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 | INFORMATIONAL LETTER |
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TRANSMITTAL: 91 INF-45

TO: Commissioners of Social Services
 Directors of Voluntary Agencies

DIVISION: Family and Children Services

DATE: August 29, 1991

SUBJECT: 1991 State Laws Affecting Foster Care, Adoption and Preventive Services

SUGGESTED DISTRIBUTION: Directors of Services
 Foster Care Staff
 Adoption Staff
 Preventive Services Staff
 Legal Staff
 Staff Development Coordinators

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ATTACHMENTS: Social Services Law & Other Legal References
 (Available On-Line)

FILING REFERENCES

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

I. Purpose

The purpose of this Informational Letter is to inform you of bills passed in the 1991 legislative session related to foster care, adoption, and preventive services which have been signed into law by Governor Mario Cuomo. Effective dates are listed, along with a summary of the provisions of each Chapter Law. The Department will follow up with regulatory amendments or administrative directives as necessary for implementation of these provisions.

II. New State Laws Related to Adoption

A. Adoption by Separated Persons

Chapter 254 of the Laws of 1991 amends Section 110 of the Domestic Relations Law to permit "single-parent" adoptions by married persons who have lived apart from their spouses for at least three years prior to commencing adoption proceedings, even though not legally separated. Effective July 1, 1991.

B. Termination of Parental Rights Proceedings

Chapter 62 of the Laws of 1991 amends Section 2402 of the Surrogates Court Procedures Act to eliminate the fee charged a respondent when such respondent files objections in a termination of parental rights proceeding. Effective April 22, 1991

Chapter 691 of the Laws of 1991 amends Section 384-b of the Social Services Law to authorize qualified psychiatrists and licensed psychologists to make determinations of mental illness or mental retardation in termination of parental rights proceedings. Effective August 2, 1991.

C. Surrender of Foster Children

Chapter 48 of the Laws of 1991 amends Sections 109 and 111 of the Domestic Relations Law, section 1055-a of the Family Court Act and Section 392 of the Social Services Law to make technical changes in relation to foster children surrendered for adoption. Effective April 12, 1991.

D. Adoption Services For All Children Freed For Adoption

Chapter 377 of the Laws of 1991 amends Section 372-b the Social Services Law to require social services districts to provide adoption services to all children who have been freed for adoption and not just children listed in the Statewide Adoption Service. Effective November 13, 1991.

E. Permanency Planning Hearings

Chapter 588 of the Laws of 1991 amends section 383-c, 384-b, 453, 453-a, and 454 of the Social Services Law, Section 632 of the Family Court Act, and section 112 of the Domestic Relations Law in relation to permanency planning hearings. It provides for the court, upon entering an order committing the guardianship and custody of a child, to inquire whether persons, including foster parents, relatives with whom the person resides or other persons, seek to adopt the child. When a person(s) is interested in adopting, and submits a petition for adoption to the court, the court must set a schedule for completion of the adoption.

It also permits the filing of a petition for the adoption of a child whose custody and guardianship has not yet been committed to an authorized agency but where a proceeding to terminate parental rights is pending. Additionally, unless a proceeding committing the guardianship and custody of a child is brought in surrogate's court, the proceeding must be originated in the family court where the Article 10 proceeding was heard, or, in any other cases, in the county where either the parent(s) reside or the authorized agency does business. Where practical, the matter should be assigned to the same judge and/or law guardian who was previously responsible. Applications for subsidies may now be accepted prior to the child's guardianship and custody being committed to the authorized agency. Effective September 30, 1991.

III. New State Laws Related to Foster Care

A. Disclosure of Information to Relative or Other Legally Responsible Individual With Whom a Child Is Placed.

Chapter 55 of the Laws of 1991 amends Section 372 of the Social Services Law to require that, when a child is to be placed with or discharged to a relative or other person legally responsible, the authorized agency must provide the relative the same background information concerning the child as is currently shared with foster parents. Effective May 12, 1991.

B. Conformance to Federal Statute

Chapter 198 of the Laws of 1991 amends Sections 352.2, 355.3, 754, 756-a, 1027, 1028, 1052, and 1055-a of the Family Court Act, Sections 358-a and 392 of the Social Services Law and Section 9 of Chapter 880 of the Laws of 1985. These changes conform state law to federal law to maximize federal reimbursement for foster care services by: making permanent the requirement that the Family Court determines whether reasonable efforts were made to prevent the

removal of the child from the home or to return the child to the home; and in cases of a child in care who is sixteen years old, requiring the court to include in its order a finding if services are necessary to assist the child in the transition from foster care to independent living. Additionally, it extends the child assistance program demonstration project. Effective June 28, 1991.

