
Committee Meeting

of

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY SERVICES COMMITTEE

SENATE BILL No. 1705

(Implements federal "Adoption and Safe Families Act of 1997")

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: February 25, 1999
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator James S. Cafiero, Chairman
Senator C. Louis Bassano, Vice-Chairman
Senator Diane B. Allen
Senator Joseph F. Vitale



ALSO PRESENT:

Michele Leblanc
*Office of Legislative Services
Committee Aide*

Josie Dirienzo
*Senate Majority
Committee Aide*

Dawn A. Dantzler
*Senate Democratic
Committee Aide*

Meeting 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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SENATOR JAMES S. CAFIERO (Chairman): This is just an informal hearing, so we don't really need a quorum in the Committee, but the most important guest we're having is Senator Gormley, who's the sponsor of this bill.

Now, there's good news and there's bad news. The bad news is we don't have any idea--

SENATOR WILLIAM L. GORMLEY: I know a lot of bad news so be careful.

SENATOR CAFIERO: No. No. The bad news is none of us have any great feel as to what the impact is going to be for noncompliance with Y2K. The good news is we know what the impact is going to be if we don't comply with ASFA, and that means the State's going to have \$40 million at risk if we don't do something by April 1. So the bill has been offered by the administration, and Senator Gormley was kind enough to be the sponsor.

There are those who felt they did not have sufficient input in the negotiations that gave rise to this bill. The purpose of this meeting is give those groups who would like to have input to have it on this occasion with a thought that our time schedule would be: we'll receive that input from all of you today; on the 15th we'll have another Committee meeting at which time, hopefully, we'll digest that input and release the bill with the thought that the Senate will act upon it on the 22nd. The Assembly will be in session on the 29th. They can act upon it, and we can meet the deadline and save the \$40

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million, even though we still do not know what the impact of Y2K is going to be.

So having said that--

SENATOR GORMLEY: Well, I have a Y2K amendment that I'm going to put in. (laughter) I think we can do that before -- solve that, especially as it relates to the Russian missile system.

SENATOR CAFIERO: So on that note, I guess, Charles Venti, would you come forward and give us some overview as to what the bill contains, what the thrust of it is. I understand that we're going to enhance the safety, promote adoption, expedite the permanency of these placements.

So having said that, my friend, you're on.

C H A R L E S V E N T I: Mr. Chairman, Committee members, Senator Gormley, my name is Charles Venti. I am the Director of the New Jersey Division of Youth and Family Services. Thank you for this opportunity to speak in support of S-1705, which amends New Jersey's statutes to comply with the requirements of the Federal Adoption and Safe Families Act, which was enacted to enhance safety and expedite permanency for children.

We welcome the Legislature's interest in this bill, which provides statutory changes essential for expansion of the Division's activities to implement recommendations of the Governor's blue-ribbon panel on child protection services and our subsequent comprehensive strategic plan to improve the safety and well-being of children and families in this state.

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This legislation will help us increase the effectiveness of the \$20 million appropriation we received for an ambitious foster care and permanency reform initiative to enhance the infrastructure of the Division. As you may know, the Division used some of that appropriation to provide additional resources to the Office of the Attorney General and the Office of the Public Defender. Through the hiring of attorneys, investigators, and paralegals, we are expediting litigation to achieve permanent placement for children who are unable to return to their own families.

Senate Bill No. 1705 encourages and supports the current, unprecedented collaboration between the Division, the Administrative Office of the Courts, and members of the judicial and child welfare advocacy communities.

SENATOR GORMLEY: They reached a détente. It only took 22 years.

MR. VENTI: Maybe a little bit more than a détente--

SENATOR GORMLEY: Okay.

MR. VENTI: --we hope at this time.

SENATOR GORMLEY: Okay. Good. We're over that period.

MR. VENTI: All right. For example, through collaboration with the Association for Children of New Jersey, we are piloting a small program to determine the effectiveness of concurrent planning, an approach to permanency, which is included in the Adoption and Safe Families Act, in the

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fost-adopt approach in providing continuity and expediting permanency for children who are unable to return to their own homes. Likewise, activities through the Administrative Office of the Courts, Court Improvement Project, and the School of Social Work at Rutgers University have provided valuable input regarding the future direction of child welfare practice and law in New Jersey.

On the Federal level, the Adoption and Safe Families Act builds upon long-standing state and Federal partnerships established through the Title 4-B and Title 4-E programs to provide funds to the states for services to preserve and reunify families for foster care for needy, abused, and neglected children, and for subsidized adoption for children with special needs. Through these two programs, New Jersey receives approximately \$48 million in Federal funding, the amount that the Chairman referred to, each year.

