn't really make any sense that-- They pay the premiums anyway. The benefits are available to them, but they have to have a child naturally in order to access that benefit. They should be able-- If they

have to lay out money themselves, they should be reimbursed by their insurance carrier. I think that it would be responsible legislation.

ASSEMBLYMAN GARRETT: My point is that somebody pays. If it's not factored into the underwriting right now of the carrier, it's a cost--

MR. MISKOWSKI: I'm sure it's factored in because-- I'm sure it's factored in because I'm sure they assume that most people-- Well, I don't know, I hate to make assumptions. I would believe it's got to be factored in somehow.

ASSEMBLYMAN GARRETT: If it's not a benefit that they're paying, then they're not allowed to put it in as part of their premium. If they do not pay a benefit, then that is not part of their premium. If it is a new benefit that they will be paying, then they will be allowed--

MR. MISKOWSKI: It's the same benefit. If I'm paying for my health insurance, and I'm paying the premium for the health insurance and my wife gets pregnant, her pregnancy-related expenses are covered by my policy.

ASSEMBLYWOMAN HECK: He's looking at it in the broader sense.

MR. MISKOWSKI: Oh.

ASSEMBLYMAN GARRETT: From an actuarial point of view, it's not figured in.

ASSEMBLYWOMAN HECK: There you go, the actuaries.

ASSEMBLYMAN GARRETT: If they're not--

MR. MISKOWSKI: Okay.

ASSEMBLYMAN GARRETT: If they know they only pay for people who have children within their family, that is a factor that they're able

to evaluate. If there is another one-half percent of the population that is going to have this, that's an extra cost that they're, currently, not paying so they're not allowed to charge for that.

MR. MISKOWSKI: Right.

ASSEMBLYMAN GARRETT: This will be an added cost. It may be a minuscule cost--

MR. MISKOWSKI: Right.

ASSEMBLYMAN GARRETT: It's an added cost.

MR. MISKOWSKI: That's a very good point.

ASSEMBLYMAN GARRETT: And I'm just saying that it may be better to have a broader population pay for it. If Medicaid pays for it, you're telling me, then the entire Federal government chips in a percentage.

MR. MISKOWSKI: Well, Medicaid doesn't pay for it all the time. Some of the girls don't want to go on Medicaid, they want the adoptive parents to pay. Some birth mothers, you know, let it lapse. And you go to the hospital--

ASSEMBLYWOMAN HECK: Jim, one of the things that we've discussed before is that getting the children, and I'm not talking international but within the state or this country, out of foster care is cost-effective.

MR. MISKOWSKI: Right.

ASSEMBLYWOMAN HECK: So when you're talking about this amount or looking at it overall when they stay in the system too long--

MR. MISKOWSKI: Right.

ASSEMBLYWOMAN HECK: --it is cost-effective to have faster adoptions.

ASSEMBLYMAN GARRETT: So that might be a reason, then, to have a State program.

ASSEMBLYWOMAN HECK: Could you tell me the life span of a person who is in the actuarial business? Do they last long?

ASSEMBLYMAN GARRETT: No.

ASSEMBLYWOMAN HECK: I always wondered what kind of people go into that.

ASSEMBLYWOMAN CRECCO: They do their own actuarial--

ASSEMBLYWOMAN HECK: That would be hell for me.

ASSEMBLYMAN GARRETT: I was always told that an actuary is someone that found being a CPA was too exciting for them. (laughter)

ASSEMBLYWOMAN HECK: I've always wondered about that. Do they last long? Is there a special home for them?

ASSEMBLYMAN GARRETT: No, but to follow-up seriously -- to follow-up seriously on your note, Rose, maybe though, for the cost-saving element, it's something that the State should look at as a program of the State to say that if it's cost saving to the State by reducing DYFS's workload -- yada, yada, yada.

ASSEMBLYWOMAN HECK: But it's a good thought.

ASSEMBLYMAN GARRETT: And it's only going to cost-- How many adoptions are there in the state, and how many aren't already covered, so on and so forth? So it's X dollars. That's a State program that meets the need of the general public -- benefits from. And then, therefore, that would pay for it. That seems to make sense to me.

ASSEMBLYWOMAN HECK: And I do know some adoptive parents who've said to me, "I would do more--

MR. MISKOWSKI: Right.

ASSEMBLYWOMAN HECK: --and I would adopt more children, but I don't have that kind of money to go through that kind of process."

So there are people who are moderate income people who do very nicely as parents and have a home, but that extra cash to go through that process, they just can't scrape it together. So I think that's an important point that you brought up.

Nellie.

ASSEMBLYWOMAN POU: One of my points that I was going to raise was just answered or mentioned by Assemblyman Garrett.

I did want to ask, though, Mr. Miskowski--

MR. MISKOWSKI: Yes, that's correct.

ASSEMBLYWOMAN POU: How is New York and Arizona--

MR. MISKOWSKI: Right.

ASSEMBLYWOMAN POU: --currently dealing with this piece of legislation? How long has it been in effect, and how--

MR. MISKOWSKI: It hasn't passed yet. What happened in New York--

ASSEMBLYWOMAN POU: What's its current status, right now?

MR. MISKOWSKI: The current status, right now, is that they're reintroducing this bill.

ASSEMBLYWOMAN POU: Right.

MR. MISKOWSKI: Last year it passed the Assembly, it went into the Senate Committee, and then they went out for the rest for the year. It didn't get through last year. They're reintroducing it. I spoke-- My office spoke to the sponsors of the bill today, and they're reintroducing it in a couple of weeks. I just happened to speak to some-- I think it's through in Arizona, but I could find out through this Academy. There are probably other states, too, that are attempting to put through this type of legislation.

ASSEMBLYWOMAN POU: But how are they-- And perhaps it may not have come up, but how are they addressing the issue of who's paying for the cost, the question that the Assemblyman was just asking about at this point? I mean, how do they, if at all-- Have they raised that concern? If not, what alternative use are they looking at at this time?

MR. MISKOWSKI: Well, it's in here. I took it right from their bill. There were some conditions on it, you know. I haven't been privy to all the Committee's discussions on it.

ASSEMBLYWOMAN HECK: Since you're in that group--

MR. MISKOWSKI: Yeah.

ASSEMBLYWOMAN HECK: --would you be able to access the copies of the legislation--

MR. MISKOWSKI: Sure.

ASSEMBLYWOMAN HECK: --and just forward it to us? We'd really appreciate it.

MR. MISKOWSKI: Sure.

ASSEMBLYWOMAN POU: I was going to make that request.

ASSEMBLYWOMAN HECK: Sorry, Nellie.

ASSEMBLYWOMAN POU: That's okay.

ASSEMBLYWOMAN HECK: We think all the time the same way.

ASSEMBLYWOMAN POU: That's okay, Rose, because I'm just interested to see just exactly what they're doing at this point. I mean, if we're going to start looking at possibly moving in that direction, it's good to find out what's happened -- what's going on in these other states. How are they looking and what are some of the concerns or issues that have come up that, perhaps, will certainly enlighten us, but it will allow us to just move and direct ourselves differently. It is so needed.

ASSEMBLYWOMAN HECK: If there are good pieces out there-- There is a friend of mine, who is sitting in the back of the room, says, "We don't want to reinvent the wheel."

ASSEMBLYWOMAN POU: Absolutely.

Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

Carolyn -- is it Bacher or Bacher? (indicating pronunciation)

C A R O L Y N B A C H E R: Bacher. (indicating pronunciation)

ASSEMBLYWOMAN HECK: Director of Clinical Services, Children's Home Society of New Jersey.

MS. BACHER: Yes, thank you for inviting me.

I was asked to speak about domestic adoption and international adoption, discussing processes and issues from an agency point of view.

There are two categories of children available for adoption domestically. There are infants voluntarily placed with a family through an

agency or placed privately through a lawyer. There are older children who were involuntarily removed from their families due to severe abuse, neglect, and abandonment. These children are cared for in the DYFS foster care system and become available for adoption after all efforts at reunification with their families have failed. There are more families than healthy infants for adoption and more older children than families to adopt them.

The Children's Home Society of New Jersey provides birth parent counseling, infant foster care, and adoption services for healthy and hard-to-place infants and toddlers. Adoptive families must have a homestudy, which includes information on each parent, the couple, the extended family, the reasons for adoption, ideas about child rearing and discipline, health, finances, employment, home and community, and any other information pertinent to getting to know the family in regards to adoption. Fingerprints, both State and Federal, child abuse clearance, medical reports on all family members, and references are required.

The adoption study involves approximately six face-to-face hours with a social worker over a period of time while the other supporting documents are being gathered. Best adoption practice involves time between interviews so that adoption-related topics brought up during the interview could be discussed between adopting family members. So we're not talking about six hours in one day, we're talking about spreading it out over a period of time. If the family is planning a transracial adoption, older child adoption, or adoption of a child from an institution, time to read about and discuss pertinent issues is very important.

Our fees are 12 percent of the annual family income with a ceiling of \$14,400 for healthy infants, and a sliding scale which ranges from \$350 to \$4000 for hard-to-place infants. Last year, 25 domestic children were placed. The length of time from application to placement for families adopting minority or special needs children range from one month to fourteen months. The length of time from application to placement for families adopting Caucasian babies range from one month to fifty-six months.

Our goal is to find a loving, stable, permanent family for each child. We do not want children waiting in foster care. Thus, we look for families who are flexible when it comes to health of a child, background conditions, and openness. Many of our children come from birth parents who have been involved with drugs and alcohol. Sometimes, there is unknown paternity, mental illness, or mental retardation in the background. All nonidentifying information concerning medical and family background is shared with the adoptive family.

Many birth parents request progress reports and pictures sent through the agency periodically after the child is adopted. Some birth parents want to choose the adoptive family through reading their biography or meeting them in person. Some agencies and private adoptions include ongoing personal contact with the birth family after the adoption. These are issues that have to be carefully considered by prospective adoptive parents. Some adoptive parents will promise anything in order to have a baby placed with them and then discover that they cannot follow through. This can be heartbreaking to a birth family.

The Children's Home Society provides counseling for the birth parents and their families, both before and after a decision is made. If the decision is made to parent the child, the agency will help the family with concrete needs and parenting issues. Ongoing counseling and support is provided to adoptive families and is available to all members of the adoption triad throughout the life of the family.

There are several issues hampering domestic adoption. There are fewer healthy Caucasian babies available for adoption. There is no stigma attached to being a single parent or to having a teen parent raise a child in the family home. Eighty-four percent of the birth parents who sought counseling about the pregnancy at our agency last year made the decision to parent their child. In the general population, approximately 94 percent keep their child rather than place it up for adoption.

There is a stigma attached to surrendering a child for adoption. The birth parents that make this decision have to be very strong in their convictions in order to withstand the strong opinions of friends, family, doctors, and nurses in the hospital.

Many unplanned pregnancies among college students and young adults are terminated by abortion. The birth parents who have practiced denial, have not received prenatal care, have continued to indulge in drug and alcohol use through the pregnancy are a growing majority.

The media plays a part in discouraging adoption. The publicized heartbreaking cases where a child is pulled out of the arms of the adoptive parents and returned to the birth parents have scared many prospective adoptive families. Sometimes, inaccurate stories about the long-term effects

of drugs and alcohol use discourage families from considering individual children. Whenever a criminal happens to be adopted, this fact is mentioned, leading families to fear that adopted children turn out badly. What needs to be remembered is that a story is emphasized in the media because it is unusual.

Now international adoption. Many New Jersey families, scared away from domestic adoption by the media, by their discomfort with openness, or disqualified by age, turn to international adoption. Children's Home Society places children from Bulgaria, Russia, and China with New Jersey families. Additionally, we provide homestudies for New Jersey families who are adopting internationally using out-of-state agencies.

Each country makes its own rules about who can adopt, what the process is, and how long it takes. Generally, there are more children than parents to adopt them, and the process is much shorter internationally than domestically. Whereas, it becomes more difficult to adopt domestically if you are over the age of 40 years old. This is not a problem internationally. China prefers parents between the ages of 35 years old and 55 years old. Russia prefers that parents under the age of 45 years old adopt children under the age of 3 years of old and parents over the age of 45 years old adopt children over the age of 3 years old. Bulgaria has no age limit.

The process for international adoption involves going through the homestudy process, applying to INS, and compiling a dossier as directed by the child-placing country. This phase takes about three months. When the family is paper ready and their documents have been sent to the child-placing country, they are matched with a child. Usually, they receive photographs, videotapes, and medical reports. Travel to the child-placing country is

necessary when the adoption is finalized in that country. This is true for Russia, China, and Bulgaria.

In Russia and China, the family travels at the end of the process, spends about 10 days there, and goes through the adoption process before returning to the USA. In Bulgaria, the family spends a week with the child after they accept a referral because the adoption has been finalized in court. Then they bring the child home or have the child escorted home. In these three countries, the families are cared for by English-speaking coordinators the entire time they are in the child-placing country. Although the length of the process can vary according to conditions in the country, the whole process takes about one year from start to finish. Our speediest international adoption was from Russia and took six months from application until the child was home with the family. Our most complicated adoption, involving two unrelated children from Bulgaria, took 21 months from application until the children were home.

In the 1997-1998 Fiscal Year: we placed 10 Russian children ranging in age from 13 months to 32 months; we placed 11 Bulgarian children ranging in age at placement from 17 months to 7 years; we placed 1 child from China 7 months of age. There were no adoption disruptions.

One of the barriers of international adoption is economic. Children's Home Society charges \$3000 for our homestudy, dossier, and supervision services. However, there are many fees from our government and from the placing government in addition to travel expenses. In all, including our fees, it costs a family about \$19,000 to adopt from Bulgaria and \$25,000 to adopt from Russia and \$20,000 to adopt from China. However, there are

low-cost adoption loans, some scholarships, tax breaks, and financial help from some corporations.

Another barrier is the fear of traveling. Many agencies, including Children's Home Society, make sure that the families are met at the plane by an English-speaking coordinator and are escorted by that coordinator at all times.

Many children available for international adoption are cared for in institutions. There is a great variety of conditions in orphanages even within the same country. Recently, the media has concentrated on horror stories of conditions in orphanages in Eastern Europe and on behavioral problems of post-institutionalized children. This has scared many families and decreased the pool of families willing to adopt internationally. This has tragic consequences for the children waiting for families.

The Children's Home Society is very careful about the institutions we work with. Our families who have adopted from Bulgaria have all remarked about how grateful they are for the loving care their children received while in the orphanage. In just about any orphanage, the children are made to conform to a schedule rather than following the needs of their own bodies. However, within this structure, there are institutions where caretakers love, enjoy, and nurture the children. Our families who have adopted from Bulgaria, Russia, and China find that their children learn English quickly, lose their institutional behaviors quickly, bond to their families, and have blossomed.

