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DIVISION: Legal Affairs

TO: Commissioners of
 Social Services

DATE: December 9, 1992

SUBJECT: Digest of Laws of 1992 Relating to Social Services

SUGGESTED

DISTRIBUTION: General Administration Staff
 Family Court Judges
 Staff Development Coordinators

CONTACT PERSON: Ronald Speier, Assistant Counsel, Legal
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ATTACHMENTS: See Table of Contents

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FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 INF-17					
89 INF-47					
89 INF-14					
87 INF-52					
86 INF-15					
86 INF-1					
84 INF-14					
82 INF-23					

DIGEST OF LAWS OF 1992
RELATING TO SOCIAL SERVICES

N O T I C E

The purpose of this Digest is to highlight provisions of the Laws of 1992 and to direct interested persons to the appropriate provisions of the law. This Digest is neither designed nor intended to be considered as the Department's interpretation of these laws for the purpose of implementation.

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET

ALBANY, NEW YORK 12243

T A B L E O F C O N T E N T S

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PUBLIC ASSISTANCE

Chapter 266 - Plans under the Job
Opportunities and Basic Skills Program
[Senate 7978 by Senator Holland, et al.,
at the request of the Department of Social Services]

Requires social services districts to prepare biennial plans under the Job Opportunities and Basic Skills Program, rather than annual plans.

Statutes Involved:

Social Services Law
Section 332, subd. 2, para. (a), amended
Section 333, first undesig. para., amended

Effective Date: June 30, 1992

Chapter 286 - Senior Citizens Employment
Opportunities Program Pilot Project
[Assembly 10184-A by Ms. Hill, et al.]

Extends for three additional years (until January 1, 1996) the Senior Citizens Employment Opportunities Program (SCEOP). This extension will enable SCEOP to continue to improve and expand employment opportunities for older workers through job development and placement efforts.

Statutes Involved:

L. 1981, C. 993, sect. 2, amended
L. 1981, C. 993, sect. 7, amended
L. 1981, C. 993, sect. 9, amended

Effective Date: June 30, 1992

Chapter 292 - Federal Supplemental Security
Income Eligibility/State Payments to Aged,
Blind and Disabled Persons/Allowances to
Residents of Congregate Care Facilities
[Assembly 10985 by Ms. Jacobs, et al., at the
request of the Department of Social Services]

Increases the standards of need for determining eligibility and payment of federal Supplemental Security Income (SSI) and additional State payments to

the aged, blind and disabled to reflect SSI benefit increases that may result from any cost-of-living adjustment occurring between January 1, 1993, and June 30, 1993, allocates a portion of the increase to the personal allowance for residents of congregate care facilities.

Statutes Involved:

Social Services Law

- Section 131-o, subd. 1, paras. (a), (b), (c) and (d), amended
- Section 209, subd. 2, paras. (a), (b), (c), (d), (e), (f) and (g), amended
- Section 209, subd. 2, para. (h), repealed
- Section 210, subd. 1, amended

Effective Date: December 31, 1992

Chapter 407 - State Supplementation for Couples
[Senate 8842 by the Committee on Rules]

Changes from \$22 to \$23 the amount of the increase in Supplemental Security Income in 1992 for persons who are entitled to mandatory minimum amounts of State supplementation. These amounts are set annually by statutory formula and are then codified in the following year. The correct amount in 1992 was \$23, not the \$22 amount set forth in Chapter 292.

Statutes Involved:

Social Services Law

- Section 210, subd. 1, amended

Effective Date: December 31, 1992

Chapter 408 - Employment Alternatives
Partnership Program
[Senate 8846 by Senator Holland, et al.]

Requires the Department of Social Services to establish an Employment Alternatives Partnership (EAP) program using grant diversion for certain employable recipients of Home Relief (HR) to demonstrate the feasibility and effectiveness of providing employment as an alternative to the provision of HR.

Statutes Involved:

Social Services Law

- Section 336, subd. 2 amended
- Section 336-h, added

Effective Date: July 17, 1992

Chapter 774 - Low-Income Weatherization
[Senate 6606 by Senator Seward, et al.]

Requires that no less than 15 percent of federal Home Energy Assistance Program funds made available to the State be used for low cost weatherization and other energy-related home repair.

Statutes Involved:

Energy Law

Section 5-107, subd. 1, para. e, amended

Social Services Law

Section 97, subd. 5, added

Effective Date: August 7, 1992

MEDICAL ASSISTANCE

Chapter 29 - Primary Health Care
[Senate 7265 by Senator Tully]

Extends until March 31, 1995, the expiration date of two programs which provide primary health care services to underserved populations and geographic areas.

Statutes Involved:

- L. 1986, C. 407, sect. 4, amended
- L. 1987, C. 533, sect. 4, amended

Effective Date: March 27, 1992

Chapter 167 - Health of Children
[Senate 7832 by Senator Volker, et al.]

Improves the health of children through the use of services of registered professional nurses or other health professionals employed by school districts or boards of cooperative educational services. Extends from 14 to 15 years the maximum duration of school health demonstration projects.

Statutes Involved:

- L. 1978, C. 198, sect. 4, amended

Effective Date: June 16, 1992

Chapter 168 - Reimbursement for Hospice Services
[Senate 7898 by Senator Tully]

Extends for three years (until January 1, 1995) the program which provides enhanced reimbursement to hospices which care for persons with special needs.

Statutes Involved:

- L. 1989, C. 725, sects. 4 and 5, amended

Effective Date: June 16, 1992

Chapter 210 - Comprehensive Psychiatric
Emergency Programs

[Senate 8004 by Senator Spano, at the request
of the Office of Mental Health]

Extends until July 24, 1997, the authority of the Commissioner of the Office of Mental Health to license general hospitals as Comprehensive Psychiatric Emergency Programs (CPEPs) to provide a full range of psychiatric emergency services to clients within a defined geographic area. Services under the CPEP would include crisis intervention services within an emergency room setting, mobile crisis outreach services, crisis residence beds, in-patient beds for extended observation of patients and triage and referral services.