Enactment of S-1705 by April 1, 1999 is necessary to ensure compliance with the requirements of Title 4-B and the Title 4-E State Plan, as required by the Adoption and Safe Families Act, and to prevent jeopardizing our State's eligibility for these funds. For each month that the State is out of compliance with ASFA, the Adoption and Safe Families Act, a fiscal sanction of approximately \$4 million per month could be imposed on the State. Since the Adoption and Safe Families Act's requirements to enhance safety and permanency for children are already guiding principles for our State's public

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policy and the State's child protection and judicial systems, the enactment of S-1705 will serve to strengthen our State statutes and our current practice.

I'll briefly summarize the requirements of the Federal Adoption and Safe Families Act, commonly known as ASFA, current New Jersey statutes, and the provisions of S-1705, which brings our statutes into compliance with the Federal ASFA requirements.

First, safety of children is of paramount concern. ASFA requires that the child safety be the paramount concern in all aspects of service provision, including services in the child's home, out-of-home placement, and when determining whether the child's permanent plan should be family reunification or adoption or an alternative placement.

Just to digress slightly from my printed testimony here, it was the feeling of Congress that there needed to be some check and balance put into place in our country because the issues of family preservation seem to be the guiding dominant principle through the 1980s and 1990s in child welfare policy and decision making. In part, Congress felt that this Act was necessary to ensure that the child's right to a safe and permanent environment was the predominate, or dominant, issue to be considered in making decisions about the future of that child.

Currently, Title 9 and 30 address the protection and best interest of children, but do not specifically indicate that the child's safety is of paramount concern in all aspects of service provision. To clearly establish what

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S-1705 will do-- It clearly establishes in public policy that safety of the child is of paramount concern. Language is included in the statutes applicable to adoption, protective services, and child welfare services.

As regards reasonable efforts, requirements, and exceptions, ASFA requires states to provide reasonable efforts to prevent placement to reunify families and to achieve a permanent plan for the child. In addition, reasonable efforts toward placement of the child for adoption or in another permanent placement may be made concurrently with reasonable efforts towards family preservation and reunification.

Again our current practice really is not a concurrent type of a model. We currently to this point, or until recent time, have worked toward reunification and family support; and when that has failed, we've started on a track for other alternatives that may include adoption for the child. What ASFA does is it causes us to look at a contingency plan right from the get go, so that if a child is going into placement along with providing the services necessary to try to keep the family together or reunify the family, we're also conducting activities both in terms of our casework and legally that can set the stage for an alternative plan, which may be adoption, it may be placement with a relative, it may be something else.

In New Jersey law, reasonable efforts are addressed in Title 30 statutes regarding the responsibility of the Division prior to seeking

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termination of parental rights. Also, Title 9 indicates that reasonable efforts to reunify a family are not required if a parent has committed certain crimes.

In S-1705, ASFA's reasonable efforts, requirements, and exceptions are included. In situations in which the Division is not required to provide reasonable efforts toward family reunification, this language does not prohibit the Division from providing reasonable efforts to reunify the family if appropriate.

As concerns permanency hearings, ASFA requires that a permanency hearing be held to consider the permanency plan for a child within certain time frames. Currently in New Jersey law through the Child Placement Review Act, Federal requirements for hearings to determine the appropriateness of placement and the goal for all children in DYFS placements are met through court orders, which consider recommendations made by the Child Placement Review Boards. In some situations, there may be court proceedings to address protective service issues. In S-1705, Title 9 and the requirements of the Child Placement Review Act are expanded to include consideration of the permanency plan for the child and reasonable efforts to achieve the plan when a hearing is held within the time frames in which a permanency hearing is required.

As regards termination of parental rights, ASFA requires that states initiate termination of parental rights for children who have been in placement

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for 15 out of 22 months, who have been abandoned, or whose parents have committed certain crimes.

SENATOR GORMLEY: Do we have any-- You said the public understands this?

MR. VENTI: Right.

SENATOR GORMLEY: And maybe we even understand even what I've assigned. What are some of the worst-case scenarios of time frames that we've had where it's just gone on and on? There must be one that everybody talks about. What's the long one?

MR. VENTI: I can't tell you the longest one. I can give you a picture of the longest ones--

SENATOR GORMLEY: Go ahead.

MR. VENTI: --that we're currently working with. We had about 5700 children-- We still have 5700 children in placement, who were in placement at the time the Federal law was passed in November of 1997. And we've already started working on those children, but when we look at the average length of time in placement for that group, it approaches four years.

SENATOR GORMLEY: Okay.

MR. VENTI: Okay. That's an average. That means that there are parts of that population that are longer than four years in placement.

SENATOR GORMLEY: Okay. Thank you.

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MR. VENTI: Okay. In New Jersey law, Title 30 permits, rather than requires, the Division of Youth and Family Services for another interested party to seek termination of parental rights in certain situations. So in plain English what this says is that if a child has been in foster care for 15 of the preceding 22 months, a termination petition must be filed. In fact, at 12 months of placement, there must be a permanency hearing where a decision needs to be made -- what is the permanent plan for that child? If it is return home, if the child's not returned home within the next 3 months, then that termination petition must be filed. And again there are certain exceptions to that.

