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EQUITABLE ACCESS FOR INDIAN CHILDREN TO FOSTER CARE AND ADOPTION ASSISTANCE ACT S. 1478

January 2000

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Divider Title: _____

**Title IV-E
Foster Care and Adoption Assistance Program
Funding for Indian Children**

S. 1478 would end the disparate treatment of Indian children under the Social Security Act's Title IV-E Foster Care and Adoption Assistance programs by providing them with the same services as are currently provided to all other eligible children in the United States.

Current Law

Title IV-E Foster Care and Adoption Assistance funding supports foster care and adoption assistance services for income-eligible children who are placed by state agencies or public agencies with which the state has an agreement. Children placed by tribal agencies generally do not enjoy the services of this program.

Foster Care and Adoption Assistance, which is a federal entitlement program, is expected to provide \$5.6 billion in assistance to states in FY 2000.

Title IV-E benefits, however, are generally not available to tribal governments or the children their agencies place. While regulations allow tribal-state agreements, they have been extremely difficult to develop, in part because of state concerns involving liability. In fact, only one-tenth of all federally-recognized tribes currently have cooperative agreements with states. In addition, most of the 50 tribal-state cooperative agreements are flawed because they only provide foster care maintenance payments for children placed by tribal agencies, and do not include funding for training, data systems and program administration. On the other hand, state governments receive significant funding under IV-E for all these activities.

In its August 1994 report, "*Opportunities for Administration for Children and Families to Improve Child Welfare Services and Protections for Native American Children*," the DHHS Office of the Inspector General (OIG) documented that tribes receive little benefit or funding from federal Social Security Act programs, including Title IV-E Foster Care and Adoption Assistance. The OIG report stated:

The surest way to guarantee that Indian people receive benefits from these Social Security Act programs is to . . . provide direct allocations to tribes.

Proposed Change

On August 3, 1999, Senators Daschle, McCain and Inouye introduced S. 1478, legislation to correct the inequitable treatment of tribal governments and Indian children living in tribal areas under the Foster Care and Adoption Assistance program. The bill, which was referred to the Finance Committee, would:

- Authorize tribes and tribal consortia to DHHS to directly administer the program or develop other arrangements with the state (Tribes must have DHHS-approved programs).
- Recognize tribal standards for foster home licensing.

- Allow the Secretary flexibility to modify the requirements of the Foster Care and Adoption Assistance program for a tribe so long as the tribe has an alternative measure to meet the purpose of the program.

- Require the Secretary to promulgate regulations to establish the federal/tribal shares for the training, administration, and data collection portions under the Foster Care and Adoption Assistance Act. Foster Care Maintenance payments would be made according to the tribe's medical assistance rate.

- Allow tribes to use federal or state funds to meet federal match requirements under the Foster Care and Adoption Assistance program.

- Allow tribal-state agreements in effect at the time of enactment to continue and authorize future such agreements as well.

The CBO score on this bill is \$250 million over a five-year period.

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Divider Title: _____

106TH CONGRESS
1ST SESSION

S. 1478

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 1999

Mr. DASCHLE (for himself, Mr. MCCAIN, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AUTHORITY OF INDIAN TRIBES TO RECEIVE**
4 **FEDERAL FUNDS FOR FOSTER CARE AND**
5 **ADOPTION ASSISTANCE.**

6 (a) CHILDREN PLACED IN TRIBAL CUSTODY ELIGI-
7 BLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) of
8 the Social Security Act (42 U.S.C. 672(a)(2)) is
9 amended—

1 (1) by striking “or (B)” and inserting “(B)”;
 2 and

3 (2) by inserting before the semicolon the fol-
 4 lowing: “, or (C) an Indian tribe as defined in sec-
 5 tion 479B(b)(5), in the case of an Indian child (as
 6 defined in section 4(4) of the Indian Child Welfare
 7 Act of 1978 (25 U.S.C. 1903(4))) if the tribe is not
 8 operating a program pursuant to section 479B and
 9 (i) has an agreement with a State pursuant to sec-
 10 tion 479B(b)(3) or (ii) submits to the Secretary a
 11 description of the arrangements, jointly developed or
 12 in consultation with the State, made for the pay-
 13 ment of funds and the provision of the child welfare
 14 services and protections required by this title”.

15 (b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGA-
 16 NIZATIONS.—Part E of title IV of the Social Security Act
 17 (42 U.S.C. 670 et seq.) is amended by adding at the end
 18 the following:

19 “PROGRAMS OPERATED BY INDIAN TRIBAL
 20 ORGANIZATIONS

21 “SEC. 479B. (a) Except as provided in subsection
 22 (b), this part shall apply to an Indian Tribe that chooses
 23 to operate a program under this part in the same manner
 24 as this part applies to a State.

25 “(b)(1) In the case of an Indian tribe submitting a
 26 plan for approval under section 471, the plan shall—

1 “(A) in lieu of the requirement of section
2 471(a)(3), identify the service area or areas and
3 population to be served by the Indian tribe; and

4 “(B) in lieu of the requirement of section
5 471(a)(10), provide for the approval of foster homes
6 pursuant to tribal standards and in a manner that
7 ensures the safety of, and accountability for, chil-
8 dren placed in foster care.

9 “(2)(A)(i) For purposes of determining the Federal
10 medical assistance percentage applicable to an Indian tribe
11 under paragraphs (1) and (2) of section 474(a), the cal-
12 culation of an Indian tribe’s per capita income shall be
13 based upon the service population of the Indian tribe as
14 defined in its plan.

15 “(ii) An Indian tribe may submit to the Secretary
16 such information as the tribe considers may be relevant
17 to making the calculation of the per capita income of the
18 tribe, and the Secretary shall consider such information
19 before making the calculation.

20 “(B) The Secretary shall, by regulation, determine
21 the proportions to be paid to Indian tribes pursuant to
22 section 474(a)(3), except that in no case shall an Indian
23 tribe receive a lesser proportion than specified for States
24 in that section.

1 “(C) An Indian tribe may use Federal or State funds
2 to match payments for which the Indian tribe is eligible
3 under section 474.

4 “(3) An Indian tribe and a State may enter into a
5 cooperative agreement for the administration or payment
6 of funds pursuant to this part. Any such agreement that
7 is in effect as of the date of the enactment of this section
8 shall remain in full force and effect subject to the right
9 of either party to revoke or modify the agreement pursu-
10 ant to its terms.

11 “(4) The Secretary may prescribe regulations that
12 alter or waive any requirement under this part with re-
13 spect to an Indian tribe or tribes if the Secretary, after
14 consulting with the tribe or tribes—

15 “(A) determines that the strict enforcement of
16 the requirement would not advance the best interests
17 and the safety of children served by the Indian tribe
18 or tribes; and

19 “(B) provides in the regulations that tribal
20 plans include alternative provisions that would
21 achieve the purposes of the requirement that is to be
22 altered or waived.

23 “(5) For purposes of this section, the term ‘Indian
24 tribe’ means any Indian tribe, band, nation, or organized
25 group or community of Indians, including any Alaska Na-

1 tive village, that is recognized as eligible for the special
2 programs and services provided by the United States to
3 Indians because of their status as Indians.

4 “(6) Nothing in this section shall preclude the devel-
5 opment and submission of a single plan under section 471
6 that meets the requirements of this section by the partici-
7 pating Indian tribes of an intertribal consortium.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this Act take effect on the date of enactment of this Act.

