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Karen Schimke
President and CEO

February 17, 2010

Senator John L. Sampson
409 Legislative Office Building
Empire State Plaza
Albany, NY 12247

Dear Senator Sampson:

The Schuyler Center for Analysis and Advocacy joins the New York State Office of Children and Family Services (OCFS) and hundreds of organizations across the state in urging you to support the ASFA Expanded Discretion Bill, A.5462-A/S.2233-A, sponsored by Senator Velmanette Montgomery, Chair of the Social Services, Children and Families Committee and Assemblymember Jeffrion Aubry, Chair of the Corrections Committee.

This bill addresses the unique circumstances and difficulties in cases involving a parent who is incarcerated or in a residential drug treatment program by allowing local departments of social services to delay filing termination of parental rights papers. The usual timeframe required by ASFA to file termination papers—a child has been in foster care 15 of the last 22 months—is not realistic for these families.

The bill:

- Allows foster care agencies the discretion they need to delay filing termination of parental rights papers when a parent is incarcerated or in a residential drug treatment program.
- Requires agencies to document evidence that the parent plays a meaningful role in his or her child's life and that the continued involvement of the parent in the child's life is in the child's best interest.
- Amends New York law to reflect the specific circumstances of incarcerated parents and their children at all stages of a case, requiring family service plans, information regarding rehabilitative services to be shared with incarcerated parents, and allowing expanded ways of incarcerated parents to participate in planning meetings about their children.
- Permits courts to consider special issues facing incarcerated parents when determining permanent neglect.

The bill does not:

- Limit the agency's discretion to file such termination papers either after 15 months or at any point if the court determined the parent severely or repeatedly abused the child.
- Affect New York's compliance with federal ASFA regulations.

We are all painfully aware that the termination of rights does not necessarily equal “permanency” for a child and that many children continue to stay in foster care even after being “freed” for adoption. Under A.5462-A/S.2233-A, caseworkers, agencies, families, attorneys and courts will have the time they need to collaborate on workable and safe placements that are permanent but do not involve the precipitous severing of family bonds forever.

For 10 years, we have experienced ASFA’s unintended and devastating impact on children in foster care and their parents in prison or treatment facilities. We strongly urge you to support A.5462-A/S.2233-A.

If you have any questions, please contact me at (581) 463-1896, ext. 25.

Sincerely,

A handwritten signature in cursive script that reads "Karen Schimke".

Karen Schimke
President/CEO