Senate Bill No. 1705 also includes provisions to address barriers to the interjurisdictional placement of children for adoption, meaning interstate barriers for adoption. We cannot allow cost issues, policy issues to at all remain as obstacles towards the movement of children toward adoption. It clarifies those crimes in which a person -- includes a person from being an adoptive or a foster parent. It ensures that caregivers receive an opportunity to be heard at hearings and reviews concerning the child. It exempts the Division from responsibility to pay for certain types of information -- copies of certain types of information that are required for protective service matters.

We strongly support this legislation and view an enactment of S-1705 not merely as a mandate that we must implement to maintain eligibility for Federal funding, but more importantly as an integral part of our

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continued efforts to enhance safety and permanency for children in this state. Based on input regarding guiding principles and operational frameworks we've already received from State and national authorities, we're currently drafting a model for strengthening permanency planning and child welfare services for our state.

We look forward to the continued collaboration with the parties interested in this vital issue to effectively integrate this model and the requirements of ASFA with the State's judicial and child welfare systems. We realize this will not be an easy task and that enactment of S-1705 will have significant impact on our state. Revisions will be needed to policies, operational procedures, regulations applicable to the Division of Youth and Family Services, Child Placement Review Boards, and the courts to ensure that the child's health, safety, and need for permanency are adequately considered and documented in the decision-making processes.

We have already initiated internal changes to our information systems to identify the children in placement, when ASFA was enacted in November of 1997, for whom permanency activities should be prioritized. Initial reports indicate that of the approximately 5700 children who remain in placement since November of 1997, adoption is the goal for about 50 percent of these youngsters. Additional cooperative efforts between the Division and the courts will be necessary to ensure permanency-related activities are

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provided in accordance with mandated time frames and to monitor Division- and court-related activities.

The Division needs to expedite the provision of family reunification services in permanency activities and more promptly initiate additional proceedings to terminate parental rights. Activities will also be needed to increase the availability of adoptive homes and other options for permanency such as subsidized legal guardianship for children whose caretakers are willing to care for them permanently, but for whom termination of parental rights is not in the child's best interest.

To the extent that parents require community-based or residential services, there will also be an increased demand for expedited access to such services to ensure that families have the opportunity to benefit from the Division's reasonable efforts towards family preservation or reunification.

I cannot stress enough that the prevalence of problems associated with substance abuse poses the greatest challenge to our efforts to ensure safety and permanency for children. Substance abuse is the single greatest challenge facing the child welfare system today. We are committed to encouraging the development of service models which can provide timely access to appropriate short-term or long-term treatment for substance abusing parents.

We believe that the enactment of S-1705 will be instrumental to the Division's continuing efforts to enhance safety and permanency for New Jersey's youngsters. At any point in time, the Division is providing services to

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approximately 50,000 children towards stabilization of their own homes, return home after temporary placement, or through adoption or other permanent living arrangement. Senate Bill No. 1705 will allow the Division to provide these children and their families with a quality child welfare system that recognizes the values of birth families but balances it with the need for safety and permanency for children.

Thank you for your attention and support of this legislation.

SENATOR CAFIERO: Are you going to stay with us?

MR. VENTI: Yes, I am.

SENATOR CAFIERO: Any questions from the Committee members? (no response)

Senator Vitale?

SENATOR VITALE: No, sir.

SENATOR CAFIERO: Senator Gormley.

SENATOR GORMLEY: No, thank you.

SENATOR CAFIERO: Sir, if you just stay by, maybe we'll have questions as we go on.

MR. VENTI: Absolutely. Thank you.

SENATOR CAFIERO: Cecilia, if you don't mind, Senator Gormley's time is limited so-- There are two folks who are speaking about amendments. Yours doesn't say amendments. You sound like you're in support, so if you don't mind being patient--

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SENATOR GORMLEY: We worked out her amendments already. That's why she's in support.

SENATOR CAFIERO: The Bar Association probably has maybe the biggest obstacle to be overcome, so I'd like Senator Gormley to have the benefit of that.

Mr. Miller, front and center, sir.

MELVILLE D. MILLER JR.: Good morning. I'm D. Miller, the President of Legal Services of New Jersey. We are definitely in support of the legislation, but we have a set of proposals or concerns that--

SENATOR GORMLEY: Can I? How much? (laughter)

SENATOR CAFIERO: Cut to the chase. (laughter)

SENATOR GORMLEY: Everybody knows what the issue-- What I'm curious about is in terms of the mandates in the bill. How do you translate that into the cost impact, and what do you think the dollar amount that should be placed in the bill?