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Divider Title: _____

**Description of Legislation to Provide Direct Access
to Tribal Governments and Indian Children in Tribal Areas
for Foster Care and Adoption Assistance**

S. 1478, A BILL

To amend Part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

Introduced August 3, 1999 by Senators Daschle, McCain and Inouye
Referred to the Senate Committee on Finance

BILL LANGUAGE	EXPLANATION
<i>Section 1. AUTHORITY OF INDIAN TRIBES TO RECEIVE FEDERAL FUNDS FOR FOSTER CARE AND ADOPTION ASSISTANCE.</i> <i>(a) CHILDREN PLACED IN TRIBAL CUSTODY ELIGIBLE FOR FOSTER CARE FUNDING.--Section 472(a)(2) of the Social Security Act (42 U.S.C. 672(a)(2)) is amended--</i> <i>(1) by striking "or (B)" and inserting "(B)"; and</i> <i>(2) by inserting before the semicolon the following", or (C) an Indian tribe as defined in section 479B(b)(5), in the case of an Indian child (as defined in section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4))) if the tribe is not operating a program pursuant to section 479B and</i> <i>(i) has an agreement with a State pursuant to section 479B(b)(3), or (ii) submits to the Secretary a description of the arrangements, jointly developed or in consultation with the State, made for the payment of funds and the provision of the child welfare services and protections required by this title".</i>	When a tribe is not submitting an application to the Department of Health and Human Services for approval to run the full program, Indian children in tribal custody are still eligible to receive Title IV-E foster care maintenance payments in certain circumstances. In cases where a tribe is not operating a IV-E program directly pursuant to the new section 479B in this bill (Programs Operated By Indian Tribal Organizations section of this bill), Indian children placed by tribal agencies would still be eligible for foster care maintenance payments (payments to the foster home) if the tribe: 1) has an agreement with a state pursuant to the Act, or 2) has developed jointly with the state other arrangements to provide foster care and adoption services. This allows eligible Indian children in tribal custody to receive some benefits from the IV-E program, even when their tribe cannot operate the full program without some form of partnership with the state. Collaboration between tribes and states on human services is a common practice in many areas, especially with federal programs such as the Temporary Assistance to Needy Families block grant and Title IV-B Child Welfare Services. "Indian child" is defined as in section 4(4) of the Indian Child Welfare Act, which is "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe."

	"Indian tribe" is defined to mean "any Indian tribe, band, nation, or organized group or community of Indians, including any Alaska Native village, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians".
BILL LANGUAGE	EXPLANATION
<i>Section 1(b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS--Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:</i> "PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS <i>"Sec. 479B(a) Except as provided in subsection (b), this part shall apply to an Indian Tribe that chooses to operate a program under this part in the same manner as this part applies to a State.</i>	Direct funding to tribes. Authorizes tribes at their option to apply to the Department of Health and Human Services (DHHS) to administer the foster care and adoption assistance program and receive direct funding from HHS. While generally tribal plans for administration of the program would have to fulfill the same requirements as the statute sets out for state plans, there are a couple exceptions. Additionally the Secretary of DHHS is authorized to waive or modify statutory requirements for tribal plans if a condition would not advance the best interests and safety of Indian children and the tribe provides an alternative provision to achieve the purposes of any term or condition that is being altered. This provision would correct a long-standing inequity in the Foster Care and Adoption Assistance Act which currently provides reimbursement to states for children placed by state agencies and entities with whom states have agreements. Left out of this federal entitlement program (funded at \$5 billion in FY 1999) have been tribal governments and Indian children who are placed in out-of-home placements by tribal agencies.
BILL LANGUAGE	EXPLANATION
<i>Sec. 479B(b)(1). In the case of an Indian tribe submitting a plan for approval under Section 471, the plan shall -</i>	Submission of tribal plan. Requires the tribe to submit a plan to DHHS for approval under Section 471 of the Act in order to directly administer the program. This is the same section under which states make application. The requirements applicable to the state are also applicable to the tribe with the two exceptions immediately below.

BILL LANGUAGE	EXPLANATION
<i>Sec. 479B(b)(1)(A). "(A) in lieu of the requirement of section 471(a)(3), identify the service area or areas and population to be served by the Indian tribe; and</i>	Tribal service area and population. Section 471(a)(3) of the Act is not applicable to tribes because it refers to the state plan being in effect in all political subdivisions of the state. Instead, tribes are to include in their plan the service area or areas and population to be served by the tribe.
BILL LANGUAGE	EXPLANATION
<i>Section. 479B(b)(1)(B). In lieu of the requirement of section 471(a)(10), provide for the approval of foster homes pursuant to tribal standards and in a manner that ensures the safety of, and accountability for, children placed in foster care.</i>	Utilization of tribal foster care standards. Section 471(a)(10) of the Act is not applicable to tribes. That provision provides for establishment of state standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations. Instead, the tribal plan is to "provide for the approval of foster homes pursuant to tribal standards and in a manner that ensures the safety of and accountability for children placed in foster care." The Indian Child Welfare Act (25 USC 1931 (b)) also provides support for this provision by stating that tribal licensing for foster, adoptive or institutional care is equivalent to state licensing for the purposes of qualifying for assistance under a federally assisted program.
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(2)(A) (i). For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe under paragraphs (1) and (2) of section 474(a), the calculation of an Indian tribe's per capita income shall be based upon the service population of the Indian tribe as defined in its plan.</i> <i>Section 479B(b)(2)(A)(ii). An Indian tribe may submit to the Secretary such information as the tribe considers may be relevant to making the calculation of the per capita income of the tribe, and the Secretary shall consider such information before making the calculation.</i>	Medical assistance rate used for federal payments. Under current law, federal funding for foster care maintenance and adoption assistance payments are based on the state's medical assistance rate, with a maximum 83% federal contribution. The medical assistance rate is based on per capita income. This is a federal entitlement program. A financially poor tribal community which has the highest medical assistance rate, would be responsible for 17% of the costs. Consistent with the needs-based approach to reimbursing a state for foster care maintenance and adoption assistance payments, the bill would reimburse a tribal

	government for foster care and adoption placements based on its medical assistance rate. The Secretary would make the per capita calculation based on the income of the tribe's service population as defined in its plan. In recognition of problems with quality local data in Indian country, a tribe may submit to the Secretary information relevant to this calculation, and the Secretary shall take it into consideration.
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(2)(B). The Secretary shall, by regulation, determine the proportions to be paid to Indian tribes pursuant to section 474(a)(3), except that in no case shall an Indian tribe receive a lesser proportion than specified for States in that section.</i>	Regulations regarding federal and tribal funding match. The Secretary is to establish regulations regarding the amount of federal share which will be paid to tribes for training, administration and information systems development. The Secretary may not provide a federal share to a tribe which is less than the federal share provided to states for that particular portion of the program. Under current law, DHHS pays to states the following federal match amounts for the programs under the Foster Care and Adoption Assistance Act: foster care and adoption placement administrative costs, including information systems development costs - 50%; foster care and adoption training expenses - 75%; nonrecurring adoption expenses - 50% up to \$2,000 (one time reimbursement). In recognition that tribes have not had the benefit of nearly 20 years of administrative and other funding that states have enjoyed via access to Title IV-E and that most tribes have less access to financial resources than states, the bill authorizes, but not mandates, the Secretary to provide tribes a higher percentage of federal funds for the programs under the Act.