ASSEMBLYWOMAN HECK: Any questions? (no response)

Thank you very much.

MS. BACHER: Okay. Thank you.

ASSEMBLYWOMAN HECK: Nancy Dykstra-Powers, Branch Director, Bethany Christian Services.

NANCY DYKSTRA - POWERS: Thank you for this opportunity to address the Assembly Advisory Council on Women.

As the Branch Director of Bethany Christian Services, I welcome this time to speak about adoption issues.

Bethany has provided adoption-related services to those in New Jersey for the past 38 years. The organization began in Michigan over 50 years ago and currently has 60 offices throughout the United States. We are recognized in 13 countries and have staff worldwide providing humanitarian aid to children.

I have been the Branch Director of Bethany New Jersey for the past 10 years as well as the Branch Director of New York for the past four years. Our New Jersey office is located in Hawthorne, Passaic County. My goal today is to speak about the state of adoption as seen from our organization and address some of the issues and challenges that face adoption professionals.

Birth parents typically call our office during their pregnancy, and we provide free counseling to all those with an unplanned pregnancy. Our staff travel throughout the state in order to do so. Most of the clients we serve are in their teens and 20s but range in age from 12 years old to 40 years old. Statistics show that the woman most likely to place her child for adoption is someone in her early 20s with some college education. I find that those in their early teens are the least likely to make an adoption decision, perhaps, because many have unrealistic expectations of parenthood. Sadly, those who

may be least able to provide a stable home are those most likely to parent their child.

There is a stigma attached to placing a child for adoption; whereas, there is little stigma associated with single parenthood or abortion. Many clients tell me that their peers and family consider them cruel and heartless to consider making an adoption plan. Comments such as “How can you even consider placing your child for adoption?” or “I’d rather abort than carry a baby for nine months and give her up” are common.

Unfortunately, the media paints a negative picture of birth parents, often portraying them as unstable people who will surface to try to reclaim their birth child. I have been the Branch Director for 10 years and have never seen this occur in our agency. I have found birth parents to be courageous, loving people who will make wonderful parents some day but are not able to provide for their child at this time in their life and have the strength and wisdom to recognize this.

It is vital that the birth parents receive professional counseling services that are noncoercive. At Bethany, anyone with an unplanned pregnancy is counseled free of charge. Approximately, 80 percent of our clients decide to be single parents and 20 percent make an adoption plan.

The birth parents have the option of viewing profiles which consist of pictures and nonidentifying information about the adoptive couples written by the latter. I use the word couples for this presentation as most of our birth parents want their child to be placed in a two parent home, but we certainly do place with single people. Both parties can meet, and all of our adoptives are willing to provide updates if the birth parents choose to receive them. As a

policy, we are not opposed to facilitating completely open adoptions but find the great majority of our clients prefer not to share their last names and addresses.

Each birth parent goes through the grieving process in his or her own way. If the updates are helpful, they are sent on. If they are not desired, they remain in the file. It is very important that the birth parents receive free counseling not only prior to the birth of their child, but in the months after placement.

I am concerned as to what happens to those birth parents who place their child privately. Who is there to help them after the child is placed for adoption? Currently, New Jersey law states that they must be offered three counseling sessions. Even this can be waived. Of further consideration is what happens when a couple hoping to adopt the healthy white child finds that the birth mother has, sadly, given birth to a child with severe disabilities. My concern is that in these cases, the State and agencies such as Bethany will be called in to deal with the aftermath. Are private adoptions becoming the domain for the healthy child only?

Our organization offers, to birth parents, 30 days of free foster care, and this can be extended on a case-by-case basis. Some use this time to rally support from family and friends and make a parenting plan, others choose adoption and have their last visits with the child. The important thing is that the birth parents are under no obligation to place their child for adoption. Fifty percent of Bethany's operating costs come from donation with the rest coming from adoptive fees, which are based on a sliding scale according to income. Perhaps having a second funding source, as do many agencies, gives

us a greater flexibility than those dealing with private adoptions whose sole income is based on a birth parent placing her child for adoption.

I would like to see the State of New Jersey privatize foster care. There have been rumors for the past several years that this might occur, but to date it has not. With so many children in the State's foster care system, the private agencies could be a resource. Pennsylvania has such a program, and the Philadelphia Bethany has been able to provide quality care to hundreds of needy children in the state's foster care system.

An important thing to remember is that the overwhelming majority of people calling agencies in New Jersey are hoping to adopt the healthy white infant. There is no shortage of homes for such a child. There is a shortage of homes for special needs children. I was very pleased to see the letter of December 1998 from Governor Whitman's office asking the private agencies for help in placing these children.

Adoptive persons coming to the agency are required by State law to have a homestudy, which consists of a series of meetings with a social worker. Child abuse, State and FBI clearances, as well as medical examinations are a part of the process. A visit to the home is made to be sure it is a suitable environment for a child. Issues such as the person's own childhood, relationship to parents and siblings, employment history, infertility, and ideas on child rearing are explored. This homestudy should be both investigative and educational. It is important that the social worker both screen and educate the client in the issues of parenting and adoption. After a child is placed in an adoptive home, a six-month supervisory period allows the worker to make visits to see that all is going well, with the norm being a total of four

visits. This is an added precaution and a most appropriate law. One might think that this screening is a time-consuming process, but it is necessary for the protection of children. In a most recent case, a lovely adoptive couple, with whom I met, had an identified adoption planned where the birth mother wanted her child to be placed with this couple. The baby was born, but the child abuse clearances had not come in yet. The prospective adoptive father finally admitted that a child abuse case was pending in court against him and his wife. People who seem wonderful can, and do, have criminal histories. The idea of the homestudy being a burden to a prospective adoptive person cannot prevent us from protecting the children entrusted to our care.

Our agency provides postadoptive services, which can consist of searches and reunions. This, too, is an important facet of adoption. More adoptees and birth parents are doing searches. Support groups, education, and counseling are available throughout the state to help them work through these issues.

Our agency is seeing a greater number of people interested in international adoption. We have a staff of over 45 people in Romania as well as staff in Russia and China, to name a few. Currently, adoptive persons seem most interested in adopting from Russia, China, and South America. Some state that what attracts them to international adoption is the thought that they will not have to worry about a birth parent coming into their life. It is very important to address this issue in the homestudy.

For every horror story in the media, there are thousands of healthy adoptions. Also, it is important that adoption not be done out of fear, but out of love and respect for the child's history and culture. We are hearing a great

deal about adoption in the media lately. The most recent research shows that adopted children do well. Past studies were often flawed in that they did not use a random sampling, but drew from a psychiatric population to begin with.

Adoption can, and does, benefit the child, the birth parents, and the adoptive parents. The child is provided a loving and nurturing home. The majority of birth parents with whom I have worked will make wonderful parents later in life but were not prepared at this time to parent. They are able to continue the tasks they need to do for their growth. Adoptive parents who have the emotional and financial resources to provide for a child immediately are able to do so. Society, too, benefits as children are loved and, hopefully, become productive citizens.

In conclusion, I believe that the homestudy should continue to be a process for educating and screening prospective adoptive parents to assure long-term stability for the child. Birth parents should receive professional counseling services that are noncoercive. Education of young teens about adoption as a viable choice needs to be improved.