MR. MILLER: Are you speaking just in legal representation? Because the other stuff, I think, doesn't have a direct cost.

SENATOR GORMLEY: No. No. I'm talking about the legal burdens that are being placed on -- that's-- I assume it's--

MR. MILLER: I gave all of our information-- Our basic proposal was for-- That there's an inherent conflict in running the representation of the

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parents through the Public Defender because they are an adversary party. The law guardian is an adversary party to the parents--

SENATOR GORMLEY: Exactly.

MR. MILLER: --in most of it. So the basic proposal was to create a new office within the State to do that. We gave our cost assumptions, caseload assumptions based on our experience--

SENATOR GORMLEY: Okay.

MR. MILLER: --to the Public Defender to create a budgetary turnaround. The last figures I saw from them that were distributed at meetings that we had with Majority staff and Governor's Office, I guess, a week ago came out from the parental representation in the 1.7 million-2 million range. I think that's what the amount was.

But I understood from the Public Defender Office and other officials that they were trying to refine those estimates. So what we can tell you is, based on the projections from the AOC and the likelihood of some 1200 new cases, new filings on an annual basis for a couple of years, based on our experience, it's probably going to take about two dozen staff attorneys the time -- the full-time attorneys to do those cases.

SENATOR GORMLEY: Because when you accelerate something like termination, you obviously have these circumstances created.

MR. MILLER: Right. Absolutely. And we will continue to work with you, your staff, and the PD in terms of trying to refine those estimates.

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SENATOR GORMLEY: And we're not holding you to a set number, but what's your -- give me your approximate range, which you can change -- but giving your approximate range today realizing that this has to be refined.

MR. MILLER: I think, as I said, for the parents alone that-- The PD did a child-side, law guardian-side estimate, which, I think, was around 1.7 million. For the parents alone, I would say 2 million, possibly even 2.5 million, something in that range. So that you're probably talking about a total extra representation budget that's in the range of \$4 million. That would be my guess -- my best estimate, not just a guess.

SENATOR GORMLEY: Okay, fine.

And, actually, the administration was supportive of this at these meetings. Okay, we'll go on.

MR. MILLER: I'm sure they will speak to that issue.

But the primary thrust of our presentation is that we absolutely have to have a system of legal representation, number one. Number two, that that system has to be staffed based, that is, expert based. It has to be people who specialize in this work, do it all the time, know it, have a support system behind it.

SENATOR GORMLEY: And that's what has to be added to the bill, and I agree.

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MR. MILLER: And then the additional amendments, which are cost issues and are legal representation issues, relate to the proposals that are in our written statement, which I don't need to recount if you would prefer that I be brief -- are that we be sure -- part and parcel of the legal representation is we have to be sure that at the critical permanency plan stage there is court involved -- a judicial review of that permanency plan, something that's not happening now and is critically important to protect the rights of all the parties involved, the kids, the parents, especially with this, as you said before, with the accelerated process that we're facing.

SENATOR GORMLEY: So what we're talking about is making it seamless in terms of one's access to due process.

MR. MILLER: Seamless and meaningful. Seamless and high quality.

SENATOR GORMLEY: Okay. Thank you.

I'm sorry for doing it this way, but everybody knew what the problem or the differences might have been.

MR. MILLER: The only other thing -- just to call your attention and the Committee's attention to another aspect which you may not have heard as much about, which is, there is a provision of the proposed legislation which excuses reasonable efforts -- the requirement that DYFS provide reasonable efforts to reunite in certain circumstances. And we've made very specific proposed amendment -- language amendments -- minor adjustments

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to ensure that if the circumstances involving the parents have changed that at least the court make a determination whether those reasonable efforts ought to be excused, and we've set forth some proposals. I'd be happy to go over those with you and your staff to clarify them.

SENATOR GORMLEY: Thank you.

MR. MILLER: Thank you.

SENATOR CAFIERO: Joy Norsworthy and Mary Jane, New Jersey Foster Parents Association.

Thank you for coming.

MARY JANE AURACHOW: Thank you for having us.

JOY NORSWORTHY: Good morning. Can you hear me?

SENATOR CAFIERO: Do you have the red light on?

MS. NORSWORTHY: Yes, sir. Can you hear me?

SENATOR CAFIERO: Yes.

MS. NORSWORTHY: Okay. I'm Joy Norsworthy. I'm the Vice-President of the New Jersey Foster Parents Association. I thank you very much for giving us the opportunity to come here and speak with you today. I'm still a little bit-- Some of the things I've just heard have given me new thought on some of the things I was planning on saying.

At any rate, during the past few years, I've seen a great need for changes in the foster care to make our children's lives better and by giving them permanent safe homes as soon as possible. It is with great hope for the

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future of our children that I come before you today to thank you for this landmark legislation.