BILL LANGUAGE	EXPLANATION
<i>Section 479B(b) (2)(C). An Indian tribe may use Federal or State funds to match payments for which the Indian tribe is eligible under section 474.</i>	Source of tribal match. Under the proposed legislation, an Indian tribe may use federal or state funds to match payments for which the Indian tribe is eligible under the Foster Care and Adoption Assistance Act

	Many federal statutes, in recognition of the extremely limited financial resources of most tribes and of the frequent past exclusion of tribes from federal programs, allow tribes to use federal or other funds to count as required matches.
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(3). An Indian tribe and a State may enter into a cooperative agreement for the administration or payment of funds pursuant to this part. Any such agreement that is in effect as of the date of the enactment of this section shall remain in full force and effect subject to the right of either party to revoke or modify the agreement pursuant to its terms.</i>	Tribal-state agreements to continue. Any tribal-state agreements in effect on the date of enactment will remain in effect subject to the right of either party to revoke or modify the agreement. And in recognition that some tribes may find the cooperative agreement approach more viable than direct administration of the program, it authorizes future tribal-state agreements.
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(4). The Secretary may prescribe regulations that alter or waive a requirement under this part with respect to an Indian tribe or tribes if the Secretary, after consulting with the tribe or tribes:</i> <i>(A) determines that the strict enforcement of the requirement would not advance the best interests and safety of children served by the Indian tribe or tribes; and</i> <i>(B) provides in the regulations that tribal plans include alternative provision that would achieve the purposes of the requirement that is to be altered or waived.</i>	Waiver or modification of requirements for tribal programs. In recognition of the varied circumstances of the 500 plus tribes in the United States, including issues of jurisdiction, economics and cultural concerns, the bill would allow the waiver or modification of requirements as long as tribal plans include alternate measures to meet the purposes of the Act.
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(5). For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation or organized group or community of Indians, including any Alaska Native village, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."</i>	
BILL LANGUAGE	EXPLANATION
<i>Section 479B(b)(6). Nothing in this section should preclude the development and submission of a single plan under section 471 that meets the requirements of this section by the participating Indian tribes of an intertribal consortium.</i>	Tribal consortia are eligible applicants. The bill would allow consortia of tribes to apply for and administer the foster care and adoption assistance program. The language tracks the tribal consortia provision in the Personal Responsibility and Work Opportunities Reconciliation Act.
BILL LANGUAGE	EXPLANATION
<i>EFFECTIVE DATE.--The amendments made by this Act take effect on the date of enactment of this Act.</i>	

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adoptive services to which all other income-eligible children are entitled.

Not only are otherwise eligible Native children denied foster care maintenance payments, but this inequity also extends to children adopted through tribal placements. Currently, the IV-E program offers sporadic assistance for expenses associated with adoption and no assistance for training professional staff or parents involved in the adoption absent a tribal-state agreement.

In many instances, these children face insurmountable odds. Many come from abusive homes. Foster parents who open their doors to care for these special children deserve our help. These generous people who are willing to take these children into their homes shouldn't have sleepless nights worrying about whether they have the resources to provide nourishing food or a warm coat, or even adequate shelter for these children. This legislation will go a long way to ease their concerns.

Currently, some tribes and states have entered into IV-E agreements, but these arrangements are the exception. They also, by and large, do not include funds to train tribal social workers and other program administrators. This bill would authorize tribes to operate IV-E programs in the same manner as states. Upon approval of a tribal plan by HHS, the tribe would be able to provide services to income-eligible children under its custody. The bill would also allow children in tribal custody to receive foster care payments where a tribe chooses not to operate the entire program if adequate arrangements are made between the tribe and the state for provision of child welfare services and protections required by Title IV-E.

The bill we are introducing today would:

Authorize reimbursement of Title IV-E entitlement programs for tribal placements in foster and adoptive homes;

Authorize tribal governments to receive direct funding from the Department of Health and Human Services for training and administration of IV-E programs (tribes must have HHS-approved programs);

Allow the Secretary flexibility to modify the requirements of the IV-E law for tribes if those requirements are not in the best interest of Native children and if the tribal plans include alternative provisions that would achieve the purpose of the requirement that is altered or waived; and

Allow continuation of tribal-state IV-E agreements.

In a 1994 report, HHS found that the best way to serve this underfunded group is to provide direct assistance to tribal governments and qualified tribal families. This bill would not reduce the entitlement funding for states, as they would continue to be reimbursed for their expenses under the law. I strongly believe Congress should address this oversight and provide equitable benefits to Native American children under

the jurisdiction of their tribal governments, and I hope my colleagues will join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF INDIAN TRIBES TO RECEIVE FEDERAL FUNDS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) CHILDREN PLACED IN TRIBAL CUSTODY ELIGIBLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) of the Social Security Act (42 U.S.C. 672(a)(2)) is amended—

(i) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the semicolon the following: "or (C) an Indian tribe as defined in section 479B(b)(5), in the case of an Indian child (as defined in section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4))) if the tribe is not operating a program pursuant to section 479B and (i) has an agreement with a State pursuant to section 479B(b)(3) or (ii) submits to the Secretary a description of the arrangements, jointly developed or in consultation with the State, made for the payment of funds and the provision of the child welfare services and protections required by this title";

(b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

"PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS

"SEC. 479B. (a) Except as provided in subsection (b), this part shall apply to an Indian Tribe that chooses to operate a program under this part in the same manner as this part applies to a State.

"(b)(1) In the case of an Indian tribe submitting a plan for approval under section 471, the plan shall—

"(A) in lieu of the requirement of section 471(a)(3), identify the service area or areas and population to be served by the Indian tribe; and

"(B) in lieu of the requirement of section 471(a)(10), provide for the approval of foster homes pursuant to tribal standards and in a manner that ensures the safety of, and accountability for, children placed in foster care.

"(2)(A)(i) For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe under paragraphs (1) and (2) of section 474(a), the calculation of an Indian tribe's per capita income shall be based upon the service population of the Indian tribe as defined in its plan.

"(ii) An Indian tribe may submit to the Secretary such information as the tribe considers may be relevant to making the calculation of the per capita income of the tribe, and the Secretary shall consider such information before making the calculation.

"(B) The Secretary shall, by regulation, determine the proportions to be paid to Indian tribes pursuant to section 474(a)(3), except that in no case shall an Indian tribe receive a lesser proportion than specified for States in that section.

"(C) An Indian tribe may use Federal or State funds to match payments for which the Indian tribe is eligible under section 474.

"(3) An Indian tribe and a State may enter into a cooperative agreement for the administration or payment of funds pursuant to

By Mr. DASCHLE (for himself, Mr. MCCAIN and Mr. INOUE):

S. 1478. A bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas; to the Committee on Finance.

IMPROVING FOSTER CARE AND ADOPTION SERVICES FOR NATIVE AMERICAN CHILDREN

Mr. DASCHLE. Mr. President, today I am introducing, along with Senator MCCAIN and Senator INOUE, an important bill to correct an inequity in the law affecting many Native American children. Every year, for a variety of often tragic reasons, thousands of children across the country are placed in foster care. To assist with the cost of food, shelter, clothing, daily supervision and school supplies, foster parents of children who have come to them through state agency placements receive money through Title IV-E of the Social Security Act. Additionally, States receive funds for administrative training and data collection to support this program. Unfortunately, because of a legislative oversight, many income-eligible Native American children placed in foster care by tribal agencies do not receive foster care and

this part. Any such agreement that is in effect as of the date of the enactment of this section shall remain in full force and effect subject to the right of either party to revoke or modify the agreement pursuant to its terms.