C. Certification of Appropriate Level of Care

Chapter 267 of the Laws of 1991 amends Section 398 of the Social Services Law to require a social services district seeking to place a child in an agency operated boarding home, group home or public institution, to certify in writing to the Department that the placement offers the most appropriate and least restrictive level of care or that there are no qualified foster parents available to the district. The law further requires the Department to assist the social services districts to recruit and train foster parents if the number of placements in institutions, group homes or agency operated boarding homes due to a lack of foster family boarding homes so warrants. Regulations will be forthcoming. Effective October 3, 1991.

D. Expedite Appeals Affecting Children Placed In Care

Chapter 582 of the Laws of 1991 amends Sections 217, 1113, 1115, 1120 and adds a new Section 1121 of the Family Court Act, and amends Section 5521 of the Civil Practice Law and Rules to expedite appeals from court orders in certain proceedings affecting children placed into care. The provisions of this law relate to location and timing of filing orders, service of orders and notices, and time of appeal. The law additionally sets forth responsibilities of counsels and law guardians in relation to advising parties to the right of appeal and sets specific timeframes for the appeal process. Effective January 1, 1992.

E. Placement of Children in Mental Hygiene Facilities

Chapter 697 of the Laws of 1991 amends Section 398 of the Social Services Law to authorize social services districts to place children in its care and custody into a home or facility licensed by the Department of Mental Hygiene. This provision will allow use of federal (Title IV-E) and state foster care funds for such placements and will extend the protection of permanency planning to children placed in these facilities. An LCM will be issued shortly, to be followed by regulations. Effective August 2, 1991.

IV. New State Laws Related to Preventive Services

A. Community Optional Preventive Local Match

Chapter 674 of the Laws of 1991 amends Section 409-b of the Social Services Law to authorize the social services district to meet up to one-half of its share of the costs for community optional preventive services by using in-kind or indirect services or by non-tax levy funds including privately donated funds. This change conforms the match requirement for this program with other preventive services funding. Effective July 26, 1991.

B. Preventive Housing Subsidy

Chapter 165 of the Laws of 1991 sets forth numerous provisions pertaining to Medical Assistance cost containment. It also amends Section 409-a of the Social Services Law to establish a statewide demonstration program to provide housing subsidy to prevent placement or re-placement of a child into foster care. Interested local social services districts must submit to the department a letter of intent to participate in the demonstration project, procedures to be used in implementation, an estimate of the number of families to be provided grants, and assurance of intent to comply with eligibility requirements. All districts submitting a letter of intent will be included in this demonstration project. See 91-LCM-139 dated August 8, 1991. Various Effective Dates - Housing demonstration effective August 1, 1991.

V. Miscellaneous New State Laws With Implications For One Or More of the Above Service Areas.

A. Alcohol Awareness Program for JD/PINS

Chapter 237 of the Laws of 1991 amends Sections 315.3 and 749 and adds new Sections 353.7 and 758-b to the Family Court Act in relation to establishing an alcohol awareness program for JD(s) or PINS when the record shows that consumption of alcohol may have been a contributing factor. Effective July 31, 1991.

B. Dormitory Authority Financing

Chapter 698 of the Laws of 1991 amends Sections 1676 and 1680 of the Public Authorities Law and Section 4401 of the Education Law in relation to construction or rehabilitation and financing of facilities by the dormitory authority for certain private not for profit schools operating programs for the education of children approved under Article 89 of the Education Law. A special reserve fund will be set up in the custody of the state Comptroller. For schools electing to participate, tuition rates shall be established

in two parts: the first, the cost per child to be paid to the fund; and, the second, the tuition amount paid directly to the school . The provisions of this law will enable such schools to make needed capital improvements. Effective August 2, 1991.

C. PINS Diversion

Chapter 239 of the Laws of 1991 amends Section 243-a of the Executive Law in relation to permanently authorizing the submission and approval of local plans for adjustment services for youth brought to the Family Court as Persons in Need of Supervision (PINS). Effective July 1, 1991.

Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services

Social Services Law & Other Legal References
1991 State Laws
Affecting Foster Care, Adoption and Preventive Services

Social Services Law	Domestic Relations Law
409-a	109110
409-b	111
453	112
453-a	
454	Surrogates Court Procedures Act
358-a	2402
372	Civil Practice Law and Rules
372-b	5521
383-c	
384-b	Public Authorities Law
392	1676
398	1680
Family Court Act	Education Law
217	4401
315.3	
352.2	Executive Law
353.7	243-a
355.3	
632	Ch. 880 of
749	Laws of 1985
754	9
756-a	
758-b	
1027	
1028	
1052	
1055-a	
1113	
1115	
1120	
1121	