Our family has fostered 13 children in 13 years, and most of those children stayed with us for at least a year, some longer, and some are there forever. The adoption process for the first two girls -- we've adopted three-- I was hoping Senator Gormley was going to still be here because I speak to some of those exceptions to the average.

SENATOR CAFIERO: Joy, we're making certain that whatever testimony we get today is going to be given to Senator Gormley.

MS. NORSWORTHY: Yes.

SENATOR CAFIERO: He's the prime sponsor, and he will get it. You can be rest assured between now and the 15th he'll have access to all this information.

MS. NORSWORTHY: Fine. You're going to get more detail in my written than I'm going to give you. Good. Okay. Very good.

The adoption process for the first of our two girls, who were biological siblings, took five years. The adoption of our youngest daughter took an incredible eight years: three years in court to reach a decision finally with the Appellate Court, and then one year following that decision before the adoption actually occurred. I think this legislation is extremely necessary to prevent this type of long-term foster care for our children. The impact of children drifting within a system where they really don't have solid homes,

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solid family, or anything to call their own is really very negative to them. I live daily with the results of that system and that drifting.

We have one child who's going to be in psychological counseling for many, many years due to the results of eight years within a system not knowing who she was, where she belonged, and what was going to be her ultimate outcome in life -- where was she going to live.

Our Association is deeply concerned about and committed to preserving families and to ensuring that foster care is the best possible alternative for children who must be placed out of their homes. Many of us who work on legislation are or have been former foster parents. We are or have served in the trenches and have firsthand experience about how legislation affects foster children and foster families. We don't have all the answers, but we can certainly offer concrete suggestions.

And again I thank you for the opportunity to comment on this legislation, and I look forward to working with you and other legislators on matters of importance to children and to families.

Mary Jane.

MS. AURACHOW: My name is Mary Jane Aurachow. I am the Executive Director of the New Jersey Foster Parents Association, and it is my distinct pleasure to be here today in honor to speak on behalf of New Jersey's foster families. Our agency began 25 years ago at a foster parent's kitchen

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table in Burlington County, and now we represent over 2600 foster families. I am very pleased to be able to bring their voice to you today.

Chairman Cafiero, thank you for having me.

Senator Vitale, I'd like to thank you again for the excellent work that we did on the backpack campaign for foster children in Middlesex County. We are still distributing those backpacks.

SENATOR VITALE: Great.

MS. AURACHOW: Thank you again.

SENATOR VITALE: We're going to do it again this year.

MS. AURACHOW: Great. That's wonderful. As a result of what you did, other counties have also picked up on that. It's meant a lot to our kids to have those. Thank you again.

SENATOR VITALE: Thank you.

MS. AURACHOW: Last week I represented the NJFPA in testimony before the Assembly Advisory Council on Women regarding foster children and the adoption process. Today I come to restate our very firm stand regarding our belief that New Jersey's implementation of ASFA has the potential to be the most important piece of legislation in decades that will effect permanency for children -- permanency in a time frame that will not rob children of their childhood.

I digress a lot so please bear with me, okay.

SENATOR CAFIERO: You're an ad-libber.

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MS. AURACHOW: Yes, I am. I always have been. That's why it was so important for Joy to come to you today. Joy's experiences of having two siblings where it took five years to adopt, of having a third child where it took eight years to finalize the adoption is not unusual. I have spoken to foster parents in just about every county in the last five years, and I hear the same story over and over again about the frustration that it takes to achieve permanency for these children. And that is why I thought it was so important for Joy to talk. I could have brought a couple thousand more with me, but you don't have the time or the room.

So again I'm going to digress again. I grew up in out-of-home placement, and I was one of the real fortunate ones in this state, actually Philadelphia. It was another state, but I was very fortunate. I didn't think so at the time growing up, but I think so today at the age of 48, and that is that I had one placement. So even though I wasn't raised by my biological family, I knew permanency. That's why when I use those words it's not just another phrase in the bill, it's a part of my life. So I really-- I know I'm preaching to the choir, but I'm going to say it again. This is critically important that these time frames be adhered to and that we stand firm in our belief that permanency is critical for these children.

Nothing is more important to our nation -- and I don't have to tell you that -- and our future than our children. Nothing is. Senate Bill No. 1705, which brings us into compliance, is a tremendous opportunity to prove

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our commitment. Much discussion has been held regarding how to take full advantage of this opportunity to sign a bill into law that will expedite permanency.

We've been looking at what other states are doing. We go on the Net, and we find out what other legislation is being passed around the country. What we're seeing is that some states are writing laws that bring them into minimal compliance. And what we're hoping is that New Jersey will be the cutting edge and move forward and not do things that just bring us into compliance, but do things that really do affect change.

In reviewing the proposed legislation -- here's the positive parts, okay. We are very pleased and supportive of the improvements to the child welfare system that will directly impact these children. Most importantly to us, a child's health and safety are now the primary considerations on whether or not to return a child to their home.