Statutes Involved:

L. 1989, C. 723, sects. 19 and 21, amended

Effective Date: July 24, 1992

Chapter 262 - Payments to Community
Residential Facilities

[Senate 7767-B by Senator Spano, at the request
of the Office of Mental Retardation
and Developmental Disabilities (OMRDD)]

Deletes the requirement for a contract before payment can be made to community residential facilities by OMRDD and authorizes OMRDD to set rates and fees for community residential facilities.

Statutes Involved:

Mental Hygiene Law

Section 41.36 subd. (a), paras. 2 and 3, amended

Section 41.36, subds. (c) through (i), and (l), amended

Effective Date: June 30, 1992

Chapters 327 and 328 - Midwives

[Senate 6321-B by Senator Lombardi, et al.
Senate 8913 by Senator Lombardi]

Establishes the profession of midwifery under the supervision of a State Board of Midwifery which would assist the Board of Regents on matters concerning the licensing and conduct of midwives. A professional midwife would be able to manage normal pregnancies, child birth and primary, preventive reproductive health care of healthy women and prescribe

medication in limited circumstances. The professional midwife would be required to work in collaboration with a physician in accordance with a written practice agreement providing for medical consultation, collaboration and referrals.

Statutes Involved:

Education Law:

Article 140, added.
Section 6951, subd. 1, amended
Section 6954, subd. 2, para. (a), amended
Section 6955, subd. 2, para. (c), amended
Section 6955, subd. 7, amended
Section 6957, amended

Public Health Law:

Section 225, subd. 5, para. (d), repealed
Section 2560, repealed

Effective Date: July 17, 1992

Chapter 337 - Payment for Health Care
[Senate 6985-A by Senator Lack, et al.]

Authorizes the Division for Youth (DFY) to require persons admitted to DFY institutions who require medical or dental services to pay for such services if they are insured under a health insurance policy.

Statutes Involved:

Executive Law.

Section 529-a, added

Effective Date: July 17, 1992

Chapter 396 - New York State Medical
Care Facilities Finance Agency
Bonding Authority
[Senate 8529 by Senator Velella, et al.]

Increases the bond issuance authority of the New York State Medical Care Facilities Finance Agency from \$1,025,000,000 to \$1,610,250,000 for the New York State Secured Hospital Revenue Bond Program (Bond Program). The Bond Program enables financially distressed hospitals that serve a demonstrated public need to obtain tax-exempt financing for urgently needed modernization projects.

Statutes Involved:

L. 1973, C. 392, sect. 1, sect. 7-a, subd. 5, amended

Effective Date: July 17, 1992

Chapter 464 - Family Contract of Insurance
[Assembly 10930-C by Mr. Flanagan, et al.]

Includes newly born infants, who are adopted by persons who are insured, within the definition of "family contract" so that there is health insurance coverage for the infants.

Statutes Involved:

Insurance Law

Section 3216, subsect. (c), para. 4, subpara. (c), amended
Section 4235, subsect. (f), para. 2, amended
Section 4304, subsect. (d), para. 1, amended
Section 4305, subsect. (c), para. 1, amended

Effective Date: January 1, 1993

Chapter 548 - Profit Making Dental Referral
Services Organizations
[Senate 7835 by Senator Tully]

Prohibits the operation for profit of a business which has as one of its purposes the referral of persons to dentists.

Statutes Involved:

Public Health Law.
Section 4501, amended

Effective Date: July 24, 1992

Chapter 549 - Medical Assistance Presumptive
Eligibility Program
[Senate 7896 by Senator Spano]

Requires the Office of Mental Health, in consultation with the Department of Health and the Department of Social Services, to commence a study of the effects of expanding the Medical Assistance Presumptive Eligibility program to persons discharged from psychiatric hospitals.

Statutes Involved:

None

Effective Date: July 24, 1992

Chapter 562 - Reimbursement System for Residential
Health Care Facilities
[Senate 8425 by Senator Tully]

Directs the Commissioner of the Department of Health to commence a study of the current methodology for reimbursing residential health care facilities under the Medical Assistance program.

Statutes Involved:

None

Effective Date: July 24, 1992

Chapter 575 - Penalties on Medical Facilities
[Senate 8776 by the Committee on Rules]

Lessens the penalty imposed upon residential health care facilities (RHCFs) and certain other medical providers that either fail to submit timely cost reports to the Department of Health for purposes of determining the providers' Medical Assistance (MA) rates or submit incomplete or incorrect cost reports. RHCFs and other medical providers that submit late or incomplete cost reports would be penalized two percent of their MA rates for the time periods that the reports are late or incomplete.

Statutes Involved:

Public Health Law
Section 12-d, added
Section 2807, subd. 8, repealed

Effective Date: July 24, 1992

Chapter 632 - Medicaid Drug Utilization Review
[Assembly 11951-A by Ms. Jacobs, et al.]

Enacts a prospective and retrospective drug utilization review program for the Medicaid out-patient drug program.

Statutes: Involved:

Social Services Law.
Art. 5, Title 11-c, added

Effective Date: January 1, 1993

Chapter 738 - Veteran Benefits
[Assembly 11069 by Mr. Tocci, at the
request of the Division of Veterans' Affairs]

Provides that a veteran residing in a nursing facility who has neither spouse nor child and who receives a reduced pension from the federal Veterans Benefits Administration will receive a personal needs allowance equal to the amount of the reduced pension but the allowance cannot exceed \$90.00 per month.

Statutes Involved:

Social Services Law.
Section 366, subd. 2, para. (a), subpara. 10, clause (iii), added

Effective Date: July 31, 1992

Chapter 757 - Office of Minority Health
[Assembly 12143-A by the Committee on Rules]

Creates an Office of Minority Health within the Department of Health. The Office of Minority Health would serve as liaison and advocate with respect to minority health matters, integrate and coordinate selected State health care grant and loan programs established for minority health care providers and residents, assist medical schools in developing comprehensive programs to improve the supply of minority health personnel and promote planning for improved health care delivery systems in minority areas. The Chapter also would create a Minority Health Council within the Office of Minority Health to advise the Commissioner of Health on matters relating to the preservation and improvement of health of minority citizens of the State.

