

REGULATORY IMPACT STATEMENT

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its duties pursuant to the provisions of the SSL.

Section 153-k of the SSL sets out the standards for the funding of children and family services, including foster care, preventive services and child protective services. The statute also authorizes waivers of statutory and regulatory requirements, including those related to the Uniform Case Record (UCR).

Section 409-f(1) of the SSL authorizes OCFS to specify in regulation the format and contents of the UCR.

Section 427(1) of the SSL authorizes the Commissioner of OCFS to adopt regulations necessary to implement the child protective program.

Section 446 of the SSL requires OCFS to establish a statewide child welfare information system that is designed to enter, provide access to and maintain required documentation for child welfare cases. The statute requires OCFS to promulgate regulations for the timely submission in the system of required child welfare data elements.

2. Legislative objectives:

Chapter 7 of the Laws of 1999 was the State's legislative response to Public Law 105-89, which is better known as the federal Adoption and Safe Families Act of 1997 (ASFA). ASFA's overarching intent is to promote child safety and earlier permanency decisions for children coming to the attention of states' child welfare programs. Chapter

7 and subsequent amendments to State law, mirror ASFA's requirements and also expand on some of ASFA's provisions in areas where states were granted discretion.

OCFS has already promulgated several sets of regulations aimed at implementing the provisions of ASFA and corresponding State law. These proposed regulations continue to implement provisions of ASFA and corresponding State law, sometimes expanding upon the aforementioned regulations, and in some instances utilizing the discretion that ASFA affords states to promote better child welfare practices directed toward child safety and expediting permanency outcomes. In addition, design work on the UCR component of New York State's SACWIS system (CONNECTIONS) has been completed and the proposed regulations seeks to support such design. After much consultation with child welfare providers during ASFA implementation and again during CONNECTIONS design, the UCR was amended in a number of areas. These include but are not limited to: a new safety assessment at key points in the casework process; a new research based risk assessment; additional questions pertaining to children in foster care designed to expedite an alternative permanent discharge outcome if a child cannot return to his or her family of origin; and questions to document that a petition for termination of parental rights has been filed for a child in care for 15 of the most recent 22 months, or, alternatively, that the petition should not be filed because it would be contrary to the best interests of the child.

Section 153-k of the SSL was enacted in 2002 and significantly changed how child welfare programs are financed in New York. This legislation promotes a reduction in foster care placements by instituting a foster care block grant, capping State reimbursement to social services districts for foster care services, and creating an

uncapped reimbursement system at a 65% State, 35% local split for non foster care child welfare services (after applying federal reimbursement). The UCR is designed to focus assessments to enable clear decision making about services that will allow a child to remain safely at home, return home sooner, and avoid replacement in foster care after discharge. Furthermore, once a child is placed in foster care, the UCR is designed to focus on providing a permanent placement for each child.

In addition, the waiver authority in section 153-k of the SSL has led to a more flexible approach regarding preventive services purchased from a public agency or a private voluntary agency that uses an alternative evidence based model of practice approach, so long as the substitution contains the listed essential data and OCFS grants its approval.

3. Needs and benefits:

The proposed regulations are necessary to better meet two basic needs of children who receive services from child welfare agencies in the State. First, whether at home, in foster care, or at an alternative placement, such children should, to the extent possible, be free from abuse, maltreatment or other forms of harm. Secondly, children placed out of the home are deserving of safe permanent homes, without undue delay, preferably returning to their families of origin. When that is not possible an alternative permanent living arrangement must be sought, and as encouraged by ASFA, such planning may be made concurrently with diligent efforts to return children to their family of origin. In the past, failure to explore alternative considerations until the permanency planning goal is changed has frequently contributed to significant delays in the child being placed in a permanent home. The uncapped funding for non-foster care child welfare services

provided by Section 153-k of the SSL supports the necessary focus on services designed to prevent and reduce foster care placements.

The proposed regulations also streamline the UCR requirements so that only key components are specified. Reference to the form and manner of the actual forms or computer application will continue to guide workers through decision-making and documentation requirements.

The proposed regulations establish a process for access to foster care information by adults who formerly were foster children.

4. Costs:

The proposed revisions are not projected to have any fiscal impact on OCFS or local social service districts. The activities required (and those streamlined) are not anticipated to increase or decrease overtime costs or other staffing costs of the local social service districts. Social services districts are already required to participate in CONNECTIONS by State statute and other OCFS regulations.

5. Local government mandates:

The proposed regulations do alter documentation requirements upon local social services districts; however, as discussed above, most of the new requirements derive directly from federal or State statutory requirements. Where the regulatory requirements go beyond the statutes' specific requirements, they are in keeping with the intent and spirit of the laws – that children served by the child welfare system are in settings where they are as safe as possible, and that such children reside in permanent homes as soon as reasonably can be accomplished.

6. Paperwork:

There is a small amount of new paperwork requirements imposed on local social services districts and voluntary authorized agencies and preventive services agencies in that several new questions have been added to the UCR. The additions do not appreciably add to caseworkers' paperwork requirements, are warranted by federal and State laws, and, in some instances, ask for documentation through a specific question, rather than having it be subsumed in a more general question.

7. Duplication:

The proposed regulations do not duplicate other State requirements.

8. Alternatives:

The proposed regulations are necessary to carry out the specific requirements and intent of ASFA and implementing State law, child welfare financing legislation and SACWIS system development. A major portion of the proposed regulations codifies changes that are being made to the UCR as part of CONNECTIONS. Initial and subsequent drafts of the proposed changes to the UCR were circulated to and discussed with local child welfare staff on numerous occasions. The final amended UCR forms and CONNECTIONS SACWIS design reflect alternatives proposed by local staff.

9. Federal standards:

The proposed regulations do not exceed the intent of federal standards, particularly as they are reflected in ASFA. Where specific proposed regulatory requirements exceed any specific federal requirements, they are necessary to adhere to State statutory requirements or to meet the child safety and expedited permanency objectives contained in federal laws/standards.

10. Compliance schedule:

Compliance with the proposed regulations will begin upon adoption.