Finally, New Jersey should continue to explore the privatization of the State's foster care system.

Thank you for your time and concern for a most vulnerable population, our children.

Thank you.

ASSEMBLYWOMAN HECK: Any questions for Nancy? (no response)

Very thorough. Thank you.

ASSEMBLYMAN GARRETT: Maybe just one quick one.

ASSEMBLYWOMAN HECK: Okay.

ASSEMBLYMAN GARRETT: You raised some of the concerns as to -- and the previous speaker as well -- as far as what the media--

MS. BACHER: Yes.

ASSEMBLYMAN GARRETT: --and what's going over there. One of our prior hearings on another topic, the discussion what -- raised indirectly with regard to teen mothers. One of their recommendations for teen mothers is that in the schools we should allow the teen mothers to be brought into the school system so that it's understood that being a teenager and having a child and raising a child is no different for that girl than anybody else in that school, and we should not be segregating, ostracizing, or placing them out and saying that's not appropriate behavior. Instead, we should say that it's right here in our school and give that girl the same educational instruction and everything else in the school setting. I disagreed, but the proponents said it was a good idea to that have that situation.

Where would you come down on-- Is that part of the-- Is that an element of what we're doing as far as saying it's okay for teenagers to have children?

MS. BACHER: Well, I think that you could look at it one of two ways.

ASSEMBLYMAN GARRETT: Okay.

MS. BACHER: In most of the schools that I'm familiar with, they do have a day care sort of situation in the schools. There was one girl who became pregnant and decided to parent, and she was in eighth grade. Now, in eighth grade they did not have such a program, and so there was some talk

about, perhaps, she would quit school or something like that. So it could be a double-edged sword if someone is going to quit school or something like that. It could be very difficult.

The one thing that I would think about in talking about teens is that if you're 16 years old and you're seeing that your friend is having to go all of the time to take care of the child and not being able to go to the prom because she has to babysit, it can work both ways. I mean, it can be not so attractive, and they could also realize that this is a lot of hard work to have a child.

ASSEMBLYMAN GARRETT: They don't provide day care for their children?

MS. BACHER: In terms of the school?

ASSEMBLYMAN GARRETT: Yeah.

MS. BACHER: A lot of junior highs don't.

ASSEMBLYMAN GARRETT: I'm understanding that these provide day care as well -- so the girl could go home and also have some sort of social life, too.

MS. BACHER: Well, what I'm thinking is-- As I understand it, you're saying, "Does it encourage--

ASSEMBLYMAN GARRETT: Yeah.

MS. BACHER: --the teens in terms of their behaviors, or does it make it more attractive?"

ASSEMBLYMAN GARRETT: Right.

MS. BACHER: And I think that what I see is that in a sense it can make it more attractive, but if someone is seeing their friends raising a child

and knowing exactly how difficult it is to raise a child, it could also be a disincentive.

Did I understand your question?

ASSEMBLYMAN GARRETT: I understand, yeah.

MS. BACHER: Okay.

ASSEMBLYMAN GARRETT: But I guess it's not been that much of a disincentive as long as the State is picking up the tab for doing it.

ASSEMBLYWOMAN HECK: Not necessarily. Children at night can be very hard to care for. I remember those days.

MS. BACHER: Thank you.

ASSEMBLYWOMAN HECK: Thank you very much.

Cecilia Zalkind, Associate Director, Association for Children of New Jersey.

Ceil.

And then we have Mary from the New Jersey Foster Parents Association. She is our final speaker.

CECILIA ZALKIND: Thank you very much, Assemblywoman Heck and members of the Council. First, let me thank you for the opportunity to talk to you a bit about adoption today and also to commend you for your interest in this very important issue, and also, you, in particular, Assemblywoman Heck. We had the privilege of working with you two years ago on amendments you sponsored to the Termination of Parental Rights law, which I think have made an enormous difference for children in foster care. So for your commitment, we thank you very much.

ASSEMBLYWOMAN HECK: And for your support.

MS. ZALKIND: As you know, the organization is a statewide child advocacy organization located in Newark. Most of our comments are directed to the State child welfare system. Most of our work is done in that area, but we do have our roots in the private adoption system. Our agency goes back to 1850, in Newark, to the original Newark orphan asylum, which is now the offices of NJIT, and then it became the Child Service Association, which was a direct foster care and adoption agency for over 100 years. It closed in 1978, but its board of trustees-- We're very dedicated to children's issues and form the basis for the creation of ACNJ. And it's always been child welfare, especially adoption -- has always been a core issue for ACNJ.

I'm going to, very briefly, summarize my testimony. It's late. I just have some comments I'd like to make. In the context of adoption, there were so many issues that we could raise today. I teach a class at Seton Hall Law School, and I must tell you I learn more every year--

ASSEMBLYWOMAN HECK: In another life you do something else that I don't know about.

MS. ZALKIND: --than I teach.

Yeah, in my other life.

There's tremendous interest in this area and many, many issues, but I want you to focus my comments on three areas. One was the continued delays and legal processing of children in foster care. Two was what we're beginning to see as a need to renew New Jersey's commitment to the adoption of older children. And three is what we see as the emerging issue of open adoption, which I have to say we have some very mixed feelings about, and I think I wanted to raise that issue before this committee (*sic*) today because my

sense is that this is an issue that is going to confront you very soon, and our sense is that this has to be done in a very thoughtful way. So very briefly, let me just talk a little bit about those three issues.

You've heard, today, already, that there have been some changes in the child welfare system in the area of adoption. I would agree with that, that's absolutely true. In my experience, this is a very exciting time for child welfare cases, not only in DYFS, but in the family courts. And there are some wonderful, innovative, exciting projects going on. It's very gratifying to see them. The Division has made a commitment to moving cases quickly. The Administrative Office of the Courts has really made the child welfare cases a priority. You have some wonderful models going on. Judge Nardi from Camden County chairs the Court Improvement Committee, which is-- In October, we participated in training for the family court judges that handle the DYFS cases. Forty-five judges showed up and stayed for two days. It was wonderful. The enthusiasm, the energy, the commitment is very, very inspiring. Judge Zampino, the new presiding judge in Essex County, is part of a national model children's court with technical assistance from the National Council of Juvenile and Family Court Judges. It is now becoming a model not just for New Jersey, but for the rest of the country. So it is very exciting to look at some of these things happening.

However, you wouldn't expect me to come here today and just be happy, would you? We're still very concerned about the delays facing children in foster care. I think things have improved, but the volume of children coming in is challenging. If you look at the Division's caseload, the largest growing area of children coming into care are young. I believe that half of the

Division's caseload are children under the age of five. It is critically important to move those children to permanency quickly.

Although there have been enormous improvements made. The Governor's initiative last year, as Donna Younkin has said, has funded legal resources. It's not enough. Our concern is that this is an opportunity to do a little more.

I must say, we were very enthusiastic about the Federal Adoption and Safe Families Act, and we look forward to significant State legislation to implement that law. I have to be honest and tell you we've been very disappointed in the process so far. President Clinton signed that law in November of 1997; the bill has not yet been introduced. New Jersey must have legislation in place by April 1.

ASSEMBLYWOMAN HECK: I think it's coming soon.

MS. ZALKIND: I understand it might be introduced today or next week.

ASSEMBLYWOMAN HECK: But I think that's why we were interested in what your concerns were.