Statutes Involved:

Public Health Law
Art. 2, Title II-D, added

Effective Date: November 28, 1992

Chapter 795 - Child Health Insurance Program,
Home Care Provider Assessments and
Patient Managed Care Programs
[Senate 9032 by Senator Tully, et al]

Provides for funding of the child health insurance program; makes clarifying and technical changes to the health systems agency program; provides for funding of the health systems agency program; and provides for an additional assessment on the gross revenues of home health agencies in lieu of the imposition of a co-payment for the services provided; provides for an expanded patient managed home care program and permits trained family members, household members, friends and domestic employees to render nursing care to persons in their homes.

Statutes Involved:

L. 1992, C. 41, sect. 3, undesig. para., added

Public Health Law

Section 2807-c, subd. 19, para. (b-1), amended
Section 2807-c, subd. 17, para. (e), added
Section 2904, subd. (e), amended
Section 2904-b, subd. (c), amended
Section 2904-b, subd. (d), paras. 1 and 5, amended
Section 2904-b, subd. (i), added
Section 2807-c, subd. 19, para. (f), subpara. (v), added
Section 3614, subd. 7, undesig. para., added
Section 3614-a, subd. 2, amended
Section 3614-a, subd. 11, para. (d), added
Section 3622, repealed, new section 3622, added

Social Services Law

Section 365-f, subd. 2-a, added

Education Law

Section 6908, subd. 1, para. (a), amended

Effective Date: August 7, 1992

Chapter 803 - Referrals of Patients
[Assembly 7406-B by Mr. Gottfried,
at the request of the Governor]

Prohibits providers (typically physicians) from referring their patients to clinical laboratory services providers or imaging services providers in which they have a financial interest. Exceptions are made to accommodate hospital in-patients, group practices, services furnished personally by the

referring provider, health maintenance organizations and other referral arrangements which the Public Health Council finds do not pose a substantial risk of abuse. A violation of the provision constitutes a basis for administrative action against a clinical laboratory and its director under Section 577 of the Public Health Law (PHL). Additionally, a violation would constitute a basis for imposing a civil penalty under the PHL.

Prohibits kickbacks and fee-splitting between clinical laboratories and referring providers. Violations of these provisions would be classified as class A misdemeanors and the authority for enforcement would be vested in the Department of Health.

Statutes Involved:

Public Health Law

- Art. 2, Title II-A, added
- Art. 5, Title VI, added
- Section 577, subd. 1, para. (g), amended
- Section 578, subd. 1, amended

Insurance Law

- Section 3231, added

General Business Law

- Article 38, repealed
- Section 394-e, repealed

Effective Date: August 7, 1992

Chapter 834 - Medicaid and General
Hospital Reimbursement
[Assembly 12324 by the Committee on Rules]

Amends provisions of Chapter 41 of the Laws of 1992 (Cost Containment in the Public Assistance and Medical Assistance Programs). Mandates that the 32-day limitation on hospital in-patient care for Medical Assistance (MA) recipients, who are at least 21 years of age, but under 65 years of age and eligible for MA solely as a result of their being eligible for or in receipt of Home Relief, apply only to hospitals licensed under Article 28 of the Public Health Law.

Exempts residents of community-based residential facilities licensed by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities from the co-payment requirements of Chapter 41 of the Laws of 1992.

Exempts drugs used in the treatment of tuberculosis from the co-payment requirements of Chapter 41 of the Laws of 1992.

Revises the assessment to be levied upon health maintenance organizations (HMOs) which do not enroll a prescribed number of MA recipients in their organizations and limits the total amount of the assessment to be collected to \$31 million. Clarifies the standards to be used by the Department of Social Services in determining whether an HMO would be exempt from an assessment.

Statutes Involved:

Social Services Law

- Section 367-a, subd. 6, para. (b), subpara. (iii), amended
- Section 367-a, subd. 6, para. (d), subpara. (v), amended
- Section 367-a, subd. 12, amended

Public Health Law:

- Section 2807-c, subd. 2-a, paras. (b) and (c), amended.

Effective Date: August 7, 1992

Chapter 843 - Reimbursement for Residential
Health Care Facilities
[Assembly 12437 by the Committee on Rules]

Makes technical and clarifying changes relating to the Medical Assistance program and governmental rates of payments for nursing facility services.

Statutes Involved:

- L. 1992, C. 562, sect. 1, closing para., amended
- L. 1992, C. 641, sect. 2, amended
- L. 1992, C. 834, sect. 5, amended

Public Health Law

- Section 12-d, subd. 1, amended
- Section 2807-c, subd. 2-a, para. (b), subpara. (iii), opening para. and clauses (B), (C) and (D), amended
- Section 2807-c, subd. 2-a, para. (c), subpara. (ii), amended
- Section 2807-c, subd. 25, para. (a), subpara. (ii), amended

Social Services Law

- Section 365-a, subd. 8, amended
- Section 367-a, subd. 6, para. (b), subpara. (iii), amended
- Section 367-a, subd. 6, para. (d), subpara. (v), amended
- Section 367-a, subd. 12, amended
- Section 369-aa, subds. 1 and 9, amended
- Section 369-bb, subd. 2, para. (a), amended
- Section 369-bb, subd. 8, paras. (a), (d) and (e), amended
- Section 369-bb, subd. 9, amended

Effective Date: August 7, 1992

CHILDREN AND FAMILIES

Chapters 32 and 39 - Child Abuse Prevention

[Assembly 10274 by Mr. Hoyt, et al.]

[Senate 7545 by Senator Goodhue]

Amend the Child Abuse Prevention Act of 1985 (CAPA) to make the provisions of CAPA permanent and clarify the definitions of abuse and neglect of children in residential care; create a new category of "institutionally neglected child in residential care" to deal with children in a residential child care facility who, while not abused or maltreated, have been harmed or placed in imminent danger of harm through failure of a residential facility to comply with the regulations of the State agency that operates or licenses the facility; and clarify the procedures to be followed by the Department of Social Services and the Commission on Quality of Care for the Mentally Disabled in regard to the investigation of reports of abuse or neglect of children in residential care.

Statutes Involved:

Numerous

Effective Date:

October 1, 1992, except the provisions which make the provisions of CAPA permanent are effective March 31, 1992.

Chapter 43 - Placement of Children in Homes or Facilities

Operated by Department of Mental Hygiene

[Senate 6915 by Senator Goodhue]

Provides that foster care placements made in a home or facility licensed or operated by an office of the Department of Mental Hygiene are subject to any relevant provisions of the Mental Hygiene Law and the admission criteria of particular mental hygiene programs.