"(4) The Secretary may prescribe regulations that alter or waive any requirement under this part with respect to an Indian tribe or tribes if the Secretary, after consulting with the tribe or tribes—

"(A) determines that the strict enforcement of the requirement would not advance the best interests and the safety of children served by the Indian tribe or tribes; and

"(B) provides in the regulations that tribal plans include alternative provisions that would achieve the purposes of the requirement that is to be altered or waived.

"(5) For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or organized group or community of Indians, including any Alaska Native village, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(6) Nothing in this section shall preclude the development and submission of a single plan under section 471 that meets the requirements of this section by the participating Indian tribes of an intertribal consortium."

(c) **EFFECTIVE DATE.**—The amendments made by this Act take effect on the date of enactment of this Act.

Mr. MCCAIN. Mr. President, I am pleased to co-sponsor legislation with my colleagues, Senators DASCHLE and INOUE, to amend the Social Security Act and extend eligibility for Indian tribes to fully implement, like states, the Title IV-E Foster Care and Adoption Assistance Act. This important legislation will finally allow Indian children living in tribal areas to have the same access to services of the Title IV-E Foster Care and Adoption Assistance Program enjoyed by other children nationwide.

The purpose of the Title IV-E program is to ensure that children receive adequate care when placed in foster care and adoption programs. The Title IV-E program operates as an open-ended entitlement program for eligible state governments with approved plans. State governments receive funding for foster care maintenance payments to cover food, shelter, clothing, school supplies, and liability insurance for income-eligible children placed in foster homes by state courts, and for related administrative and training costs.

While Congress intended that the Title IV-E program should benefit all eligible children, Indian children who are under the jurisdiction of their tribal court are not eligible. When enacted, the Title IV-E law did not properly consider that Indian tribal governments retain sole jurisdiction over the domestic affairs of their own tribal members, particularly Indian children.

State administrators have attempted to meet the intended goals of these programs by extending their efforts to Indian country. However, administrative and jurisdictional hurdles make it nearly impossible to provide these services. As a result, Indian children in

need of foster care and child support are not accorded the same level of service as other children nationwide. Tribal governments, who are legally responsible for Indian children in foster care, are not entitled to federal reimbursement for children placed in foster care by a tribal court, unless the tribe, as a public agency, enters into a cooperative agreement with the state.

A cooperative agreement may not sound all that difficult, but in reality, such an agreement can prove impossible. Rather than providing incentives, current law more often discourages states from entering into agreements with tribes. For example, a state is accountable for tribal compliance with Title IV-E requirements. If a tribe cannot fulfill a matching requirement, the state must assume the costs on behalf of the tribe in order to retain federal funds. It is entirely possible that states could lose their Title IV-E funds if tribal records were out of compliance.

State-tribal relations are not always productive, particularly when disputes arise over issues unrelated to child welfare. Providing this direct eligibility for tribal governments, with the same accountability and enforcement requirements, will resolve such problems. State agencies have indicated that direct participation by the tribes would help address an overburden of casework and preclude tension over jurisdictional issues.

I want to make clear that enactment of this legislation will in no way supplant or discourage State-tribal agreements. Existing agreements will be honored, while allowing Indian tribes to directly access needed resources for further protection for income-eligible Indian children.

I also want to comment briefly on efforts made by the Administration to implement a limited pilot program to provide direct authority to tribes to administer the Title IV-E and Title IV-B programs. The 1997 Adoption and Safe Families Act authorized up to ten demonstration programs. Five demonstration programs have been approved by the Administration to meet the needs of Indian children. I applaud the initiative, but this limited approval will not extend to any other tribe who may choose to administer their own programs and the needs of many Indian children will still be unmet. I sincerely hope the Administration would seek to include five more tribes as participants in the demonstration program.

We sought to include similar eligibility provisions in the 1996 Personal Responsibility and Work Opportunity Act, but were unsuccessful in finding the necessary off-sets to pay for this program.

The Congressional Budget Office (CBO) estimates that this legislation would cost \$236 million over a five-year period, which generally amounts to less than one percent of total Federal Title IV-E expenditures. While this leg-

islation does not currently include any identified off-sets to pay for adding tribal eligibility for this entitlement program, I have assurances from Senators DASCHLE and INOUE that the inclusion of off-sets, prior to final passage, will in no way affect the Social Security Trust Fund or increase the federal debt. We have pledged to work together to find necessary and agreeable off-sets for this program.

Mr. President, enactment of this legislation will bring an end to the disparate treatment of eligible Indian children under Title IV-E programs. I urge my colleagues to correct this unfair oversight and make the benefits of the Title IV-E entitlement program available for all children as intended.

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Divider Title: _____

United States Senate

WASHINGTON, DC 20510

August 5, 1999

Dear Colleague:

We are writing to invite you to join us in cosponsoring legislation to bring equity to Indian children for services provided through the Foster Care and Adoption Assistance Act. As it now stands, most Native American children in this country do not receive foster care and adoptive services to which all other eligible children are entitled.

The problem is that Title IV-E, the Foster Care and Adoption Assistance Act, provides an entitlement to assistance for income-eligible children placed by state agencies or public agencies with which the state has an agreement. But income-eligible children placed by tribal agencies generally do not enjoy the services of this program.

Currently, an otherwise eligible child placed by a tribal agency may end up in a home without foster care maintenance payments to support the cost of food, shelter, clothing, daily supervision, school supplies, or liability insurance for the child. For children adopted through tribal placements, there may be no administrative payments for expenses associated with adoption and training of professional staff or parents involved in the adoption.

While some tribes and states have entered into IV-E agreements for the provision of services, these agreements are the exception. They also, by and large, do not include any of the training monies for tribal social workers and affected families, or administrative monies for tribal case management, that states receive. Some tribes receive discretionary funds to provide foster care benefits for some children, but these benefits are not available to all children. In addition, no funds are available to the tribes for training or administration.

The HHS Office of the Inspector General issued a report in 1994 called, "Opportunities For Administration for Native American Children and Families to Improve Child Welfare Services and Protections for Native American Children," which documented that tribes receive very little benefit or funding from the Title IV-E program. That report concluded that the best way to ensure that Indian people are served under this program is to provide direct funding to tribes.

Our bill would:

- Provide reimbursement under Title IV-E entitlement programs for tribal placements in foster and adoptive homes;
- Authorize tribal governments to receive direct funding from HHS for administration of IV-E programs (tribes must have HHS-approved programs);

August 5, 1999

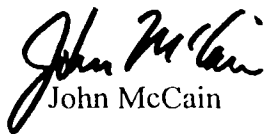
Page 2

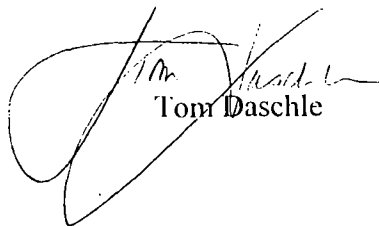
- Allow the Secretary flexibility to modify the requirements of the IV-E law for tribes if those requirements are not in the best interest of Indian children and if the tribal plans include alternative provisions that would achieve the purpose of the requirement that is altered or waived; and
- Allow continuation of tribal-state IV-E agreements.

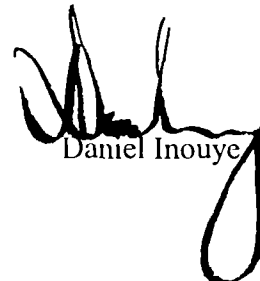
This bill would not result in reduced funding for states, as they would continue to be reimbursed for their expenses under the law.