MS. ZALKIND: I want to raise with you to take a look at this seriously. Unusually-- This was not a process that was open to the public. Advocates were invited to look at the Division's draft at one time in October. I was very disappointed in the draft at that time. I've said this to the Division, so I'm not saying something they haven't heard. I have not seen the draft since. My concern was that yes, it addressed the basic requirements of the Adoption and Safe Families Act, but it didn't take advantage of an opportunity

to go further. I think, from an advocacy point of view, we saw this as an incredible opportunity for children that we didn't want to see lost.

Three issues that we had talked about in reference to the bill -- and again, because I haven't seen the bill, they might be addressed; but when we see the bill, this is what we're going to focus on.

Federal law requires--

ASSEMBLYWOMAN HECK: Are you taking notes over there?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes, I think Ceil shared this with us yesterday.

MS. ZALKIND: I did.

Federal law requires a permanency hearing for children in foster care when they've been in care for 12 months or more. This is not new; in fact, New Jersey's had this in the law -- in the Child Placement Review Act since 1978. And there's a hearing required under the original Federal law; although, 18 months was the time period then.

We think this is an opportunity to make this a serious and meaningful review. This is not something that the Child Placement Review Boards--

This is on the top of Page 3.

This is not something the Child Placement Review Boards, alone, should do. We'd like to see this as a review before a judge. And if it's a case in voluntary placement that the Child Placement Review Boards see-- We'd like to see some emphasis on having a summary hearing before the judge. This is a serious time to say where we come from and where we are going with this child. We think it's critical that this be tied in to the provisions for mandatory

filing of termination of parental rights for children in placement -- 15 months -- and to a more intensive oversight in monitoring of cases. My concern in the draft that I saw was that those connections were not made.

Second, we saw this as an incredible opportunity to make our State child welfare statutes more consistent.

Assemblyman Garrett, you had asked earlier about Title 9 and Title 30. Our child protection statutes are in Title 9. The guardianship provision toward termination of parental rights are in Title 30. They require two separate legal processes. They, at this point in time, require replacement of the attorneys who are involved in the case. And some county courts change the judge at that point. In addition, the Division moves the case from its district office to its Adoption Resource Center. Now, even the best intentions at timely expediting of cases confront institutional barriers when that change has to take place.

Short of amending these two statutes, which, honestly I think, we really need-- We need to take a look at Title 9 and Title 30 and develop a comprehensive children's code as some states have done. This would be an enormous undertaking--

ASSEMBLYWOMAN HECK: What states do you admire, Ceil?

MS. ZALKIND: Connecticut has an outstanding--

ASSEMBLYWOMAN HECK: Say again, Ceil.

MS. ZALKIND: Connecticut.

ASSEMBLYWOMAN HECK: Connecticut.

MS. ZALKIND: California has a statute-- But I must say California did a great statute and has tinkered with it for the last eight years,

so it's gotten a little bit-- Arizona has some features. I would be very glad to share information that I have in my--

ASSEMBLYWOMAN HECK: Please.

MS. ZALKIND: Kentucky also.

Short of that revision, which would take a lot of time and generate some controversy, as you know from your sponsorship of the amendments to the termination bill, there are some bridges that the Adoption of Safe Families Act can make between Title 9 and Title 30. We suggested some language to the Division, which we submitted to them. I put it in a packet that I gave you today. Yesterday, we participated in a meeting around the idea of continuous representation, providing a little funding to the bill to permit the Public Defender's Office, who represents children in the Title 9 cases -- children and parents, remain in those cases through the termination.

There is some concern about a fiscal note, which hasn't been done. But this, I think, would be an important way to go to really streamline this process.

The last area we're very concerned about is creating some type of different legal relationships for relative caregivers. Right now, ASFA permits states to achieve permanency for children through legal guardianship or custody by relatives. We took a look at our statutes in New Jersey. They're very weak. In fact, the legal guardianship statute does not require that legal guardian to support the child. That's a little bit of a gap. We would like to see some legislation that creates a kinship adoption. This is relatively new. We did some work about four years ago coming out of a project we had -- worked with someone from the ABA Center on children and the law who was providing

technical assistance to some states to develop what they were calling kinship adoption. We're in the midst of gathering that information to see who's done it -- what it looks like. Relatives, grandparents, maternal and paternal aunts and uncles have told us that often they want to take a child from a family member. They don't want to go the route of adoption because it requires that birth parent's rights to be terminated, but they want something more than custody that a parent can overturn, and they want a benefit. They want to be eligible for the benefits that are provided to other adoptive parents such as adoption subsidy.

Some states have explored this kinship adoption as a way to go. I know that the kinship care issues is an enormous one the State is struggling with, and we share those concerns. It raises some issues about if we support families, financially, who should step in. This, however, is a small piece of that bigger issue. And I think we could carve this out without taking on that bigger--

- How many benefits do we extend to relatives?

ASSEMBLYMAN GARRETT: Do you terminate-- You say you don't terminate the parental rights in that case?

MS. ZALKIND: It is not as formal. There is-- It is a stronger custody. It is not the severance -- the formal severance of the birth parent's rights. But it is a stronger relationship than guardianship or custody.

ASSEMBLYMAN GARRETT: So this is the grandmother situation--

MS. ZALKIND: Yes.

ASSEMBLYMAN GARRETT: --where the--

ASSEMBLYWOMAN HECK: Very similar.

ASSEMBLYMAN GARRETT: --the daughter's a drug addict, and she is not taking care of the kid, so the grandmother gets the kid--

ASSEMBLYWOMAN HECK: Yes.

ASSEMBLYMAN GARRETT: Right now, what is her legal--

MS. ZALKIND: Well, the grandmother can go to court, right now.

ASSEMBLYMAN GARRETT: She's guardian right now.

MS. ZALKIND: Right. She could go to court and take legal custody of the child.

ASSEMBLYMAN GARRETT: Okay.

MS. ZALKIND: A custody arrangement can be overturned. The parent could come back in the picture. We're involved in a case last year where cousins stepped in and had a very nice relationship with their cousin who was a longtime drug user. They said, "This is fine. I want you to have my child forever."

ASSEMBLYMAN GARRETT: Right.

MS. ZALKIND: The child turned nine. The mother married, and through her marriage and the assistance her husband's family, she recovered from her drug problems, had another child, and said, "You know what, things are different. I want my daughter back."

ASSEMBLYMAN GARRETT: And the reason the cousin never went in to the court--

MS. ZALKIND: Because this was a family relationship that they -- everyone agreed to at the time of placement that lasted for nine years.

ASSEMBLYMAN GARRETT: And if you had what you had here, what would have happened?

MS. ZALKIND: Well, based on what we've seen, and again I've not seen any laws that were enacted-- We saw some drafts, about four years ago, that were moving towards this. Based on what we've seen, it would be a stronger -- it would not be as easy to overturn as custody. It would be an adoption that would allow the birth parent to stay involved in some way, but the adoptive parent -- the relative would have some control over what that relationship was. In a custody arrangement, the birth parent could come back and argue that there are changed circumstances and custody can go back to the birth parent, which is a struggle in this case if a child who's now nine years old and being confronted with a possible return to a mother she doesn't know that well.

ASSEMBLYMAN GARRETT: I don't understand how you have an adoption without termination.