Statutes Involved:

Social Services Law

Section 398, subd. 6, para. (g), subpara. 2, amended

Effective Date: April 7, 1992

Chapter 65 - Videotaping of Children
Alleged to be Sexually Abused
[Senate 7147 by Senator Goodhue]

Permits a person who operates a video camera during the interview of a child who is allegedly sexually abused to submit to the court a verified statement confirming that the videotape is a complete and unaltered videographic record of the interview.

Statutes Involved:

Family Court Act
Section 1038, subd. (c), amended

Effective Date: July 13, 1992

Chapter 111 - Petitions in Child
Protective Proceedings
[Assembly 10786-A by Mr. Vann]

Permits the waiver by a respondent in a child protective proceeding of the recitation of the allegations of the petition.

Statutes Involved:

Family Court Act
Section 1033-b, subd. 1, para. (b), amended

Effective Date: May 21, 1992

Chapter 121 - Non-Mandated Preventive Services
[Assembly 10315 by Ms. Hill, at the request
of the Department of Social Services]

Extends the ability of social services districts to provide community preventive services from June 1, 1992, until June 1, 1995.

Statutes Involved:

L. 1987, C. 465, sect. 3, amended

Effective Date: June 1, 1992

Chapter 150 - Inter-agency Mental Health
Needs Assessment Project
[Senate 7095-A by Senator Montgomery, et al.]

Requires the Commissioner of the Office of Mental Health (OMH), in cooperation with the Commissioners of the Department of Social Services, the State Education Department and the Office of Mental Retardation and Developmental Disabilities and the Director of the Division for Youth to establish an inter-agency mental health needs assessment project to study and evaluate the mental health needs of children and adolescents served by State agencies and local governments.

Statutes Involved:

None

Effective Date: June 16, 1992

Chapter 163 - Inspection of Residential
Facilities for Children
[Senate 7686 by Senator Goodhue, et al.,
at the request of the Division for Youth]

Deletes the requirement that the Department of Social Services (Department) enter into a cooperative agreement with the Division for Youth (DFY) regarding the joint inspection and supervision of residential facilities for children which care for a significant number of juvenile delinquents (JDs) and persons in need of supervision (PINS) and the circumstances under which the Department, at the request of DFY, would limit or modify the operating certificate of a residential facility for children to preclude such a facility from caring for JDs or PINS.

Statutes Involved:

Social Services Law
Section 462-a, subd. 3, amended
Section 462-b, subd. 3, amended

Effective Date: June 16, 1992

Chapter 268 - William B. Hoyt Memorial
Children and Family Trust Fund
[Senate 8039 by Senator Goodhue, et al.]

Designates the Children and Family Trust Fund as the William B. Hoyt Memorial Children and Family Trust Fund.

Statutes Involved:

Social Services Law
Article 10-A, amended
Section 421-a, subd. 2, amended

Effective Date: June 30, 1992

Chapter 308 - Surrogate Parenting Contracts

[Senate 1906 by Senator Marchi,
at the request of the Governor]

Provides that surrogate parenting contracts are contrary to public policy and are, therefore, void and unenforceable as a matter of law. Prohibits the payment or receipt of any remuneration by the surrogate parent or by any other party except for payments permitted in connection with the adoption of a child, or for reasonable and actual medical expenses incurred by the mother for artificial insemination or invitro fertilization services. Provides that in a proceeding involving parental rights, the birth mother's participation in a surrogate parenting contract will not be considered as adverse to her parental rights.

Statutes Involved:

Domestic Relations Law
Article 8, added

Effective Date: July 17, 1993

Chapter 343 - Ferncliff Manor

[Senate 7157-C by Senator Spano]

Enables the New York State Dormitory Authority to finance, construct and equip residential facilities to be maintained and operated by Ferncliff Manor, on a not-for-profit basis, as a residential school serving children who are severely mentally disabled and medically involved and as an intermediate care facility for the developmentally disabled. Such financing would be subject to the approval of the Commissioners of the Department of Social Services, the State Department of Education, and the Office of Mental Retardation and Developmental Disabilities and to the approval of the Director of the Division of the Budget.

Statutes Involved:

Public Authorities Law
Section 1676, subd. 2, para. (b), undesig. para., added
Section 1680, subd. 1, undesig. para., added

Effective Date: July 17, 1992

Chapter 363 - Temporary Extension of
Placement by the Family Court
[Senate 7685-A by Senator Goodhue, at
the request of the Division for Youth]

Clarifies who may request a 30 day temporary extension of the placement of a juvenile delinquent or a person in need of supervision, deletes the requirement that proof of the probable cause required for such an extension be in writing, and permits the court to order an additional temporary extension of up to 15 days if the court is unable to complete the extension hearing within the initial 30 day period. Requires the family court to make a final determination on an extension petition within the initial placement period or a temporary extension thereof.

Statutes Involved:

Family Court Act
Section 355.3, subd. 5, amended
Section 756-a, subd. 3, amended

Effective Date: July 17, 1992

Chapter 451 - Division for Youth Records
[Assembly 10278-B by Mr. Green, et al.,
at the request of the Division for Youth]

Provides that records or files maintained by the Division for Youth concerning youth in its custody are confidential and can be released only under certain circumstances.

Statutes Involved:

Executive Law
Section 501-c, added
Section 532-e, subd. (e), amended

Social Services Law
Section 372, subd. 4, para. (a), amended
Section 372, subd. 4, para. (b), repealed

Effective Date: November 14, 1992

Chapter 463 - Office for the Prevention
of Domestic Violence (OPDV)
[Assembly 10803-A by Ms. Weinstein]

Establishes the OPDV within the Executive Department. The OPDV's duties would include: advising the Governor and the Legislature on the most effective ways for the State to respond to the problem of domestic violence; developing and implementing programs designed to assist victims of domestic violence; collecting data and conducting research regarding domestic violence and the services available to victims of domestic violence; providing education and prevention training to professionals; and providing technical assistance to service providers and to State and local agencies. The Chapter establishes an advisory council, consisting of individuals with expertise in the area of domestic violence and State agency representatives, to make recommendations and assist in the development of appropriate policies and priorities relating to the prevention of domestic violence. The Chapter also transfers from the Division of Probation and Correctional Alternatives to OPDV the responsibility for administering the batterers intervention program.