I have to tell you, again digressing, this is what foster parents tell us, "Is the child going to be safe?" And I think that's the hardest part of seeing the child leave a foster parent's home, so putting safety in this bill is a tremendous improvement.

Other improvements that will have major impacts on timely permanency for children include restricted time lines for family reunification and services for the biological families that are reasonable and time limited.

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I'm going to really digress here if I can have two minutes. One, I think why time lines are so critical and why we have to adhere to these deadlines is because I don't know how you feel, but as I get older and older, time passes more and more quickly. For a child, a day, a month, a year is an eternity, and that's why it is so important. And again I'm preaching to the choir, and that's a good thing.

As far as services for the biological families, personally this has me a little concerned. I hear over and over again that drug abuse is the No. 1 reason children are removed from their homes. So I ask a logical question, "Are there enough services for people who have substance abuse problems?" I don't have that answer. I'm asking you that question. I don't know if there are enough inpatient and outpatient services in New Jersey.

I'm going to throw something else at you even though it's not the purpose of this Committee. I don't know what's going to happen to all this tobacco money when we finally get it. I don't know if a good way to use that tobacco money is to make sure that there are enough substance abuse programs for people who need it. I don't know, if we go through this whole process and, then, somebody walks into court, and you can't terminate the rights because you didn't have a bed, and you didn't have a program in place. And I think that will be the ultimate disgrace of this whole thing. Like I said, it's not our place today to decide what to do with the tobacco money, but I really bring that as a concern because--

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The other thing -- and I'm going to stop here again. We've been working with the Division for the last several months on some major changes to improve foster care in New Jersey, and I am very -- not only impressed, but I feel like we have been brought into the process, that this is a collaborative working effort, that they have reached out to us, and that is very encouraging for foster parents. And the things that are being put in place, like mandatory in-service training, well, great, we are 100 percent behind that. We believe that foster parents are facing complex problems with these children, and they need the training to deal with it.

We also believe in certification of foster parents, raising the bar, making sure that home is safe. We also believe in increased board rates. This is not a job. This is a volunteer, but you have to be fair. And we see changes that are going to impact that from the Division, and that is a good thing. We feel like a team player, and we believe that that's going to come down to the foster parents.

Of course, there's going to be some things that we don't like. We did send a letter saying some amendments we'd like to see. I don't know if those things have been changed, but I'm going to mention just a few of them, and that's concurrent case planning from the day a child comes into care. We think that is critical. Another thing is that when a child reenters foster care, if you're talking about continuity of care and the child feeling safe, put him back in the last foster home, if available. So we want to see that mandated.

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We'd like to see language added to the bill to mandate the documentation of the effort to identify and contact prior foster homes and, when applicable, why the child was not returned there. We think that would help make reentry into foster care easier for a child, if the foster parent is available.

We also recommend the permanency hearing be before a judge in conjunction with the full power of the court. We support continuous representation. That has been said many, many times.

I'm going to end with one of my favorite quotes that I use in the office all the time with my staff, and I hope it has some relevance to you. It's paraphrasing -- I don't know the exact quote -- Albert Einstein, who said, "The definition of insanity is doing the same thing over and over again and expecting different results." And I think that's what we're not going to do, so maybe the world won't be as crazy for these kids.

Thank you.

SENATOR CAFIERO: When you mention Einstein, dear, I never understood what the Einstein theory of relativity was.

MS. AURACHOW: Oh, I don't have a clue.

SENATOR CAFIERO: I don't know either. But something you said called to mind what I think it really meant, when you said time passes so quickly. I think it's a proportion of what the time you had-- Like when a youngster is three years old waiting for Christmas that's a year away, that's 25

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percent of their life. It seems like an eternity. But when you get to be my age of 70, hey, a year (snaps fingers) goes like that.

MS. AURACHOW: That's absolutely right. That's how I feel, too.

SENATOR CAFIERO: If that the theory of relativity? (laughter)

MS. AURACHOW: I don't know. I guess it is. (laughter) And youth is wasted on the young, somebody said that, too.

SENATOR CAFIERO: You brought Einstein up. I didn't. (laughter)

Thank you very much.

MS. AURACHOW: Thank you.

SENATOR CAFIERO: These comments are going to be taken into consideration. As I said, we're going to give Senator Gormley the package -- was the driving force in his bill. He'll have an opportunity to digest all your comments between now and the 15th, when hopefully this Committee will consider it to release it.

MS. AURACHOW: Thank you, Senator.

SENATOR CAFIERO: Thank you, Joy.

MS. NORSWORTHY: Thank you, Chairman.

SENATOR CAFIERO: Cecilia.

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Just one second, I didn't mean to leave Senator Lipman out. She is the co-prime of the bill, so all this information will be given both to Senator Gormley and to Wynona so she can do her homework at home. Thanks.

