

Brief descriptions of 2004 OCFS Departmentals

OCFS #1-04 Continuing Jurisdiction and Enhanced Permanency Planning

OCFS is resubmitting a revised version of OCFS #1-03, which was introduced in the Senate as **S.5092**. This bill, which will become **S.5092-A**, would enhance the review and delivery of services necessary to improve permanency outcomes for children and support increased statewide Title IV-E compliance.

The bill includes provisions that:

- provide the family court in an Article 10 child protective proceeding or a voluntary placement with **continuing jurisdiction** over a proceeding where a child is placed in foster care to afford the court with continuing legal authority over a child and his or her family while the child remains in care;
- provide continuing **legal representation** to eligible parents throughout the time a child remains in foster care;
- require the court to calendar a **date certain** for the next permanency hearing at the disposition of the previous hearing;
- reduce the time between permanency hearings, currently 12 months in most cases to **ten months** after placement or disposition, to coincide with the proposed changes to service plan development and review;
- require a **sworn report** detailing the permanency plan and status of the child be provided to the court and parties shortly before the scheduled permanency hearing;
- require that permanency hearings be **completed within 60 days**;
- authorize the court to make a **reasonable efforts** determination when the permanency hearing must be **adjourned**;
- require expeditious and timely **services planning** at the critical stages when a child is first placed in foster care;
 - require all assessments and the services plan be completed and in place at 30 days from placement in most instances and no later than 60 days from placement;
 - require expeditious review of the efficacy of the services plan at 90 days from placement;
 - require that the next review be done shortly before the report is due to the court for the scheduled permanency hearing;
- expand the definition of **aggravated circumstances** to include where:
 - a child returned home from a foster care placement under Article 10 is subsequently abused;
 - a child has been placed in foster care two times or more under FCA Article 10;
 - the parent of a child has repeatedly refused appropriate services necessary for the return home of the child from foster care; and
 - a court has determined an infant under the age of 12 months was abandoned by the parent.
- improve local Child Protective Services' (CPS') ability to obtain information including **medical and mental health services information** with appropriate procedural safeguards to protect privacy of the records.

OCFS #2-04 Reasonable Efforts in Child Protective Cases (S.6713 - Rath, DeFrancisco, Johnson, Larkin, Maltese, Marchi, McGee, Meier, Morahan, Padavan, Saland, Seward, Trunzo, Velella, Volker, Wright)

OCFS #2-04 amends Article 10 to provide mandatory expeditious court review when a child is removed from his or her home on an emergency basis and enhances State compliance with federal Title IV-E requirements.

The bill would:

- **clarify time frames** for filing an Article 10 petition where the child has been removed from the home temporarily; and
- mandate that a hearing be held **within five court days of the removal for court review** of the necessity of the removal in every instance where a child is removed, not only where the parent formally requests the hearing.

OCFS #2-04 would also amend the law to preclude a court finding that reasonable efforts were not made where a social services district employs the concept of **concurrent planning** in its services provision to a child and his or her family.

OCFS #3-04 Improved Placement Activities for Juvenile Delinquents and Persons in Need of Supervision (PINS) (S.6640 - Rath, Flanagan, Larkin, Maltese, Marcellino, Marchi, Mendez, Morahan, Padavan, Skelos, Trunzo)

This proposal would amend Articles 3 (juvenile delinquents) and 7 (persons in need of supervision) of the Family Court Act provide more timely permanency hearings in PINS cases and enhance federal Title IV-E compliance.

OCFS #3-04 would:

- require a local department of probation to **consult** with the applicable social services district or OCFS regarding the appropriate placement for a juvenile delinquent or PINS before placement recommendations are made to the court in the pre-dispositional investigation report;
- require that where a permanency hearing is required in a PINS case, a **date certain** for the next permanency hearing be set at the disposition of the previous dispositional or permanency hearing; and
- authorize the court to make a **reasonable efforts determination** when the permanency hearing for a juvenile delinquent or PINS must be adjourned.

OCFS #5-04 Permanency Hearing Video Court Appearances by Youth or Witnesses (S.6641 - Rath, DeFrancisco, Flanagan, Hannon, Larkin, Maltese, Marcellino, Marchi, Mendez, Morahan, Trunzo)

OCFS #5-04 would permit at the **discretion of the court, the parties and/or witnesses** to make an appearance by video teleconference in certain limited hearings under Article 3 of the Family Court Act pertaining to juvenile delinquents.

