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 | INFORMATIONAL LETTER |
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TRANSMITTAL: 92 INF-44

TO: Commissioners of Social Services
 Directors of Voluntary Agencies

DIVISION: Services and Community Development

DATE: October 15, 1992

SUBJECT: 1992 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 and 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 1992 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. Conditional Certification of Adoptive Parents

Chapter 704 of the Laws of 1992 amends Section 115(d) of Domestic Relations Law to allow the court to issue conditional orders of certification as an adoptive parent pending the return of SCR and/or DCJS (fingerprint) screening. A conditional certification may be extended for up to 18 months for good cause. In addition, the statute requires non-residents adopting NYS children to be certified as qualified adoptive parents. Effective July 31, 1992.

B. Prohibition of Surrogate Parenting Contracts

Chapter 308 of the Laws of 1992 amends Domestic Relations Law to add a new Article 8. The law declares surrogate parenting contracts to be in violation of state policy and to be void and unenforceable. The law prohibits entering into or facilitating surrogate contracts for a fee and establishes civil and criminal penalties. Effective April 17, 1992.

C. Miscellaneous Provisions Related to Adoption

Chapter 559 of the Laws of 1992 amends Section 372-f and Section 453 of Social Services Law and Section 4138 of Public Health Law. This Departmental Bill authorizes the Department to determine that certain children freed for adoption should not be photo-listed immediately. While requiring the registration of these children the law provides the option of requesting a six month delay in the photo-listing of children for the following reasons: the child's foster parent has expressed an interest in adopting the child; the child does not have a goal of adoption and is placed with a relative; two or more potential placements have been identified; or the child is not emotionally prepared for an adoptive placement.

The law also transfers responsibility for making certain adoption subsidy payments for children placed by voluntary agencies from the New York State Department of Social Services to social services districts. Regulations concerning these two aspects of the law will be forthcoming. The law also increases the accessibility of information in

the Adoption Information Registry by lowering the minimum age of registration for an adoptee to age 18 and by removing the requirement for the consent of the adoptive parent prior to an adoptee's registration. Effective July 24, 1992

D. Medical insurance coverage for children awaiting finalization

Chapter 464 of the Laws of 1992 extends family medical insurance coverage to families adopting children through private-placement adoptions for the period after placement and before finalization. Effective January 1, 1993.

III. New State Laws Related to Foster Care

A. Foster Care Placements in Programs Licensed by Mental Hygiene Agencies.

Chapter 43 of the Laws of 1992 amends Section 398 of Social Services Law to make a technical change with respect to children placed by a social services district in facilities licensed, operated, supervised or visited by an office of the department of mental hygiene to clarify that the placement is subject to relevant provisions of the Mental Hygiene Law and the admission criteria of the facility. Effective April 7, 1992

IV. New State Laws Related to Preventive Services

A. Community Preventive Services

Chapter 121 of the Laws of 1992, a Departmental Bill, amends Section 3 of Chapter 465 of the Laws of 1987. This law extends the capacity of social services districts to provide community preventive services (COPS) from June 1, 1992 to June 1, 1995.

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

A. Service Plan Requirements

Chapter 725 amends Section 409-e and 409-f of the SSL. The amendments rename the child service plan the family service plan. It also adds a new section that requires the assessment of the child and family to include the following information where placement in foster care is determined to be necessary: (i) the reasonable efforts made to prevent or eliminate the need for placement or the reason such efforts were not made; (ii) the kind and level of placement and the reasons therefor; (iii) whether the child will be placed with the child's siblings and half-siblings and, if not, the reasons therefor and the arrangements

made for contact between siblings and half-siblings; (iv) identification of all available placement alternatives and the specific reasons why they were rejected; (v) an estimate of the anticipated duration of placement; and (vi) a plan for termination of services under appropriate circumstances, with specific explanation of the reasons for such termination plan.

Chapter 725 also requires that the family service plan be completed in face-to-face consultation with the child's parent or guardian, with children in foster care age 10 or older, and, when appropriate, with the child's siblings. These requirements are based on the availability of the parties and the assessment that such involvement would not be harmful to the child. The plan must also document an assessment of the effectiveness of services called for in the plan. The assessment must consider the family's concurrence with the plan; the ability and motivation of the family to access services, including geographic accessibility; the relationship of the services to the family's needs and socio-economic and cultural circumstances; and other factors which have an impact upon the effectiveness of the family service plan. These procedures also would apply to subsequent reviews and revisions of the family service plan.

Chapter 725 also requires that relevant portions of the assessment of the child and the family and a complete copy of the family service plan be given to the child's parent or guardian, counsel for such parent or guardian, and the child's law guardian, if any, within 10 days of preparation of any such plan.