We strongly believe Congress should address this oversight in the law and provide equitable benefits to Indian children under the jurisdiction of tribal governments. We hope you agree and will join us in cosponsoring this important legislation. If you have questions or would like to cosponsor, please have your staff contact Joan Huffer in Senator Daschle's office at 4-5556.

Sincerely,


John McCain


Tom Daschle


Daniel Inouye

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PAGE 2/2

Cost estimate of Senator Daschle Indian foster care bill (as proposed)
eliminary, based on language received April 22, 1999

Numbers represent increase in federal spending relative to March 1999 baseline
By fiscal year, in millions of dollars

	2000	2001	2002	2003	2004	2000-'04
Foster care and adoption assistance						
BA	17	38	56	67	72	250
OT	14	34	52	65	71	236

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NATIONAL
INDIAN
CHILD
WELFARE
ASSOCIATION

STATEMENT OF THE
NATIONAL INDIAN CHILD WELFARE ASSOCIATION

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Suite 201
Portland, OR 97201
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503.222.4044
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SUBMITTED TO THE SENATE FINANCE SUBCOMMITTEE
ON SOCIAL SECURITY AND FAMILY POLICY

Gary Peterson
President
Andy Pascua
Vice-President
Eloise King
Secretary
Dan Gargan
Treasurer

Regarding

THE TITLE IV-E FOSTER CARE AND ADOPTION ASSISTANCE ACT

and

S. 1195

PROMOTION OF ADOPTION, SAFETY, AND SUPPORT
FOR ABUSED AND NEGLECTED CHILDREN (PASS) ACT

Board
Velma Bahe
Lorraine Brave
William Clark
Debra Foxcroft
Donalene Harris-Fleagle
Judy Houck
Willie Jones
Margaret Jose
Tracy King
Gabriel Landry
Robert Lewis
Kathryn Manness
Art Martinez
Robert Miller
Don Milligan
Phil Quinn
Nabeth Red Bear
Lurriel Sharlow
Lola Sohapp
Ernie Stevens, Jr.
Dolores Subia Big Foot
Mary Tenorio

OCTOBER 8, 1997

Terry Cross
Executive Director

Terry L. Cross
Director



The National Indian Child Welfare Association submits this statement on S. 1195, the Promotion of Adoption, Safety, and Support for Abused and Neglected Children (PASS) Act. Attached is a brief description of the work of our organization.

SUMMARY OF RECOMMENDATIONS

OUR PRIMARY RECOMMENDATION.

Indian Access to the IV-E Programs. Our primary recommendation is that S. 1195 be modified to include an additional amendment to Title IV-E of the Social Security Act, Foster Care and Adoption Assistance, to make otherwise-eligible Indian children placed by tribal agencies eligible for the federal entitlement services of that Act and to allow tribal governments to administer these programs. It was an oversight when the statute was written in 1980 that tribal governments and children placed by tribal agencies were ignored. The statute has left out a class of children - Indian children living in tribal areas - for eligibility for this open-ended federal entitlement program, and Congress must correct this situation.

We have provided Committee staff with a draft amendment which would accomplish this goal, and urge you to adopt it as part of S. 1195. The bulk of our testimony is on the issue Title IV-E services for Indian children.

OTHER RECOMMENDATIONS.

Kinship Care Advisory Panel with Tribal Representation. S. 1195 would utilize the Advisory Board on Child Abuse and Neglect (as authorized under CAPTA) to conduct a kinship care study. If this Board does not exist upon enactment of S. 1195, then the bill would require the Secretary to create a new Kinship Care Advisory Panel -- this panel, in both the House and Senate bills, would include tribal representation. We prefer the House provision which creates a Kinship Care Advisory Panel, as it would guarantee tribal representation -- something not available to tribes on the Advisory Board on Child Abuse and Neglect. Kinship care is widely used in Indian country. We believe the presence of tribal representatives on a Kinship Care Advisory Panel will bring important knowledge and perspectives to the work of the advisory panel, and urge its retention in a final adoption bill.

Petitions to Terminate Parental Rights. Both S. 1196 and H.R. 867 have strict provisions regarding circumstances and time lines under which state must initiate a petition (or join any existing petition) to terminate parental rights, and both bills provide exceptions to these requirements. While both bills would allow exceptions when, at the option of the state, the child is being cared for by a relative or where the state court or agency had documented a compelling reason for not requiring the filing of the termination of parental rights petition. The House bill -- but not the Senate bill -- would also allow an exception when the state has not provided the family with services deemed appropriate by the state even though it has been determined that reasonable efforts should be made to reunite the family. We believe that the House provision requiring provision of services is reasonable and should be retained in the final bill. Tribal people are often not served well by state agencies, and

we are very sensitive to the possibility of initiation of proceedings to terminate parental rights even though supposedly required services have not been provided to the family.

We also recommend that the bill make provision for an exception to the requirement to initiate a petition for termination of parental rights when the parent(s) are making substantial progress. Examples would be that the parent is making good progress toward recovery from substance abuse or that the parent is at the point where she/he is able to have visitation rights to have the children on weekends. Under S. 1195 the petition to terminate parental rights could begin within 1 year of a child entering foster care. We recommend that the bill include in the exceptions substantial progress which if continued, would likely result in family reunification.

Substance Abuse Treatment. We support the emphasis in S. 1195 on substance abuse treatment including foster care payments for children whose parent(s) is in a residential treatment center and priority for treatment services for caretaker parents. While progress is being made in Indian country regarding lessening substance abuse (the alcoholism age-adjusted death rates for Natives have decreased from 59/100,000 in 1980 to 38.4/100,000 in 1992), the size of the problem is still staggering¹.

Family Reunification. We prefer the provision in the earlier Senate bill, S. 511 which would provide funding for family reunification services over the provision in S. 1195 which would specify time-limited family reunification services as an eligible use of Title IV-B funding

Training. We support the emphasis in S. 511 on training and want tribes to have equitable access to such training. We are sorry that S. 1195 does not contain training provisions.

Voluntary Reunions. We support the provision in S. 1195 which would allow use of HHS facilities to facilitate voluntary, mutually-requested reunions between adult adopted children and their biological parents. So many Indian children have been removed from their homes and tribal areas. Surveys in the 1970s documented that 25% of all Indian children had been removed from their homes for reasons primarily related to poverty and to actions of culturally ignorant agencies. While this practice has certainly abated, there are thousands of adult Indian people who would appreciate assistance in finding their biological parents and relatives.

This statement focuses on Indian children and their limited opportunities to benefit from the Title IV-E Foster Care and Adoption Assistance program (herein referred to as Title IV-E) and what we believe to be an effective solution to this inequity. Our testimony will show that otherwise-eligible Indian and Alaska Native children have not enjoyed the same guarantees for foster or adoptive care services that other children have in this country. Native children are the only class of children without entitlement to foster care and adoptive services in this country. In our view, this issue, as much as any other issue, has impacted the ability of Indian children to secure a sense of permanency after being removed from their homes.