MS. ZALKIND: Well, I think-- I'd be glad to provide some information on that. We're interested in that, too. I'm not-- I think Arizona was one of the states looking at this. I'd be glad to provide that information to the committee. It was something in between the two. It might have been a stronger form of guardianship for the relative.

ASSEMBLYMAN GARRETT: I'd be curious to hear about that.

MS. ZALKIND: I'll be glad to provide you with that information.

ASSEMBLYWOMAN HECK: Nellie.

ASSEMBLYWOMAN POU: Are we, in fact, using the word adoption though? Is that what we're looking at?

MS. ZALKIND: Well, I don't know. I think it's a good point.

ASSEMBLYWOMAN POU: I think, and I'm raising that as a question not because I have any concern over the word -- whether it's called adoption or whether it's called some other proper term.

I can't tell you how-- Well, let me rephrase that. I can tell you from experience that situations like this, certainly, can work in the benefit of both the child as well as that caretaker, in that case being the guardian -- that the person who's classified or referred to as the guardian. Whether that person is, at a later time, referred to as the adoptive parent or not-- Let me just say that oftentimes, especially when it comes between family members, you don't want to create a situation where a family member is causing complete, total disruption in terms of the relationship because of other factors involved.

Just the same, we're talking about the care and the need of that particular child. I have, and what I started to say-- I happen to know of a family that that was the case. The mother died, the father -- there were several children -- I'll be short on this; but it is important to make the point here -- was adopted-- Pardon me, let me rephrase that term -- was cared for by the aunt. The aunt-- And at the tender age of one, so, certainly, that child became, after years, her child. In her heart, in her house, in her home, how she treated her was as her child. There was a constant relationship with the father -- the biological father, the brother-in-law in this case. However, there was the need -- there was no financial assistance because, technically, the welfare agency would not consider them as the adoptive family, and there is no type of benefit. And she would not consider doing anything to change that for fear that the biological father would, actually, take the child away from her.

Removing her from an -- well, let me just say, from a loving, safe environment and one that was cared for-- That child, of course, maintained relationships with all the family members, but at the age of 18 decided to change, because prior to that legally they could not do, her name and take the name of that family that raised her. Now, of course, we're talking about an older person -- older woman who is married and has a child of her own.

But my point is that it can work, and this is a workable solution. It can make families whole. You don't have to create World War III in a family when there may be another alternative that can help to allow for the security and safeguard of that child which, otherwise, may not have been made available without creating the friction of having to cause animosity between those family members.

Now, if you can do that within the means -- the financial means to do that -- sometimes that's not possible. This is where the law can help to allow for additional, I want to say, caregivers but understanding what the real word really is -- to allow for additional homes or families to be arranged in that manner.

So I think that that's a move in the right direction for us, whatever we want to call it. But I think we ought to be looking at creating legislation that's going to allow to make this possible within family levels.

Thank you.

MS. ZALKIND: I apologize for raising the issue without the concrete information to support it, but we saw, four years ago, some states were beginning to take a look at it. One was calling it kinship adoption, but

I think you're right, it was something that fell a little short of adoption and was really a stronger guardianship arrangement.

The other issue with legal custody, we hear from relatives all the time, is that many health policies -- a grandmother who works cannot include that grandchild on her health insurance with a custody order. Something more is required.

But again we're in the midst of gathering this information. We started on this about two weeks ago, so I wasn't able to have it today. I'll be glad to--

ASSEMBLYWOMAN HECK: Good.

MS. ZALKIND: --give it to the committee because I think this does offer an option--

ASSEMBLYWOMAN HECK: See, we're very fortunate Nellie is a former human services director, so she has a lot of experience.

MS. ZALKIND: I'll be glad to share that with the committee.

Briefly, let me just address the other two issues I want to raise to the committee.

We're very worried that ASFA focuses on permanency for children -- is going to leave older children behind. And, in fact, we've already heard from some DYFS offices that they've been told by the Adoption Resource Center that if this child is 10 years old and needs adoption to not even refer the child. The State is under the gun to clear up this backlog of cases. And the easier ones to use are the younger children.

As you know, Assemblywoman, New Jersey has a long history. We are more successful than most states in placing older and special needs children

for adoption. Ten-years-old is simply -- no age-- I really believe that there is no age at which a child should be unadoptable if that child wants to be adopted. And I would urge the committee to take a look at that. Ask the Division about its policy--

ASSEMBLYWOMAN HECK: And it's so necessary.

MS. ZALKIND: There are some wonderful support services for older children. The Path Homes, two of which are run by Children's Aid and Family Services, acknowledge that it may be more difficult to place an older child, but it can be done. Postadoption services, which Donna Younkin talked about--

ASSEMBLYWOMAN HECK: But it's so beneficial to the children.

MS. ZALKIND: Right. It's a benefit you can't even measure, and I think the committee should take a look at that because our fear is, with this haste to come into compliance with the Federal, these children will be left behind. Even specialized recruitment might help.

ASSEMBLYWOMAN HECK: And self-esteem, at that age, is so very important.

MS. ZALKIND: The last issue is the issue of open adoption. Again I raise this with some caution. My sense is that this issue is going to come before you. You heard, already, about the KHO case which was heard by the Supreme Court in November. We were asked to argue that case. We intervened in that case as a friend of the court. And the questions that I got on that day, by the justices, were all around open adoption. We've struggled with this as an agency, we've talked to our board about this. On the one hand,

we think that open adoption arrangements, where there is some continued contact between the child and the biological family, are really, really important and they work very well and that children to benefit from that continued contact, especially when they're older and being adopted.

Our fear is that people will regard this as the easy out. And a judge who is reluctant to terminate parental rights will say, "You know what, I don't have to do that," or "I can do it with the promise that there will be continued contact." When you look at open adoption and the contacts of the child welfare system, there is not a lot of research. You're dealing with families with very serious problems, histories of abuse, histories of substance abuse. We're very worried that this will be created, and it will just happen because it is the easier thing to do.

I believe that the Supreme Court is going to say something about this in their opinion.

ASSEMBLYWOMAN HECK: And you gave us the data on that in the folder.

MS. ZALKIND: Yes, it's in the folder.

Our two points are, if there is some interest in moving forward in open adoption-- Number one, make sure that it is something that arises from an existing relationship among the families and it's not imposed on unwilling participants. You've heard already that adoptive parents who are anxious to adopt -- foster parents -- like the foster parents in the KHO case that have had this child since birth for five years with some sever medical problems-- There is the temptation to agree to anything. You cannot impose this on people who are unwilling.

Second, it really has to be best for the child. A judge looking at this case is just going to say, "I have two sets of adults before me, I can satisfy them both." But he or she has to look at what the long-term consequence for this child is. Eighteen years of court involvement to enforce an open adoption agreement is really not in the best interest of any child.

I'll close there.

Thank you very much for the opportunity.

ASSEMBLYWOMAN HECK: Oh, thank you.

MS. ZALKIND: I'll be glad to give you additional information.

ASSEMBLYWOMAN HECK: Any questions for Ceil? (no response)

MS. ZALKIND: Thank you.

ASSEMBLYWOMAN HECK: Any more?

ASSEMBLYWOMAN POU: No.

ASSEMBLYWOMAN HECK: Thank you very much.

Mary Awrachow, I think. (indicating pronunciation)

Mary, how do you pronounce your name?