CECILIA ZALKIND: I'll be brief because many of the issues have already been discussed this morning, and I know there are a number of people who are still waiting to testify. I represent the Association for Children of New Jersey, which is a statewide child advocacy organization. Issues surrounding children in foster care, especially permanency issues, have been of strong concern to us, and we've had a long-standing commitment to ensuring permanency for children. We do commend both Senator Gormley and Senator Lipman for sponsoring this bill.

As you've heard already this morning, the Adoption and Safe Families Act is significant Federal legislation and really offers states the opportunity to enhance permanency services for children in foster care. As a number of people have already said, you can take two approaches to this legislation. There can be a minimal, meet the letter of the Federal law or really utilize this legislation to provide the opportunity for children that we think exists in this bill.

You've already heard about some of the key provisions of ASFA around the emphasis on the child's health and safety, and identification of cases in which reasonable efforts are not required, the requirement of a permanency hearing at 12 months for children in foster care, the mandatory

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filing of termination in certain cases, and support for the concept of concurrent planning. We think all of these issues go a very long way to improving permanency services for children. And when you think about a child who is waiting a year, two years, you heard this morning four years, to have that basic issue resolved of “Who’s my family?” these are very, very significant provisions.

And it’s been our experience in looking at the Division that children who are able to be placed in one foster home and stay there are relatively unusual cases. For most children, the foster care experience is one that moves them from home to home so that uncertainty, that loss, that sense of not belonging really is expanded for children in foster care. And we think this legislation is critically important to put some time limit on it and address that in the most appropriate way for children.

We’ve had an opportunity to take a look at the bill. Our sense was that the Division did a very good job in many of the provisions around the Adoption and Safe Families Act. We had some concerns that we felt fell in the area of enhancing the opportunity. Our sense was that the original bill does meet the letter of the law, but we wanted to see a little more in to take advantage of the opportunity that the law provides. We’ve shared these comments with Senator Gormley, and I understand they’re going to be considered.

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I'll just mention briefly what we think are some critical points that we would ask you to keep in mind as you look at this legislation.

1. We think that the permanency hearing that's required at 12 months is absolutely essential. In fact, it's not that different from what exists in the law already. New Jersey does have a 12-month review of children in placement, but it's done by the Child Placement Review Board. This is an opportunity to make sure that it's the court and a judge who conducts this hearing, that this is a formal, serious hearing that takes place in front of the judge. And we are asking that at least in the court-ordered placement cases that this be a hearing that's required of the judge. Additionally, we have a child welfare statute that is rather confusing and disconnected. We have our child welfare Code in two separate sections, Title 9 and Title 30. Our thought was that using some of the provisions in both sections would bring some of those pieces together, so it would not be so disconnected and not be a barrier to permanency. And this idea of ensuring that the permanency hearing is described in Title 9 is one that we feel very strongly about.

2. We think it is very important that the exceptions to the mandatory filing for termination of parental rights be very narrowly defined and also be monitored. The Federal law lays out three areas that the states may use to be exempt from this requirement of filing where children have been in placement for 15 of the last 22 months. We believe that those exceptions are needed, not all cases will be appropriate for termination. There will be

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some cases where a family member, for example, needs a little more time, but we don't want it to go too far. Our fear is that if those exceptions are defined too broadly, they'll become the exception that swallows the rule and no cases will proceed to termination. So our sense is to try and define these within the framework of the Federal laws, as narrow as possible, and also require the Division to provide some notification either to the court or the Child Placement Review Board when they've identified a case for exception. Some outside oversight we think is necessary.

3. We think it's really important to take full advantage of the opportunity to permit concurrent planning. As Charlie Venti mentioned, we've been partnering with the Division on a project to promote concurrent planning. We've learned a great deal through this project. Concurrent planning is not magic. It simply requires a caseworker to work toward family unification and adoption at the same time. So when the child's been in placement, if that placement is extended, there are two plans in place. If one has not succeeded, the worker does not have to start over again on another plan. We think this is really just basic, good casework practice. The Federal law requires this at certain points and permits it at other points. We would just urge that this be used as fully as possible. It is good practice for children in foster care.

4. As you've already heard, the issue of continuous representation is one that is critical to the implementation of this law. We support the

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recommendations that have been made by the Bar Association and Legal Services to provide continuous representation. We've been working in this area for a number of years. Back in 1984, we had a project on special needs adoption -- identifying the barriers to moving children toward adoption -- and the No. 1 issue that was identified was the change in attorneys at the point of termination of parental rights and the fact that pro bono attorneys are used to represent parents and children. These are often the least-experienced attorneys dealing with the most serious cases. So our sense is that if this can be used as an opportunity to address that issue and ensure that one attorney stays in from the point of placement entry through to the termination and that it be an attorney who is trained and experienced in this area that will enhance services for both children and families and also ensure permanency for children. So we would urge that that be included in the bill as well.