The Title IV-E Foster Care and Adoption Assistance Programs - Services Not Guaranteed to Indian Children

As you know, the IV-E program was enacted in 1980 as a part of major legislative changes to the child welfare system in this country. Enactment of Title IV-E and changes to the Title IV-B Child Welfare Services program under the Social Security Act established new federal protections for children who were removed from their homes and resources to help them gain permanency in their lives. Title IV-E provides states with a permanently authorized entitlement program that provides matching funds to support placements of AFDC-eligible children in foster care homes, private non-profit child care facilities, or public child care institutions. These foster care maintenance payments are intended to support the costs of food, shelter, clothing, daily supervision, school supplies, general incidentals, liability insurance for the child, and reasonable travel to the child's home for visits. Matching funds are also available for administrative activities that support the child's placement and training for professionals and parents involved in these placements. The foster care program had been mandatory for all states that participated in the former Aid to Families with Dependent Children (AFDC) program, and under the new welfare reform law it is mandatory for states that operate a Temporary Assistance for Needy Families (TANF) block grant.

Title IV-E also provides entitlement funds to support adoption assistance activities, and like the foster care program, is mandatory for all states that operated the former AFDC program or the new TANF block grant. Activities which qualify for matching funds include: maintenance payments for eligible children who are adopted, administrative payments for expenses associated with placing children in adoption, and training of professional staff and parents involved in adoption. To be eligible for these matching funds states must develop agreements with parents who adopt eligible children with special needs. Special needs children must be AFDC- or SSI- eligible. However, states may also claim non-reoccurring adoption expenses for children with special needs who are not AFDC- or SSI-eligible. While Title IV-E broadly defines special needs children as those who have characteristics that make them difficult to place, Title IV-E gives states discretion as to the specific categories of special needs children that they will recognize (e.g. older children, minority children, and children with physical, emotional, or behavioral problems).

Another area of support under Title IV-E is the Independent Living Program. Title IV-E was amended in 1986 to include a program that would assist youth who would eventually be emancipated from the foster care system. The funding under this program was intended to support services for AFDC-eligible youth who were age 16 or over make a successful transition from the foster care system to independent living when they become ineligible for foster care maintenance payments at age 18. The program was expanded in 1988 to include all youth in foster care, regardless of AFDC-eligibility. Two years later amendments to Title IV-E gave states the option of providing services to youth up to the age of 21. Some examples of services provided under this program include: basic skills training, educational services (e.g. GED preparation), and employment preparedness.

We have given the above overview of the services provided under the Title IV-E entitlement program to emphasize that these are services not guaranteed to otherwise eligible Indian children.

Indian Children and Title IV-E

While Congress intended for the Title IV-E program to serve all eligible children in the United States, Indian children who are under the jurisdiction of their tribal court do not have an entitlement to this important program afforded other children. The statute provides services only for income-eligible children placed by states and public agencies with whom states have agreements.

We believe it is a drafting oversight that the Foster Care and Adoption Assistance Act of 1980 made no provision for funding for children placed by tribal agencies nor for tribal governments to administer Title IV-E funds and seek reimbursement for foster care and adoption services provided Indian children under their jurisdiction. We see nothing in the legislative history to suggest otherwise, and conversations with the office of Representative George Miller, the primary author of the 1980 Act, suggests it was not intentional. During last year's consideration of welfare reform legislation a number of Members including Representative Don Young, Senator John McCain, and Representatives Bill Richardson and George Miller wrote this Subcommittee asking that the bill be amended to provide direct funding to tribes under the Title IV-E statute. Mr. Richardson introduced legislation, H.R. 261, on January 7, 1997 to provide direct funding to tribes under Title IV-E. Unfortunately, the Title IV-E statute is not the only social services related program which has given little thought to services for people living on Indian reservations.² We urge Congress to always keep in mind that tribal governments are not subsets of state governments. They are legally distinct and separate from state governments. Federal statutes authorizing services need to make specific provision for tribal delivery systems.

Title IV-E Tribal-State Agreements/Office of Inspector General Report. Only 50 of the 550 federally recognized tribes have been able to enter into agreements with states to provide access to at least some IV-E funds.³ These agreements primarily provide foster care maintenance moneys only -- not administrative, training, and data system funding. In only 15 of the 50 agreements do states provide tribes with IV-E administration funds and to our knowledge only 2 of the agreements provide any IV-E training funds to tribes. None of the agreements provide funding for information systems development for tribes which are available to states under Title IV-E. Even when agreements are reached, tribes and states realize that a more efficient system would be to fund tribes directly.

A picture of the situation for tribal access to Title IV-E and other federal social service and child welfare funds was provided in a report by the HHS Office of Inspector General (OIG), *"Opportunities for Administration for Children and Families to Improve Child Welfare Services and Protections for Native American Children"*, August 1994. The report documented that tribes receive little benefit or funding from federal Social Security Act programs, specifically Title IV-E Foster Care and Adoption Assistance, the Title XX Social Services Block Grant, and the Title IV-

B Child Welfare Services and Family Preservation and Support Services moneys⁴. While tribes receive a small amount of direct funding under both of the IV-B programs (about \$7.4 million combined in FY1997), there is no direct funding available to tribes under the much larger Title IV-E and Title XX programs⁵.

In order for tribes to receive funding under these programs they have had to rely on states to share a portion of their allocation. This option has been available in only a handful of states and in amounts that are extremely small. Not surprisingly, the above-mentioned Office of Inspector General study -- in listing options for improving service to tribes -- *stated that the surest way to guarantee that Indian people receive benefits from these Social Security Act programs is to amend the authorizing statutes to provide direct allocations to tribes.*

With regard to funding passed through from the state to tribes, the OIG report states:

In 15 of the 24 States with the largest Native American populations, eligible Tribes received neither Title IV-E nor Title XX funds from 1989 to 1993. In 1993 alone, these 15 states received \$1.7 billion in Title IV-E funds and \$1.3 billion in Title XX funds.

Nine of the 24 States reported that some Tribes in their States received Title IV-E and/or Title XX funds in 1993.

Eight States reported that 46 Tribes received \$1.9 million -- .2 percent--of the States' \$82 million Title IV-E funds, while 4 States reported that 32 Tribes received \$2.8 million -- .3 percent -- of the States' \$98 million Title XX funds.

The OIG report discusses the barriers to tribal-state agreements regarding Title IV-E (and Title XX):

- *No explicit authority.* The Congress provided no authority for ACF to award Title IV-E and Title XX funds directly to Tribes; and the law neither requires nor encourages States to share funds with Tribes;

- *State Responsibility for Tribal Compliance with Requirements of P.L. 96-272 for Title IV-E funds is Problematic for States.* Some states are reluctant to enter into Title IV-E agreements with tribes because, under the law, the state would be held accountable for tribal compliance with Title IV-E. States could, if tribal records were out of compliance, lose their Title IV-E and Section 427 incentive funds. We know that this is an issue with a number of states, including Alaska, Arizona, and New Mexico.

- *Disputes between Tribes and States about Issues Unrelated to Child Welfare.* Both state and tribal officials reported that points of contention between state and tribal governments unrelated to child welfare have made agreements impossible to reach. Issues concerning land rights and jurisdiction have thwarted these agreements. At least one state made receipt of foster care money contingent upon the tribe adopting the complete set of state child welfare policies and procedures.

- *Matching Share Issue.* Most tribes will have difficulty providing the match required for Title IV-E funds, and most states do not want to provide it. In some cases where there are tribal-state IV-E agreements, the state has provided the match for

foster care maintenance funds.

- *Tribal Lands which Extend into Multiple States.* In cases where tribal lands extend across state borders (e.g., Navajo is in Arizona, New Mexico and Utah) the prospects of concluding multiple IV-E agreements have proved infeasible. Eight federally recognized tribes have lands that extend into multiple states.