Statutes Involved:

Executive Law
Article 21, added

L. 1988, C. 411, repealed
L. 1992, C. 53, amended

Effective Date: July 17, 1992

Chapter 465 - Responsibilities of the Division for Youth
[Assembly 11013-A by Ms. Clark, et al.,
at the request of the Governor]

Clarifies the responsibilities, duties and operations of the Division for Youth.

Statutes Involved:

Social Services Law
Section 358-a, subd. 1, amended
Section 358-a, subd. 2, para. (a), amended
Section 358-a, subd. 3, para. (a), amended
Section 358-a, subd. 4, para. (b), subpara. (iii), repealed
Section 358-a, subds. 5, 7, 8 and 9, amended
Section 424-a, subd. 4, amended
Section 462-a, subd. 1, amended
Section 462-b, subd. 1, amended
Section 463, subd. 1, amended

Numerous other sections of the Consolidated Laws were amended.

Effective Date: January 14, 1993

Chapter 533 - Federal Child Care
and Adult Food Program
[Senate 7116-B by Senator Holland, et al.]

Authorizes the Department of Health to participate in the federal Child Care and Adult Food Program. The Program provides food to non-residential child care and adult day care facilities so that these facilities may serve nutritious meals and snacks to their participants.

Statutes Involved:

Public Health Law
Art. 25, Title VI, added

Effective Date: October 1, 1993

Chapter 538 - Placement of a Child in
a Child Protective Proceeding
[Assembly reprint 30004 by Senator Goodhue, et al.]

Authorizes the family court in a dispositional hearing to direct a social services district, which the court finds has not made reasonable efforts to prevent or eliminate the need for placement, to provide services pursuant to Section 1015-a of the FCA. Where the family court determines that additional time is necessary to provide such services, the dispositional hearing may be adjourned for a reasonable but unspecified period of time. Violations of such order could be punishable by contempt.

Requires service by mail of the notice of hearing and petition for extension of placement of an abused or neglected child in foster care upon the child's parent or other person legally responsible for the child. Service would be required at least eight days prior to the time for court appearance stated in the notice of hearing. The hearing could not be commenced without satisfactory proof of actual notice of the hearing. The family court may direct that service be made under Section 308 of the Civil Practice Law and Rules if proof of actual notice is not before the court.

Requires the family court to determine, as part of a hearing on the extension of a foster care placement, whether the situation which gave rise to the initial foster care placement still exists and/or the manner in which it has changed, whether the child's service plan should be adjusted, the degree of compliance with the family court order by both the respondent and supervising agency, whether an extension of placement is in the child's

best interest, whether the child would be at risk of abuse or neglect if returned to his or her home and any other factors the family court deems relevant. The family court's findings must be in writing. The respondent must be provided with a copy of the family court's order and the child services plan.

Statutes Involved:

Family Court Act

- Section 1052, subd. (b), para. (i), amended
- Section 1055, subd. (b), para. (iii), amended
- Section 1055, subd. (b), paras. (iv), (v) and (vi), renumb. paras. (v), (vi) and (vii), para. (iv), added

Effective Date: September 1, 1992

Chapter 552 - Family Support Services

[Senate 7950-A by Senator Spano, et al.
at the request of the Governor]

Strengthens the family support services system administered by the Office of Mental Retardation and Developmental Disabilities (OMRDD) by defining family supports, authorizing the Commissioner of OMRDD to establish performance review standards for funded services and establishing a committee on family support services as part of the Mental Retardation and Developmental Disabilities Advisory Council to advise the Commissioner of OMRDD regarding such services.

Statutes Involved:

Mental Hygiene Law

- Section 41.43, amended

Effective Date: July 24, 1992

Chapter 559 - Adoption

[Senate 8401-A by Senator Goodhue, et al., at
the request of the Department of Social Services]

Contains provisions regarding the photo-listing of children who are available for adoption, the payment of care and maintenance subsidies for adoptive children, and the registration procedures of the Adoption Information Registry.

Statutes Involved:

Social Services Law

Section 372-c, redesign. section 372-f
Section 372-f, subd. 4, amended
Section 453, subd. 1, para. (a), amended
Section 453, subd. 5, repealed

Domestic Relations Law

Section 114, second undesig. para., amended

Public Health Law

Section 4138, subd. 4, amended
Section 4138-b, repealed
Section 4138-c, sect. heading and subd. 2, amended
Section 4138-c, subd. 5, para. (a), amended
Section 4138-d, subds. 2, 3 and 7, amended
Section 4138-d, subd. 9, repealed

Administrative Code of the City of New York

Section 17-167, subd. (c), amended

Effective Date: July 24, 1992

Chapter 697 - Return of Children Temporarily Removed
[Assembly 7232-A by Ms. Singer, et al.]

Assures that a parent or other person legally responsible for the care of a child has the right during the pendency of a child protective proceeding to apply to the family court for the return of a child removed from such parent or other person legally responsible for the care of the child.

Statutes Involved:

Family Court Act

Section 1028, opening para., amended

Effective Date: July 31, 1992

Chapter 704 - Private Placement Adoption
[Assembly 8686-A by the Committee on Rules]

Clarifies the procedures for the approval of persons as qualified adoptive parents in private placement adoptions.

Statues Involved:

Domestic Relations Law

- Section 115, subd. 1, para. (c), added
- Section 115-d, subd. 6, amended
- Section 115-d, subd. 9, added

Effective Date: July 31, 1992

Chapter 707 - Access of Probation
Services to Reports of Child Abuse
[Assembly 9210-B by Mr. Feldman]

Gives probation departments and agencies and the New York State Division of Parole access to records of the State Central Register of Child Abuse and Maltreatment, the child protective services of social services districts and State agencies responsible for investigating reports of abuse and neglect of children in residential care.

Statues Involved:

Social Services Law

- Section 422, subd. 4, para. (A), subpara. (k), amended

Executive Law

- Section 256-a, added
- Section 256-k, subd. 4, added

Effective Date: October 1, 1992

Chapter 725 - Child Service Plans
[Assembly 9957-B by Ms. Singer]

Extends child service plans for children placed in foster care or at risk of placement in foster care to include the entire family.