Finally, Chapter 725 amends SSL to require that when a hearing has been requested, a copy of the portions of the uniform case record relevant to the hearing must be made available to the child's parent or guardian, counsel for the parent or guardian, and, if he or she is participating in the hearing, the child's law guardian. Effective on July 31, 1992.

B. Early Intervention Services for Infants and Toddlers with disabling conditions.

Chapter 428 of the Laws of 1992 amends Article 25 of the Public Health Law by adding a new Title II-A and makes amendments to Education Law, the Family Court Act and Insurance Law to establish a multi-disciplinary, early intervention services program for infants and toddlers. The statute provides for evaluation, services and case management for children from birth through 2 years old with a disabling condition. Effective July 1, 1993.

C. Standby Guardian

Chapter 290 of the Laws of 1992 amends the Surrogate Court Procedures Act. The Law establishes procedures and standards for the court appointment of a standby guardian, described as a guardian of the person

or property of a child whose authority becomes effective upon the death or incapacity of the parent or upon the written consent of the parent. Effective June 30, 1992.

D. Alcoholism Treatment for Minors

Chapter 356 of the Laws of 1992 amends Section 21.07 of the Mental Hygiene Law to establish procedures for the admission and discharge of minors admitted to alcoholism treatment facilities.

E. Consolidation and Clarification of the Authority and Responsibilities of the Division for Youth

Chapter 465 of the Laws of 1992 consolidates and reorganizes the Executive Law provisions which establish the Division for Youth. The law describes the powers and duties of the Division and clarifies the authority of the Division to place in particular facilities. Effective January 13, 1993

F. Credit for Time Spent in Detention Towards Length of Placement

Chapter 95 of the Laws of 1992 amends Section 510-a of the Executive Law in regards to the detention of juveniles. The law requires the person in charge of each detention facility to keep a record of the time each youth spends in a facility, and to make that record available to DFY, a social services district or other agency taking custody of the child. In other words, it gives the child credit for time spent in detention to be used for determining the total length of time the youth must remain in placement. Effective September 14, 1992.

G. Confidentiality of client records maintained by the Division for Youth

Chapter 451 of the Laws of 1992 amends Executive Law by adding a new Section 501-c. This new section establishes confidentiality safeguards for records and files of youth maintained by the Division and specifies who may have access to such records and under what circumstances. Effective November 14, 1992

H. Temporary Orders for the Extension of Placements for PINS and J.D.s

Chapter 363 of the Laws of 1992 amends Section 355.3 of the Family Court Act. It authorizes the family court to issue a second temporary order extending placement for a period of up to 15 days if the petition for a longer extension has not been determined within an earlier 30 day extension period in JD and PINS proceedings. The law clarifies that either the petitioner or respondent may request the initial temporary extension. Effective July 17, 1992.

I. Family Support Services

Chapter 552 of the Laws of 1992 amends Section 41.43 of the Mental Hygiene Law to provide a clear legislative foundation for emphasizing the importance of family support services to help maintain the family structure when a member of the family is developmentally disabled.

J. Placement of Residential Programs for Individuals with Mental Illness or Developmental Disabilities.

Chapter 823 amends section 31.34 of the Mental Hygiene Law concerning site selection for community residential facilities and adds reporting requirements for the Commissioners of Mental Health, Mental Retardation and Developmental Disabilities and Social Services. The law expands the definition of similar facilities to be considered in assessing program concentration of community residences to include all similar programs of fourteen or less operated or licensed by agencies other than OMH or OMRDD. The law also strengthens municipal notification requirements.

The law directs the commissioners of OMH and OMRDD to review and evaluate relevant statutes and regulations regarding the development and placement of residential facilities in communities. It requires the Social Services Commissioner to review the status and accuracy of data in the statewide registry of community residential facilities (CRF) in consultation with OMRDD and OMH and then provide recommendations for improving the CRF system. Effective October 6, 1992.

K. Removal of the Requirement for Joint Inspections of Certain Residential Facilities

Chapter 163 of the Laws of 1992 amends Section 462-a of Social Services Law to delete the requirement that the Department enter into a cooperative agreement with DFY regarding the joint inspection and supervision of residential care facilities for children that have a significant number of juvenile delinquents and persons in need of supervision. Effective June 16, 1992

For further information on any of these new statutes or the Department's implementation efforts, contact the appropriate Regional Office.

James F. Purcell
Associate Commissioner
Office of Family and
Children Services

ATTACHMENT

Social Services Law & Other Legal References
1992 State Laws
Affecting Foster Care, Adoption and Preventive Services

Social Services Law	Public Health Law
372	Article 25
398	4138
409	
453	
462-a	Surrogates Court Procedures Act
Family Court Act	Executive Law
355.3	Article 19
	501-c
	510-a
Domestic Relations Law	
114	
115d	Ch. 465 of
Article 8	Laws of 1987
Mental Hygiene Law	
21.07	

