

Memorandum of Concern

A10810/S4543a

An act to amend the family court act and the social services law in relation to reinstatement of parental rights and vacatur of commitment of guardianship and custody of children.

While the Schuyler Center for Analysis and Advocacy supports A10810 in concept and many of its provisions, we believe the bill would be greatly enhanced with revisions that take into consideration two concerns we have with this legislation.

Children do best when they live in safe, nurturing, and stable homes. Many children who have spent extensive time in foster care have not found permanency and are unlikely to be adopted. For some children, circumstances have changed, and a return to the birth family could be a possibility. Many of these children have maintained ties with their families and family members have been able to overcome substance abuse and other problems that led to the termination of their parental rights. This legislation offers a legal path to reunification with a birth parent when that is the desired and best outcome for that child. Importantly, this legislation would allow for a trial return to the family of up to six months supported by a reunification plan and ongoing services.

Our concerns follow:

- 1) This bill requires the consent of all parties involved, including the local department of social services, and, at the same time, requires the family court judge to rule in favor of the child's best interests.

We can imagine scenarios in which an agency might not consent to reunification and yet the parent(s), child, and family court could decide that the restoration of parental rights would be best for the child. Our concern lies with the potential veto power a local agency would have in these proceedings when such authority should reside with the court. The local department of social services has the ability to participate in the proceedings and register any concerns for child safety and well-being as part of that process. The judge would take those concerns into consideration when weighing all the information presented and when making his/her decision.

We ask that you consider a revision that requires the consent of the children and family members, maintains the requirement that the family court judge rule in favor of the child's best interests, involves all parties in the court proceedings, and eliminates the need for the agency's consent.

- 2) This bill relates to children over the age of 14 who may petition the court to allow a child's return to his/her family. Our concern relates to that child's siblings especially when the siblings are younger in age and the potential for separation of sibling groups.

For children involved with the child welfare system, sibling relationships take on more importance and must be one of the factors considered by the court. These relationships offer continuity, a sense of identify, and knowledge of cultural, personal, and family histories. Maintaining a connection to siblings enhances a child's sense of safety and well-being and, therefore, leads to better outcomes.

We ask that you consider a revision that would allow the unique circumstances for each individual family to be addressed in any proceedings and the court, at its discretion, to add additional children to the petition.



Karen Schimke
President/CEO

May 19, 2008