M A R Y J A N E A W R A C H O W: Awrachow. (indicating pronunciation)

ASSEMBLYWOMAN HECK: Awrachow. (indicating pronunciation)

MS. AWRACHOW: Good afternoon. My name is Mary Jane Awrachow. I'm the Executive Director of the New Jersey Foster Parents Association.

FRANCESCA GERVASI: Fran Gervasi from the New Jersey Foster Parents Association. I am also the Director of Education and Training.

MS. AWRACHOW: It's a real honor to be here this afternoon. I know it's late. Our testimony is not that long.

ASSEMBLYWOMAN HECK: We're not leaving.

MS. AWRACHOW: Oh, okay.

ASSEMBLYWOMAN HECK: We're waiting for you.

MS. AWRACHOW: I won't talk that fast then.

Our agency began 25 years ago by two foster parents, Hattie Talley and Sue Dondiego. Hattie Talley has since past away, but I have the pleasure of knowing Sue Dondiego. I asked Sue why they got together and decided to unite. Basically, she said that their vision was to have a voice and to have that voice heard, not only to the Division and to the media, but also to the Legislature. That is why it's a real honor for us to come before you today to bring you the voice of the Foster Parents Association.

Basically, what I'm going to talk about-- A lot of it is what Ceil has already said. Foster parents, anecdotically, have told us many stories of wonderful experiences through the adoption process and other stories of it being very painful and taking a very long time. A lot of our recommendations for concrete improvements have to do with what happens before a child becomes available for adoption. So I'm going to read what I've written.

The New Jersey Foster Parents Association strongly recommends the following ways to expedite and improve the adoption process. We believe that New Jersey legislators should take full advantage of the opportunity offered by the Adoption and Safe Families Act to improve foster care and

establish permanency for New Jersey's children. New Jersey has until April 1 to come into compliance with ASFA or lose an estimated \$4 million in Federal aid every month. Unfortunately, to date, we have not seen a revised copy of the ASFA legislation that is scheduled to be released in the Senate next Wednesday. Without a current copy of the bill, it is difficult for us to comment. New Jersey's implementation of the ASFA law is critical to our children's future welfare. We are not confident that the following critical provisions are contained in the pending legislation.

We strongly believe that any New Jersey ASFA legislation should contain the following provisions: concurrent case planning from the first day a child enters foster care. There is no way to determine which cases will result in reunification and which will go to termination. Only if all cases are concurrently planned from the first day will children find a permanent home sooner. The 12-month permanency hearing should be the end of the permanency process, not the beginning.

Continuous legal representation for the child under Title 9 and Title 30 is critical to expedite adoption. We fully support that foster children should have one legal representative to voice their best interest. Their legal representative should not change simply because the case goal has changed. Furthermore, many of the pro bono attorneys who are assigned to these cases have no family court experience. They also receive a case that has a year or more of history and are expected to appear at court fully briefed after only a few days of preparation. This is not realistic and is unfair to the child's best interests and the attorney trying to represent the child. We believe that training and retention of law guardians is critical.

Title 9 out-of-home placements should have a formal court permanency hearing. Voluntary placements should have a permanency hearing at the Child Placement Review Board. Cases reviewed by Child Placement Review Board, where the permanency plan is inappropriate or problematic, should have a mandatory summary hearing.

Before I get into the next piece, I just want to say that when I first came to the agency several years ago, I, too, believed that all foster parents wanted to do was adopt children and they didn't care about the rights of the biological parent and that's why they got into it, and that was the end of the story. In talking to foster parents over the last five years, that is not my opinion today. I believe that most foster parents truly care about the rights of the biological parent and that they should be given every opportunity, in most cases, unless there are extenuating circumstances, like they have murdered another child or something like that -- severe-- But most foster parents really do believe that biological parents -- there should be an honest and sincere attempt to reunify them with their children. And if that does not happen, then the process needs to be a lot faster so that the child can move into a permanent setting.

One of the reasons why foster parents -- I don't talk for all foster parents, but the ones that I have spoken to are so concerned about children returning home, to make sure that it is a safe environment, and that the family has the services to ensure that that happens. Over 70 percent of New Jersey's State adoptions are by foster parents. It's probably closer to 76 percent or 77 percent now. Roadblocks to adoption of foster children start before adoption is the case goal.

When the State removes a child from his home, the following needs to happen. Biological families need to be informed exactly what the process is to have their children returned. A sense of urgency and the seriousness of the situation needs to be conveyed from the first day a child is removed from his home. Services need to be provided initially to reunify the family. Along with the services, there should be expectations of improvement that are communicated, clearly measurable, and documented. Substance abuse is one of the primary reasons children are removed. More funding needs to be appropriated to programs that have proven successful in drug and alcohol rehabilitation. Again, services to the children and family must be available at the beginning of the placement process. Information contained in case records need to be accurate, thorough, and well documented and provide court and DYFS reviews on a regular basis. Time deadlines need to be strictly adhered to and documented. All parties involved need to be reminded that if it isn't documented on a legal basis, it didn't happen. Everyone should carry out his or her part of the adoption process expeditiously and responsibly. Ignoring a court-ordered action or deadline must have meaning. Where existing DYFS policy already mandates the above points, DYFS must be ever vigilant to ensure these policies are strictly adhered to in every instance.

In addition, strict time lines on how long DYFS should research for relatives should be established and adhered to. Long-lost relatives popping up at the last minute only delays the adoption process. Biological families should have a deadline on naming relatives. If a child has been in the same foster home for more than a year, the foster parent wishing to adopt the child should have the same consideration as a biological relative.

Lastly, we recommend that the adoption subsidy program be reviewed, especially in light of multiple adoptions of unrelated children by one foster family. Also, many foster parents have expressed that an obstacle to adopting their foster children is the fear that future medical problems would cause their health insurance to be in jeopardy.

We appreciate the opportunity to express the above concerns and look forward to working with you to address them.

Before I say thank you, can I say one or two other things? And then I'll say thank you.

One is that we were very excited with the Governor's Blue-Ribbon Panel report. And we, in the office, read every single page and every single recommendation. And we didn't memorize them, but we knew a lot of them by heart. And we have seen some exceptional initiatives by the Division and some moving very quickly also, which was a real godsend for us such as-- I know this is a little bit off the topic, but I represent foster parents.

ASSEMBLYWOMAN HECK: No, no. Our committee, Policy and Regulatory Oversight, held a hearing that parcipitated with the Blue-Ribbon Panel.

MS. AWRACHOW: Wonderful, because we--

ASSEMBLYWOMAN HECK: So we know everything.

MS. AWRACHOW: Good. So I'm not going to tell you anything new, but I'm telling you that the initiatives that came out very quickly were excellent. And those initiatives-- And we were involved in the process. Foster parents did have their voices heard. Such things as increasing the preservice training from 10 hours or 12 hours to, I believe, now it is up to 24 hours to 27

hours. Having the preservice training -- it's regionalized, and it will be occurring more quickly, which helps people get through that process. The board rates -- looking at the board rates a little differently, now based on the services that a foster parent will provide; certification of foster parents. This is a critical issue, I think, to raise the bar of foster parents: a more complete home evaluation and also mandatory inservice training. We support that because we believe that talking to people who have fostered 25 years ago, talking to people who are still fostering after 25 years-- As a matter of fact, we're having a breakfast to honor many of those people in April. Children have changed, problems have changed. There are much more complex issues.