Statues Involved:

Social Services Law

- Section 409-e, amended
- Section 409-f, amended

Effective Date: July 31, 1992

Chapters 779 and 780 - Leake and
Watts Children's Home
[Senate 7137-A by Senator Spano
Assembly 12435 by the Committee on Rules]

Enables the New York State Dormitory Authority to finance, construct and equip residential, educational and administrative facilities to be maintained and operated by the Leake and Watts Children's Home for its foster care program and its approved school for children with handicapping condition.

Statutes Involved:

Public Authorities Law
Section 1676, subd. 2, para. (b), undesig. subpara. added
Section 1680, subd. 1, undesig. para., added

Effective Date: August 7, 1992

Chapter 823 - Residential Programs for Individuals
with Mental Illness or Developmental Disabilities
[Assembly 11879-A by the Committee on Rules]

Requires the Commissioners of the Office of Mental Health (OMH) and the Office of Mental Retardation and Developmental Disabilities (OMRDD) to conduct a review of all relevant State and federal statutes and State policies and regulations regarding the development and placement of residential programs for individuals with mental illness or developmental disabilities. The commissioners of OMH and OMRDD must submit a report to the Governor, the Speaker of the Assembly and the Temporary President of the Senate no later than May 1, 1993. The report must describe any steps taken to achieve the stated objectives of the review and make recommendations for any additional statutory or administrative actions that should be taken.

Directs the Commissioner of the Department of Social Services (Department), in consultation with the Commissioners of OMH and OMRDD and all other relevant State agencies, to review the Statewide Registry of Community Residential Facilities (Registry). The Commissioner of this Department must report to the Governor, the Speaker of the Assembly and the Temporary President of the Senate no later than May 1, 1993, on the status of the Registry. The report would evaluate whether the information in the Registry is current and complete and provide recommendations for improving the system, including an estimate of any potential increase in costs required by such recommendations.

Under current law, a municipality selected as the site for a community residential facility for the disabled can object to the establishment of the facility because the establishment would result in a concentration in the area of community residential facilities for the mentally disabled or a combination of such facilities with other "similar facilities" licensed by other State agencies such that the nature and character of the area would be altered substantially. The Chapter includes as "similar facilities" all community residences, intermediate care facilities, residential care facilities for adults and residential treatment facilities for individuals with mental illness or developmental disabilities operated pursuant to Article 16 or 31 of the Mental Hygiene Law and all similar residential facilities of 14 or fewer residents operated or licensed by another State agency. Prohibits OMH and OMRDD from issuing an operating certificate to a supportive living facility or a supervised living facility which cares for more than 14 residents if the municipality in which the facility is to be established has not been notified in writing of the intention to establish such facility and the notice did not include the specific address of the site, the type of residence, the number of residents and the community support requirements of the program.

Statutes Involved:

Mental Hygiene Law

Section 41.34, subd. (c), para. (1), subpara. (C), amended
Section 41.34, subd. (e), amended

Effective Date: October 6, 1992

Chapter 835 - Federal Child Care and Adult Food Program
[Assembly 12396 by the Committee on Rules]

Amends Chapter 533 of the Laws of 1992 to clarify that an institution eligible to participate in the federal Child Care and Adult Food Program (CCAFP) includes a day care center licensed by a local government agency.

Statutes Involved:

Public Health Law

Section 2586, subd. 1, amended

Effective Date: October 1, 1993

ADULT SERVICES

Chapter 61 - Senior Citizen Services Center/Residential
Health Care Facility/Child Day Care
Center Community Grants Program
[Assembly 10109 by Mr. Bianchi, et al.]

Extends for two years (until December 31, 1994) the authority of the State Office for the Aging to operate the combined senior citizen services center/residential health care facility/child day care center community grants program (intergenerational program). The Chapter also extends the reporting requirements of the program for two years.

Statutes Involved:

- L. 1987, C. 841, sect. 10, amended
- L. 1987, C. 841, sect. 12, amended

Effective Date: April 10, 1992.

Chapter 160 - Community Guardian Program
[Senate 7541-A by Senator Spano, et. al.]

Makes permanent the Community Guardianship Program.

Statutes Involved:

- L. 1986, C. 846, sect. 6, amended.
- L. 1987, C. 190, sect. 2, amended.

Effective Date: June 16, 1992

Chapter 205 - Informal Caregiver Program
[Senate 7425 by Senator Skelos, at the
request of the Office of the Aging]

Expands the responsibilities of the existing informal caregiver training program and makes the program permanent.

Statutes Involved:

Executive Law
Section 536-d, amended

- L. 1985, C. 366, sect. 3, repealed
- L. 1985, C. 366, sect. 4, renumb. section 3 and amended

Effective Date: June 23, 1992

Chapter 290 - Standby Guardianships
[Assembly 10966-A by Ms. Glick, et al.,
at the request of the Governor]

Establishes procedures under which a parent with a disease or illness which is likely to result in death or mental incapacity within two years may appoint a standby guardian for the parent's infant, the infant's property, or both. The parent may make the standby guardian's authority effective upon the parent's death or mental incapacity or upon the parent's physical debilitation if the parent so consents in writing. The commencement of a standby guardian's authority upon the mental incapacity or the physical debilitation and consent of a parent does not divest the parent of his or her parental rights; the standby guardian would have concurrent authority with the parent. The standards and procedures for the approval of a guardian apply to a standby guardian, including screening the proposed standby guardian through the State Central Register of Child Abuse and Maltreatment.

Statutes Involved:

Surrogate's Court Procedure Act
Section 1726, added
Section 1757, sect. heading, amended

Effective Date: June 30, 1992

Chapter 310 - Incompetents
[Senate 2174 by Senator Spano, et al.]

Removes age as a factor in proceedings to appoint a conservator of the property or a committee for an incompetent individual.

Statutes Involved:

Mental Hygiene Law
Section 77.01, subd. 1, amended
Section 78.01, amended

Effective Date: July 17, 1992

Chapter 698 - Adult Guardians
[Assembly 7343-C by Mr. Koppell, et al.]

Creates a new process for the appointment of an adult guardian for a person determined by a court to be incapacitated, where such appointment is

necessary to provide for the personal needs of the person, including food, shelter, health care or safety, and/or to manage the property and financial affairs of the person.