5. And the last issue that we were concerned about is that this requires a lot of changes. It's very difficult to predict the impact of this legislation. We think it would be very helpful if the Legislature ask for some report from the Division. There is much legislation that puts in reporting an 18-month's requirement, and we would ask that that be considered so that they would be some collection of data. For example, how many cases does the Division not provide reasonable efforts in? How many cases were exceptions enacted to not require that mandatory filing for termination? We think those

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would be very interesting issues to look at and would like to see some language that directs the Legislature to do that.

I understand these issues are being considered. We appreciate the fact that Senator Gormley is willing to consider them. Just in closing, much attention has been given to this law as shifting toward children's rights, and I think that's true and it's appropriate. But I think it's very important to also say that when we talk about permanency, we're not simply talking about freeing children for adoption. This law continues to require the State to work with parents to ensure that children who can go home, do go home. And I think that broad definition of permanency is in the Federal law and should be carried through in the State amendments as well.

Thank you very much for considering our issues.

SENATOR CAFIERO: Cecilia, as usual, dear, all your comments are well thought out, well presented. Thank you. I can assure you, well received.

MS. ZALKIND: Thank you very much.

SENATOR CAFIERO: We thank you.

Anybody else-- There's no one else who's signed up. Is there anybody who forgot to sign up and missed it or would like to have some comments at this point? (no response)

Hearing no one, I guess that everybody's had the opportunity.

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You, my friend, I appreciate your staying here. (speaking to audience)

Is there anybody else from the State Bar in addition to you that wants to comment, or are you all on the same team?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Senator Cafiero, we're from the State Bar Association, but we're not offering testimony today.

SENATOR CAFIERO: Okay. We thank you. We thank you for being here.

You, sir, one little comment I would ask of you, if you may. I noticed in the comments the thought of not having any compensation for those who were involved in placement of children. Is that one of your thoughts?

MR. VENTI: (speaking from audience) I don't think I understand the question.

SENATOR CAFIERO: About the jurisdictional placements -- that those bills amends -- to any intermediary in any state/country should not receive any money or other consideration in connection with the placement. Is that part of the bill?

MS. LEBLANC (Committee Aide): It's for the intermediaries placing kids for adoption -- that language -- if they don't receive any money.

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MR. VENTI: (speaking from audience) Because there's no payment for any intermediary in assisting and arranging in the adoption. That language is in the bill. Right.

SENATOR CAFIERO: How does that expedite or speed up the placement -- if there are folks, I guess, who are involved in that, engaged in that activity at the moment for compensation, how does barring compensation speed up the process or help? I don't understand that.

RAYMOND WOLFINGER: (speaking from audience) The no payment for intermediaries is presently in the law. This was for a different sort of circumstance for the placement that involved other states as well that was presenting a problem. So we were just trying to clear up along that area.

SENATOR CAFIERO: Why don't you come up here for a minute, my friend. (witness complies)

Does this ASFA legislation require there be a prohibition against any compensation for those involved?

MR. WOLFINGER: It wouldn't require that. What I was saying was in the present law there is a provision for no payment for intermediary activity. And what was happening in some situations, we had intermediaries that were operating not actually in New Jersey. They were from New Jersey, but they were making activities in other states -- making placements in other states, particularly with foreign countries. Because the way the language presently reads in the law you have to have a placement into New Jersey for

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that no payment for an intermediary piece to come into play, so we wanted to put this in the law to cover those sorts of situations.

We had a situation with a couple in New Jersey who was running an illegal, if you will, adoption agency that was making placements from South America but not placing into New Jersey. They were placing into New York State, and we were not able to reach them with our law because of the way the law was written.

SENATOR CAFIERO: So this now gives you hope to reach them?

MR. WOLFINGER: Right. Exactly.

SENATOR CAFIERO: Senator, Diane, how are you?

SENATOR ALLEN: Good, thank you.

SENATOR CAFIERO: We have printed versions of all the testimonies that have been given to date, Diane, and we'll make it available to you--

SENATOR ALLEN: Wonderful.

SENATOR CAFIERO: --and everybody that signed up, three or four individuals, have already testified.

I called for anybody else that wanted to, but nobody set forth at the moment. So, I guess, having said that, if nobody has any further thoughts or comments, I guess the hearing is concluded. I just gave them the assurance that all of the comments that we've received we will digest.

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Senator Gormley was here at the earlier part of the meeting to hear what they had to say, and we told them that our time frame is the 15th. We have to meet and, hopefully, release it so we can vote it over on the 22nd, the Assembly can vote on the 29th, and we can be in place before we lose any part of that \$40 million. So that's our game plan. That's our time schedule.

We appreciate all your comments, those who attended. Rest assured that we'll consider those comments.

Thank you all.

(MEETING CONCLUDED)