So we fully support mandatory inservice training. We believe that they need to be trained to provide the care for these children. So we are very excited about that and being included in that process and my being able to come and bring you Hattie Talley's voice and all the voices of those people who started at their kitchen table to improve foster care and the improve the lives of these children.

Unfortunately, I concur with Ceil, that it was very disappointing not to be a part of the process regarding the ASFA legislation that, I believe, will be introduced next week. We did see an initial draft in October--

ASSEMBLYWOMAN HECK: May I interrupt you for a moment?

MS. AWRACHOW: Yes.

ASSEMBLYWOMAN HECK: Never be that concerned about the initial legislation.

MS. AWRACHOW: Okay.

ASSEMBLYWOMAN HECK: Because the opportunity through the public hearing process and the legislators that you see here will probably have reason to look at it.

Right, Nellie? Right, Carol? Right, Marion?

ASSEMBLYWOMAN POU: And we need people like yourself to point those areas of concern out to us.

ASSEMBLYWOMAN HECK: Yeah, we will look at it from that standpoint.

When the mother-baby care bill was introduced, it was good, and then there were some things happening. And we, as women from the Advisory Council, went in and shook the tree and made it happen in a very positive way.

So don't be concerned about the introduction, be concerned about what's there when it goes to the floor. And we can assure you that if you're making valid points that we can make, initially, we will do that. And to improve it -- sometimes the process is slow -- we can come back and do another bill. If we don't see it there and they want to move it through quickly, it's not detrimental, we're going to let the positives happen, and we'll introduce our own bills. But again remember that the process, in any major change, is slow. You see it with domestic violence. We've returned three times to that and keep improving it. And that will be improved as well, whatever it is.

MS. AWRACHOW: And I can assure you that we will be there.

ASSEMBLYWOMAN HECK: Oh, I know you will.

Can I say something positive? I was at the Children's Aid and Family Services 100th Anniversary celebration and opening the facility in Paramus, which is so beautiful. But Freeholder Jim Sheehan came, not just as

a freeholder, but he came because he wanted to thank foster parents. I've known this man for years. He said he was in foster care from the time he was eight years old. He lost his parents, and he had three sisters who were not as fortunate because they kept moving. But he had the same foster parents, he said, from eight years old until he graduated from college. And his foster mother helped him find the three sisters, which was very difficult.

So it was so nice to look at him. He said, "You know, a lot of people think I came from a wealthy family," because he's worked hard and he had the support of his foster parents to put him in place and give him what he needed. And he is a wealthy man today, but he's wealthy because he was given the tools by his foster parents to be the person he is today. I think that's a compliment to all foster parents. And you should be very proud to be in that organization.

MS. AWRACHOW: A lot of people ask me, as the Executive Director, am I a foster parent. And I'm not a foster parent.

ASSEMBLYWOMAN HECK: Oh, you're not.

MS. AWRACHOW: No, I am not.

ASSEMBLYWOMAN HECK: Okay, well, representing them, of course.

MS. AWRACHOW: I'm representing them. However -- I'm shocked that I'm saying this, here today, to you. I hope there is no TV cameras or anything. I was raised in an out-of-home placement. And I was very fortunate that I was raised in one out-of-home placement, not 100 or 10 or 12. I think that what I bring is the voice of the child--

ASSEMBLYWOMAN HECK: That's wonderful.

MS. AWRACHOW: --and concerns of the child. So I do think that multiple placements can destroy a child.

ASSEMBLYWOMAN HECK: Yes.

MS. AWRACHOW: I think that sets some permanency, and I guess that's why I'm the Executive Director.

ASSEMBLYWOMAN HECK: Sure.

MS. AWRACHOW: That's why I was placed here today--

ASSEMBLYWOMAN HECK: See, you're giving me chills.

MS. AWRACHOW: --to talk about that.

ASSEMBLYWOMAN HECK: Another success story.

MS. AWRACHOW: That sense of permanency and belonging and not being jostled from home to home and going to the same school and having the same friends and -- is critical, absolutely critical. And that is why we support permanency. And whatever it takes to get there, we have to do it for these children.

ASSEMBLYWOMAN HECK: Absolutely.

MS. AWRACHOW: Thank you.

ASSEMBLYWOMAN HECK: Thank you.

Anyone else want to make a comment?

ASSEMBLYWOMAN MURPHY: Can I ask a question because I don't know--

ASSEMBLYWOMAN HECK: Certainly.

ASSEMBLYWOMAN MURPHY: If a foster family -- if there is a job change for the husband of a foster family-- When they move, can the child go with them to have the continuation of that home?

MS. AWRACHOW: Yes.

ASSEMBLYWOMAN MURPHY: Even if they moved out of state?

MS. AWRACHOW: Out of state--

Donna.

MS. YOUNKIN: It has happened. It is possible, and it happens. If the case is important, we'll have to get the judge's permission. If the child placement -- voluntary agreement -- the parent would have to agree. The home in the other state will have to be inspected, the other state will have to agree. But it happens a fair amount when children have been in the home for a long time. If it is a new placement, it probably doesn't happen that much.

ASSEMBLYWOMAN MURPHY: Just because-- In my childhood we moved all the time, and I went to a lot of different schools and stuff, which was fine because, you are right, my family was with me. It was always my mother, my brother, and my father, so it didn't matter where we lived. It was that we were all together. You're right. And that's why I wondered for the foster child.

ASSEMBLYWOMAN POU: Donna, if I could just follow up with that.

MS. YOUNKIN: Sure.

ASSEMBLYWOMAN POU: What happens if the parents are waiting approval from the other state? Does the child remain with them while that process is in place, or is that child--

MS. YOUNKIN: No, they'll usually move with the child to the other state. The other state will do the investigation when they get there.

ASSEMBLYWOMAN POU: Okay. So the child is with them.

MS. YOUNKIN: Yes.

ASSEMBLYWOMAN POU: So there is not interruption?

MS. AWRACHOW: Can I tell you about one thing that we're also doing federally -- what we're investigating on a Federal level. We also have concerns about older foster children. We have concerns not only about them being adopted, but about them aging out of the foster care system and about what happens to them.

But when it comes to adopting, a lot of foster parents tell us that they're -- to adopt them at the age of 16 years old or 17 years old -- that the foster parent has not saved from birth for this young person to go to college or to go on, and that is a concern that they have. We are now going to be meeting with Federal legislators to talk about the possibility of raising the status of a foster -- a young person who has been in foster care who is adopted.

I don't know if you're familiar with-- I have two kids that are going to college, so I'm very familiar with Federal aid. But on the FASA form there is a little box -- there are six little questions you're asked. If you answer yes to one of those questions, then you elevate the status of the young person from a dependent to independent, which automatically elevates them for financial aid. One of those questions is, "Are you a ward of the court?" So if the young person is still in foster care, they get to check yes. If they've been adopted, then they're elevated to get some Federal aid. If they've been adopted, they get to check no, so it doesn't happen. We're asking that that statement be changed to read, "Are you, or have you been, a ward of the court?"

ASSEMBLYWOMAN MURPHY: So that explanation or more things can, at least, be discussed. It gives them the opportunity to get into the competition.

MS. AWRACHOW: Exactly. It does increase appropriations, but what it does is elevate the status to be in line for some Federal aid. And we think that may help these young people.

ASSEMBLYWOMAN HECK: Good point.

MS. AWRACHOW: Thank you.

ASSEMBLYWOMAN HECK: Thank you, all. It was a very exciting day for us.

(HEARING CONCLUDED)