The OIG report also notes that state officials with whom they talked favored direct IV-E funding to tribes:

With respect to IV-E funding, most State officials with whom we talked favored ACF (Administration on Children and Families) dealing directly with Tribes. This direct approach for Title IV-E would eliminate the need for Tribal-State agreements, and because Title IV-E is an uncapped Federal entitlement, would not affect the moneys available to the States. (p. 13).

Tribal Efforts to Provide Foster Care/Adoption Services for Their Children Absent Title IV-E Agreements

While tribes cannot receive Title IV-E funds directly from the Department of Health and Human Services, and have had little success in obtaining IV-E funds through their states, a limited number have been able to put together some stop gap measures to partially fund these services. These attempts to provide foster care and adoption services are not a substitute -- or should not be -- for the reliable funding for services provided to states and children outside of Indian country under the Title IV-E statute. Indeed, because of the limited nature of these alternate resources, tribes may have no choice but to place IV-E eligible children in unsubsidized homes.

Child Welfare Assistance Funds Provided by the Bureau of Indian Affairs (BIA). The BIA has provided a limited amount of discretionary funds -- about \$21 million annually -- to a relatively small number of tribes for use as a "resource of last resort". The program provides only foster care maintenance payments and institutionalized care but has no administration, training or information systems funds connected to them. These funds are also in competition with other programs under the BIA Tribal Priority Allocation category. This means that if there is an urgent need to increase funding for other programs such as road repairs, employment and training services, or emergency burial assistance services, Child Welfare Assistance funds may be subject to reduction. The BIA has no funds specified for use in promoting permanency planning as are available in the Title IV-E Adoption Assistance program.

The BIA funds clearly fall short of need. The total number of substitute care placements subsidized under this program for FY 1996 was 3,400 with approximately 60% to 70% of those children estimated to be Title IV-E eligible.⁶ Distribution patterns of these funds reveals that approximately 90% of the funds go to Navajo Nation and tribes in just six other states (Arizona, New Mexico, Utah, Nevada, North Dakota and South Dakota).⁷ Tribes in California which number 100 (and who do not have IV-E agreements with their state) have not been able to access these limited BIA funds.

Even though the Navajo Nation receives a major portion of the BIA Child Welfare Assistance funds, they still report placing 301 children last year in unsubsidized homes.⁸ This illustrates the inadequacy of the BIA funds.

Unsubsidized Homes. Not wanting to leave children in harmful situations, tribes have had to resort to alternative vehicles for protecting children who must be removed from their homes. A common method is the placement of Indian children in unsubsidized homes. This often requires the good will of a family in the community who will commit their personal resources, time and home to a foster care, legal guardianship, or pre-adoptive placement for a needy child. Even though the commitment is made with love, the vast majority of these families find this event to be stressful and sometimes unworkable after a period of time, especially when considering the numbers of Indian families on tribal lands who live in or close to poverty.⁹

Most tribes will still license the unsubsidized family foster home and provide assistance on foster parenting, even though it often involves shifting scarce child protection funds from one account to another in order to meet emergency and other pressing needs. However, additional services that support the child and foster family which are reimbursable under Title IV-E state programs are not always available, causing additional stress on the foster or pre-adoptive family and putting the placement at risk for disruption.

The lack of Title IV-E funding is also felt at the front end of developing permanency for Indian children. Tribal child welfare programs which are responsible for recruiting potential foster care and adoptive families have difficulties recruiting and maintaining families because they cannot guarantee basic maintenance payments and few support services for the placement. While strong community values and individual generosity often prevail in helping provide temporary homes for needy Indian children, the numbers of homes actually needed often does not meet the need because of limitations on support that can be offered to these families.

Elements of a Tribal Title IV-E Amendment

We recommend an amendment to Title IV-E of the Social Security Act which contains the following elements:

- extend the Title IV-E entitlement to tribal placements in foster and adoptive homes which meet eligibility requirements
- authorize tribal governments to receive direct funding from HHS for administration of the IV-E program
- recognize tribal standards for foster home licensing.
- allow the Secretary flexibility to modify the requirements of the IV-E law for tribes if those requirements are not in the best interests of Indian children

- allow the Secretary to modify IV-E matching requirements in recognition that tribes, unlike states, have not previously received funding to build the type of service delivery systems available to the states, and permit other federal and state funds to be used for any required tribal match

- continue to allow tribal-state IV-E agreements
- develop HHS regulations in partnership with tribes and others with expertise in the child welfare field.

Tribal Administration of Foster Care/Adoption Assistance Program Would be Consistent with Welfare Reform Law and Proposed Adoption Legislation

Our recommendation that the Foster Care and Adoption Assistance Act be amended to provide direct funding to eligible children on Indian reservations and to tribal governments for the administration of the program serves the purposes of the newly enacted welfare reform law and Congressional and Administration interest in adoption legislation.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a state cannot receive Temporary Assistance for Needy Families (TANF) funding unless it operates a foster care/adoption assistance and child support enforcement programs under Titles IV-E and D of the Social Security Act. Congress explicitly recognized the interrelationship between the effort to end dependence on public assistance with the need for a strong child support enforcement program and an effective system for helping our most vulnerable children -- those living in poverty who require temporary or permanent placements outside their homes. Sadly, the federal entitlement statutes concerning foster care and adoption and child support enforcement have been of very little benefit to Indian children living on reservations.

While tribes are eligible to apply to administer TANF under the new welfare reform law, it does not require them to operate foster care/adoption assistance and child support enforcement programs. It would have been disingenuous to have made these requirements, since tribal governments -- unlike state governments -- have never received annual federal funding from the IV-D and IV-E programs. The welfare reform law includes a new provision which we hope will assist tribes in establishing Title IV-D programs, but we know that development of child support enforcement programs will take time.

Providing direct Title IV-E services to children in Indian country also serves the interest as we understand it of Congress and the Clinton Administration in promoting quicker permanent placement of children. While a few tribes have access to IV-E foster care maintenance payments, even fewer have access to funding to any IV-E infrastructure (training, information systems, recruitment of families) needed to operate the complete range of services for intervention and making permanent placements of children. The HHS Adoption 2002 report states that slightly over half of the children in foster care awaiting adoption who are designated as having "special needs" are minority children. These children are considered

harder to adopt. If tribal communities were provided their rightful institutional role under the Title IV-E law, they could be of tremendous assistance in placing Indian and Alaska Native children.

Tribal governments and tribal communities are in the best position to place their children in permanent homes, but they have been thwarted by a federal statute which ignores them. When Indian children have been under the care of tribal programs, as compared to public, private or Bureau of Indian Affairs programs, these children have a shorter length of time in substitute care and are more likely to secure family-based permanency.¹⁰ This last consideration may be the most important in terms of why we should keep Indian children under the care of their tribal communities.

We should now use the opportunity of what apparently will be federal adoption legislation to provide Title IV-E services for Indian children and tribal governments comparable to that provided to other eligible children and to state governments.

¹ The alcoholism mortality rates of Native people is 6.3 times the U.S. White rate and 5.6 times the U.S. national rate. Fetal Alcohol Syndrome (FAS) for Native people in Alaska is five times the national rate; for Indian people in the Aberdeen (Great Plains) area, it is 4 1/2 times the national average; Indian Health Service residential alcohol treatment centers report incidence of child sexual abuse for females that range from 70-90 percent and for males of up to 50 percent. Source: Department of Health and Human Services FY 1998 budget justification for the Indian Health Service.

