

OFFICE OF CHILDREN AND FAMILY SERVICES

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| INFORMATIONAL LETTER | TRANSMITTAL: 01 OCFS INF-02  
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DIVISION: Strategic Planning and  
Policy Development

TO: Commissioners of Social Services  
Executive Directors of Voluntary Agencies

DATE: July 3, 2001

SUBJECT: Families in Transition Act of 2000

SUGGESTED

DISTRIBUTION: Directors of Social Services  
Foster Care Supervisors  
Home Finding Supervisors  
Public Assistance Supervisors  
Medical Assistance Supervisors  
Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release  
should be directed to the appropriate  
Regional Office of the Office of  
Children and Family Services

- BRO - Linda Brown (716) 847-3145 USER ID: 89D421
- RRO - Linda Kurtz (716) 238-8201 USER ID: 0FH010
- SRO - Jack Klump (315) 423-1200 USER ID: 89W005
- ARO - Bill McLaughlin (518) 486-7078 USER ID: 0FN010
- NYC - Gail Hallerdin (212) 383-1788 USER ID: AA0120
- YRO - Pat Sheehy (914) 377-2080 USER ID: AM4110

ATTACHMENTS: Attachment A: Families in Transition Act (Not  
Available On-Line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.

The purpose of this release is to provide you with a summary of the provisions of Chapter 477 of the Laws of 2000, known as the Families in Transition Act (Attachment A). This new law became effective November 25, 2000 and is designed to assist families struggling with HIV/AIDS and other terminal illnesses by helping them plan for the continuous care of their children.

The Families in Transition Act amends Section 384-a of the Social Services Law to establish authority for a voluntary placement agreement when a parent or legal guardian is suffering from a progressively chronic or fatal illness. The law includes the following provisions:

\* Where a social services district determines that a child is at significant risk of placement within the next 18 months because the custodial parent or legal guardian of the child is suffering from a progressively chronic or irreversibly fatal illness, and there is neither a relative nor a close friend to assume legal guardianship of the child, the social services district must assist the parent or guardian in making arrangements for the eventual transfer of care and custody of the child to an authorized agency by means of a written instrument;

\* The written instrument will provide that the actual transfer of care and custody of the child to the authorized agency will not take effect until the parent or legal guardian dies, becomes debilitated or incapacitated;

\* In cases where there is a relative or close friend identified by the custodial parent or legal guardian who is able and willing to assume care and custody of the child, but who requires foster care services and financial support, the local social services district is required to assist the person identified to become a certified foster parent, if qualified;

\* Where a social services district executes a written instrument arranging for the eventual transfer of the care and custody of a child to an authorized agency, the social services district must petition the family court judge in the social services district to approve the instrument. The approved instrument will remain in effect for 12 months, unless the court sets a shorter period; and

\* Where the custodial parent or the legal guardian notifies a social services district that he/she is no longer debilitated or incapacitated and requests the immediate return of their child, the social services district must return the child to the parent or legal guardian within 10 days, unless contrary to a court order.

The Surrogate's Court Procedure Act is also amended to add a legal custodian and a primary caretaker to the list of those who may appoint a stand-by guardian in advance of the parent's or legal guardian's death or

incapacitation. A primary caretaker may exercise this authority when the parent, legal guardian or legal custodian cannot be located with due diligence.

The Families in Transition Act provides for continued Public Assistance to minors whose parents have died, until arrangements are completed for the minor's care and support which may involve adding the child to another Public Assistance household, reclassification of the case, foster care or other appropriate financial support.

In addition, the Families in Transition Law continues the requirement for the New York State Department of Health to issue an annual report by March 31 of each year to the Legislature and the Governor identifying services provided to children and adolescents who lose their primary caregivers to HIV/AIDS, gaps in services, and recommendations to address the gaps in services.

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William F. Baccaglioni  
Director  
Office of Strategic Planning  
and Policy Development