The bill would:

- be limited in application to **extension of placement and permanency hearings**;
- allow video appearance of a youth only where the law guardian has consented to the video appearance after consultation with his or her client; and
- allow video appearance of witnesses in these proceedings at the court's discretion.
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OCFS #7-04 Enhancement of the Quality Child Care and Protection Act of 2000 - (S.6642 - Rath, Hannon, Larkin, Maltese, Marcellino, Marchi, Mendez, Morahan, Padavan, Saland, Trunzo, Volker)

OCFS #7-04 amends the Quality Child Care and Protection Act to provide greater protection to children by strengthening enforcement procedures against illegal providers and those that have serious violations of regulatory mandates necessary to protect the health and safety of children.

OCFS #7-04 would:

- increase the **maximum fine** from **\$500 to \$1,000 per day** against a day care provider for a regulatory violation or for operation of a day care program without a license or registration;
- **prohibit the issuance of a license or registration** for ten years to a day care provider whose license or registration was revoked, terminated, or surrendered while enforcement was pending, unless OCFS determines that licensure or registration would not jeopardize the health, safety or welfare of the children for whom care would be provided;
- amend the Penal Law provision commonly known as "**Jeremy and Julia's Law**" to make it a crime for a day care provider to make a material misrepresentation to either a parent or OCFS regardless of whether the misrepresentation creates a risk to the health or safety of a child in care;
- add a new provision to "Jeremy and Julia's Law" making it a misdemeanor for a person to provide child day care if he or she is ineligible to receive a license or registration to operate a day care program; and
- clarify that **mandated training** on the shaken baby syndrome applies only to those programs that are authorized to care for infants.

OCFS #9-04 Repeal and Consolidate Annual Reports - (S.6711- Rath, DeFrancisco, Johnson, Larkin, Little, Maltese, Marchi, McGee, Meier, Morahan, Saland, Seward, Trunzo, Vellella, Volker, Wright)

OCFS#9-04 would combine the many statutorily required reports that OCFS submits to the Governor and Legislature each year into one report and provides for a single due date that would permit OCFS to collect a full year of data before the report is required. The proposal also would repeal statutory provisions requiring reports for agency functions that no longer exist or have otherwise become obsolete.

OCFS #10-04 Child Day Care Certificates of Incorporation - (S.6712 - Rath, DeFrancisco, Hannon, Johnson, Larkin, Marchi, McGee, Meier, Morahan, Saland, Seward, Trunzo, Velella, Volker, Wright)

OCFS #10-04 would repeal the statutory requirement that OCFS approve certificates of incorporation, amendment, merger, consolidation and dissolution for child day care centers, thus eliminating a redundant requirement and reducing the administrative burden on small businesses seeking to establish day care centers. The same information that is provided in the certificate of incorporation already is reviewed by OCFS as part of the licensing or registration process.

2003 Carry-over bills

These are OCFS Departmentals approved by the Governor's office during the first year of the 2003-2004 legislative session:

OCFS #4-03 Post-Adoption Enforcement of Terms of Conditional Surrenders

OCFS #4-03 provides a mechanism for review and modification of an agreement between a birth parent and a social services district or adoptive parent in a voluntary surrender of a child that provides for **post-adoption contact** with the child's biological parents and/or siblings, after the adoption of the child has been finalized. It provides that post-adoption contact agreements may be subject to modification or termination based on the best interests of the child at the time of the application for modification or termination. Modification or termination of the agreement providing for contact would have no effect on the validity of the surrender of the child or the adoptive status of the child.

OCFS #6-03 Local District Planning and Functions - (S.5078 - Rath, Meier)

The bill requires each county by 2008 to submit **Integrated County Plans** which combine the county's social services district plan for adult services and family and children's services with its youth bureau plan for youth services programs.

The bill further simplifies bureaucratic process by allowing voluntary authorized agencies, including local social services districts, to license **Supervised Independent Living Programs** (SILPs) for older foster children rather than requiring the voluntary authorized agencies to apply to OCFS for certification of each SILP apartment.

OCFS #10-03 Tribal Services - (S.6124 - Little)

The bill would enable an Indian Tribe to provide **adult protective** services by agreement with OCFS and would eliminate the restriction that currently allows an Indian Tribe to provide **child protective services** by agreement with OCFS only where there are federal funds available to cover the cost.

The text of these legislative proposals and supporting memorandum is available on the website of the Department of Family Assistance at:
<http://www.ocfs.state.ny.us/main/legal/>