Statutes Involved:

Mental Hygiene Law
Article 77, repealed
Article 78, repealed
Article 81, added

Effective Date: April 1, 1992

Chapter 730 - Investigation of Deaths
[Senate reprint 21010 by Ms. Connelly,
at the request of the Commission on
Quality of Care for the Mentally Disabled]

Clarifies the authority of the Commission on the Quality of Care for the Mentally Disabled to investigate the deaths of individuals who resided in adult care facilities. The results of the investigations must be provided to the Department of Social Services.

Statutes Involved:

Mental Hygiene Law
Section 45.09, subd. (a), amended

Effective Date: July 31, 1992

Chapter 848 - Services to Residents
of Adult Care Facilities
[Senate reprint 21014 by Mr. Harenberg et al.]

Enhances the ability of the Department of Social Services (Department) to enforce the statutory requirement that any adult care facility (ACF) must possess a valid operating certificate issued by the Department and permits this Department to withhold from public disclosure information which would identify persons who file complaints with the Department concerning the operation of ACFs.

Statutes Involved:

Social Services Law

- Section 460-d, subd. 9, para. (a), amended
- Section 460-d, subd. 9, para. (b), repealed, para. (b) added
- Section 461-b, subd. 2, para. (c), added
- Section 461-e, subd. 8, added

Effective Date: October 23, 1992

CHILD AND SPOUSAL SUPPORT

Chapter 38 - Legal Representation to Persons Receiving
Child Support Enforcement Services who are not in
Receipt of Public Assistance
[Senate 7502 by Senator Goodhue]

Extends for two years (until April 1, 1994) the authority of the Department of Social Services, pursuant to Section 111-b(9) of the Social Services Law, to contract with not-for-profit agencies and legal services corporations to provide legal representation to persons receiving child support enforcement services who are not in receipt of public assistance.

Statutes Involved:

L. 1986, C. 892, sect. 34, amended.

Effective Date: March 31, 1992

Chapter 199 - Registration of Foreign
Support Orders
[Senate 5592-C by Senator Goodman]

Permits the registration in this State of orders of support for spouses and former spouses which are obtained in foreign jurisdictions.

Statutes Involved:

Domestic Relations Law:
Section 37-a, amended.

Effective Date: June 23, 1992

DISABLED

Chapter 300 - Advisory Committee on Legal Advocacy,
Eldercare Organization, and Chronic Care
Management Demonstration Program
[Assembly 10407-B by Ms. Jacobs, et al.]

Increases the responsibilities of the Advisory Committee on Legal Advocacy and extends the program for three years (until July 1, 1995). This law also extends the Chronic Care Management Demonstration Program for three years (until October 1, 1995) and the Eldercare project for 18 months (until March 30, 1994).

Statutes Involved:

Social Services Law:
Section 35, amended

- L. 1982, C. 602, sect. 2, amended
- L. 1983, C. 627, sect. 4, amended
- L. 1984, C. 653, sect. 2, amended

Effective Date: July 1, 1992

Chapter 428 - Early Intervention Services Program
[Assembly 7595-C by Mr. Hevisi, et al.
at the request of the Governor]

Establishes an Early Intervention Program for Infants and Toddlers with Disabilities and their Families. Under this program, the Department of Health would administer a comprehensive Statewide mechanism to identify infants and toddlers with disabling conditions that threaten their developmental potential, evaluate their needs for a spectrum of early intervention services, and develop individualized family services plans to address such needs.

Statutes Involved:

Public Health Law
Article 25, Title II-A, added

Education Law
Section 3209, amended
Section 4403, subd. 18, added
Section 4410, subd. 3, para. e, added
Section 4410, subd. 9, paras. a and f, amended

Family Court Act

Section 236, subd. 1, para. (e), amended
Section 236, subd. 1, paras. (f) and (g), added

Insurance Law

Section 3231, added

Effective Date: July 1, 1993

Chapter 515 - Integrated Employment
Opportunities for Individuals with Disabilities
[Senate 4343-D by Senator Libous, et al.,
at the request of the Department of Education]

Recognizes in statute an existing interagency initiative which has established independent living programs designed to aid the severely disabled in obtaining the greatest degree of gainful employment possible.

Statutes Involved:

Social Services Law:

Section 17, subd. (e), relettered subd. (f), new subd. (e), added

Mental Hygiene Law:

Section 7.09, subd. (h), added
Section 13.09, subd. (d), added
Section 13.15, subd. (a), amended
Section 41.39, amended

Education Law:

Section 1004-a, subd. 4, renumb. subd. 6, new subs. 4 and 5,
added
Section 1004-b, added
Section 1002, subs. 11, 12, 13 and 14, added
Section 1004, subd. 9, added
Section 305, subd. 23, added

Effective Date: July 1, 1992

Chapter 693 - Vending Program for the
Blind and Visually Handicapped
[Assembly 3975-B by Mr. Hevesi, et al.]

Creates in statute a vending program for the blind and visually handicapped on State-owned and private property.

Statutes Involved:

L. 1913, C. 415, sect. 11-A, added

State Finance Law
Section 161-a, subd. 3, amended

Effective Date: November 28, 1992

ADMINISTRATIVE PROCEDURES

Chapter 44 - Personal Service upon a State Agency
[Assembly 129-A by Mr. Luster]

Authorizes service of a summons upon a State agency by certified mail, return receipt requested, if such summons is mailed to a specified officer of a State agency or his or her designee and the summons is also served on the Attorney General's Office.

Statutes Involved:

Civil Practice Law and Rules
Section 307, subd. 2, amended

Effective Date: January 1, 1993

Chapters 175 and 635 - Information on
the Status of Veterans
[Assembly 6776-A by Mr. Hillman, et al., at the
request of the Division of Veterans' Affairs]
[Assembly 12004 by the Committee on Rules]

Requires certain State agencies and political subdivisions of the State which provide services, including health, mental health and family services, to request information relating to the veteran status and military experience from the recipients of such services. If an individual identifies himself or herself as a veteran, the agency or subdivision would be required to advise the individual that the Division of Veterans' Affairs and local veterans' service agencies provide assistance to veterans regarding benefits provided under State and federal law.

Statutes Involved:

Executive Law
Section 354-a, added

Effective Date: June 16, 1992

Chapter 208 - Alzheimer's Disease
[Senate 7844 by Senator Skelos]

Establishes a 14 member task force for identifying priorities, policy alternatives and emergency issues with respect to caregivers and victims of Alzheimer's disease and related dementias.

Statutes Involved:

None

Effective Date: June 23, 1992

Chapter 288 - Loans to Multiple Dwelling Owners
[Assembly 10760-A by Mr. Lasher, et al.]

Extends until June 30, 1998, the authority granted local municipal housing agencies under Chapter 777 of the Laws of 1976 to establish rental adjustments based solely on debt service for buildings receiving rehabilitation assistance under Article 8-A of the Private Housing Finance Law.

Statutes Involved:

L. 1986, C. 777, sect. 6, amended

Effective Date: June 30, 1992

Chapter 319 - State Contracts
[Senate 4543 by Senator Lombardi, at
the request of the State Comptroller]

Requires the State Comptroller to approve contracts entered into by the State which exceed \$10,000 in value rather than the current \$5,000, before such contracts are executed or before they become enforceable.

Statutes Involved:

State Finance Law
Section 112, subd. 2, amended
Section 112, subd. 3, amended

Effective Date: September 1, 1992.

Chapter 338 - Community Services Block Grant
[Senate 7062 by Senator Volker]

Extends the Department of State's authority to administer the Community Services Block Grant Program until September 30, 1993.

Statutes Involved:

Executive Law
Section 159-i, amended

L. 1982, C. 728, sect. 5, amended
L. 1983, C. 710, sect. 7, amended

Effective Date: July 17, 1992

Chapter 347 - Hospice, Buffalo
[Senate 7241-A by Senator Sheffer, et al.]

Enables the Dormitory Authority to construct and finance new and renovated facilities to be operated by Hospice, Buffalo.

Statutes Involved:

Public Authorities Law
Section 1676, subd. 2, para. (b), undesig. para., added
Section 1680, subd. 1, undesig. para., added
Section 1680, subd. 32, added

Effective Date: July 17, 1992

Chapter 426 - Recover Possession of Real Property
[Assembly 7153-C by Mr. Tocci, et al.]

Authorizes the legislative body of the County of Westchester to enact a local law requiring that copies of the notice of petition and petition in any proceeding to evict a residential tenant be served on the Westchester County Department of Social Services. The failure to make such service is not a jurisdictional defect and cannot be a defense in the proceeding.

Statutes Involved:

Real Property Actions and Proceedings Law
Section 734, added

Effective Date: August 16, 1992

Chapter 485 - Lead Poisoning
[Assembly 11978-A by the Committee on
Rules, at the request of the Governor]

Establishes a comprehensive lead poisoning prevention program under the jurisdiction of the Department of Health.

Statutes Involved:

Public Health Law

Section 1370, amended
Section 1370-a, added
Section 1370-b, added
Section 1370-c, added
Section 1370-d, added
Section 1370-e, added
Section 1376, amended
Section 1373, subd. 2, amended
Section 1375, subds. 1 and 3, amended
Section 1371, amended
Section 1372, amended
Section 1376-a, amended

Effective Date: April 1, 1993

Chapter 648 - Prompt Contracting by State Agencies
[Assembly 12390 by the Committee on Rules]

Permits a not-for-profit contractor and a State agency to agree that there will be no interest liability under the Prompt Contracting Law (PCL) due to a retroactive contract commencement date if the PCL's timeframes for processing a contract are met. Limits the total duration of all suspensions of timeframes for contract processing under the PCL to four and one-half months when the reasons for suspension are other than bad faith dealing by the contractor. Delays the application of the PCL in situations involving contracts which the Legislature requires State agencies to execute with specified contractors until State agencies are advised of the identity of the contractors. Exempts contracts funded by reappropriations from interest payments.

Statutes Involved:

State Finance Law

Section 179-v, subd. 7, added
Section 179-w, amended
Section 179-x, amended
Section 179-ee, added

Effective Date: July 24, 1992

Chapter 735 - Professional Medical Conduct
[Assembly 11031-A by Mr. Gottfried, at the
request of the Department of Health]

Makes technical corrections to Chapter 606 of the Laws of 1991, which shifted the responsibility for final determination in medical disciplinary cases from the Board of Regents to the Department of Health and the State Board for Professional Medical Conduct.

Statutes Involved:

Public Health Law

- Section 230, subd. 7, amended
- Section 230, subd. 10, para. (g), amended
- Section 230, subd. 12, amended
- Section 230, subd. 18, paras. (a) and (b), amended

Effective Date: July 31, 1992

MISCELLANEOUS

Chapter 41 - Cost Containment in the Public Assistance
and Medical Assistance Programs
[Assembly 9306-A, a Budget bill]

Implements cost containment measures in the Public Assistance and Medical Assistance (MA) programs. The measures concern the imposition of assessments against providers of medical care and services, the use of co-payments in the MA program, the establishment of trusts by MA applicants and recipients, the illegal use of MA cards, the time for determining eligibility for Home Relief (HR), the establishment of a front-end detection system, residency requirements for HR recipients, the creation of an Office of Welfare Inspector General and the implementation of demonstration projects in Rockland and Onondaga Counties for the purpose of determining the cost-effectiveness of implementing a fingerprint system for HR applicants and recipients.

Statutes Involved:

Numerous

Effective Date: April 2, 1992.

Chapter 55 - Revenue Enhancements
[Assembly 10565 by the Committee on Rules]

Enacts an omnibus revenue act of 1992; provides the heads of New York State agencies with the authority not to renew the licenses, permits or certificates of qualification, authority and operation of those individuals and businesses which have failed to resolve outstanding fees until fines or penalties assessed by such agencies are paid; authorizes the provision of Medical Assistance to eligible inmates who are released on medical parole; and requires fees for employment screening against the State Central Register of Child Abuse and Maltreatment to be deposited in an account which can be used by the Department of Social Services to cover administrative costs.

Statutes Involved:

Social Services Law
Section 62, subd. 5, para. (g), added
Section 424-a, subd. 1, para. (f), amended

Numerous other sections of law amended.

Effective Date: April 10, 1992

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