² In 1981, when several federal block grants were created from existing federal programs, little attention was given to funding for tribes in those block grants. President Reagan, recognizing the disservice done to tribes under the 1981 block grants, proposed in his January 24, 1983 Indian Policy statement, that the laws be amended to provide for direct funding for tribes under federal block grants.

Subsequently, a February 1984 study commissioned by the Department of Health and Human Services, "*Block Grants and the State-Tribal Relationship*", documented the inequitable treatment given to tribes in the development of several federal block grants created in 1981. The report stated:

Congress failed to perceive two things: first, in many cases direct funding to tribes would be nominal, and second that states would be placed in the awkward position of being expected to respond to tribal needs through tribal governments, which do not comprise part of the usual state constituency and states cannot require or enforce accountability. (p. 38)

In addition, the report stated:

While it seems clear that Indians as state citizens are constitutionally entitled to a fair share of state services, this general principle does not address the issue of the delivery system; that is, the degree to which services on the reservation should be delivered by tribal rather than state and municipal governments. This vacuum in federal law and policy is the source of unnecessary complications in the state-tribal relationship when, as here, federal legislation adjusts the delivery system for federally funded services without clearly addressing its impact on the delivery system relationships at the reservation level. (p. 38)

One of the 1981 block grants, the Title XX Social Services Block Grant, provided no funding for tribes, and some other block grants were available to tribes only if a tribe had received funding the previous year from one of the categorical programs included in the block grant. This excluded most tribes.

³ Fiscal year 1997 data on state-tribe Title IV-E agreements compiled by the Children's Bureau under the Department of Health and Human Services, February 24, 1997.

⁴ Since this OIG report, HHS has amended its regulations regarding tribal access to the IV-B programs, and the result has been an increase in tribal IV-B funds.

⁵ In a very small number of situations, Indian children have received IV-E payments without a tribal-state agreement where a tribe has declined to exercise its jurisdiction and the child has been placed through the state system.

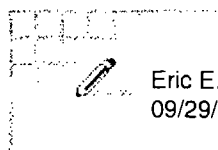
⁶ Data for FY 1996 provided by the Bureau of Indian Affairs, Division of Social Services in Washington, D.C., February, 1997.

⁷ Ibid.

⁸ Interview with Ms. Delores Greyeyes, Director of the Navajo Nation Indian Child Welfare Program, February, 1997.

⁹ Indian poverty in reservation areas is 3.9 times the U.S. average (50.7% vs. 13.1%) (1990 Census). The poverty rate for Indian children in reservation areas is 60.3%, or three times the national average (1990 Census).

¹⁰ See note 7, above.



Eric E. Massey
09/29/99 08:57:44 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: HRC Column 9/29/99

TALKING IT OVER

BY HILLARY RODHAM CLINTON

RELEASE: WEDNESDAY, SEPTEMBER 29, 1999, AND THEREAFTER

For more than 25 years, as an advocate and an attorney, I have worked to address the challenges of foster care and adoption. I've represented foster children and their prospective parents in court, and I've sought changes in laws that discourage adoptions. I've listened to social workers, judges, police officers and parents frustrated by the red tape that so often keeps them from sharing their lives with the children who badly need their love. And I've listened to the children themselves -- children who have spent the precious years of their childhoods feeling alone and unloved, moving from home to home. Since my husband was elected, we have worked together to devise a strategy to reform the foster care system in this country. Giving every child the chance to live in a stable and secure environment -- to have a permanent and loving home -- has been at the heart of our efforts. The first bill my husband signed into law was the Family and Medical Leave Act, which helps new parents, including adoptive parents, carve out the time they need to care for their new children. The President also signed and strengthened the Multiethnic Placement Act, which put an end to racial discrimination in adoption.

We have made adoptions more affordable, putting in place tax credits for new adoptive families. And we're taking steps to use the Internet more effectively to help match waiting children with loving homes. In 1996, we set an ambitious national goal -- to double the number of children adopted annually, from 28,000 to 56,000, by the year 2002. In order to meet this goal, we worked with members of Congress to pass bipartisan legislation that dramatically reduced the amount of time children spend in foster care. Under this bill, for example, no child waits longer than 12 months -- down from 18 months -- before a court considers permanent placement. The Adoption and Safe Families Act of 1997 also removed barriers to adoption, and for the first time, provided financial incentives to encourage states to increase the number of children adopted each year. Last week, we were pleased to receive a report from the Department of Health and Human Services indicating that our strategy -- and these laws -- are working. For the first time since the foster care program was created 20 years ago, the number of adoptions from the system has risen dramatically. In fact, since 1996, the total number of adoptions has risen 29 percent. Last week, the President awarded adoption incentive bonuses, totaling \$20 million, to 35 states -- including Illinois, where placements more than doubled -- for their exceptional achievement. But there's more we need to do. Under current law, foster children who turn 18 are forced to leave the system, without the support they might need to make the transition to independence. With broad bipartisan support, the House of Representatives has passed a bill that would allow these young people to remain on Medicaid until the age of 21, and give them extra help in finishing high school, going to college, and finding work and a place to live. It's time for the Senate to pass a companion bill for the President to sign. Every time I need inspiration for our fight to strengthen and increase adoption in America, I think of Deanna Collins. Four years ago, with her eyes downcast and her shoulders slumped forward, Deanna stood at a podium in the East Room of the White House. In a quiet voice, she told the audience about her dream of living in a place she could call home, with a room of her own, and a family she could love. Not long after that visit, Deanna's dream came true, and it's been my privilege to watch as adoption has transformed her life. With

the love of her parents and the confidence that comes from knowing she will always have a place to call home, she is thriving. A senior in high school, she plans to go to college next year and major in social work. I think of Sue and Hector Badeau, who have adopted 22 children. I think of Virginia Williams who, many years ago, opened her heart and her home to a 3-year-old boy who had been declared unadoptable and was institutionalized by his state. Today, that boy is the mayor of Washington, D.C., Anthony Williams. Finally, I think of Dawn Keane, who with her husband, Steve, adopted two children last May. Last week at the White House, she said, "Families who have adopted know that these children are special gifts from God, and that they enrich our lives in more ways than we could ever have imagined. I know that there are more than 100,000 children in the country still waiting to find families. Our hope is that all of these children can become someone's special gift." That is my hope as well. To find out more about Hillary Rodham Clinton and read her past columns, visit the Creators Syndicate web page at www.creators.com. COPYRIGHT 1999 CREATORS SYNDICATE,

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Message Sent To:

THE WHITE HOUSE ***BULLETIN***

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MEMORANDUM FOR BRUCE REED
THE WHITE HOUSE

SUBJECT: TODAY'S BRIEFING

DATE: FRIDAY, SEPTEMBER 24, 1999

OFF THE WIRES:

- **Russia Drops More Bombs On Chechnya.** Russian jets fired rockets today at targets around the capital of Chechnya, the latest in a wave of air attacks that have raised fears of a full-scale war. The air raids followed attacks yesterday in which Russian planes pounded targets around Grozny in the first major raid on the city since the bloody 1994-96 Chechnya war. Prime Minister Vladimir Putin today called the Russian campaign a war with international terrorists. The Chechen Ministry for Emergencies said today that the strikes have prompted an estimated 300,000 Chechens to flee their homes.
- **UN Tribunal Probing Reports Of Another Grave In Kosovo.** The UN war crimes tribunal is investigating reports that a lead and zinc mine north of Pristina was turned into a mass grave holding possibly hundreds of bodies, a tribunal official said today. A tribunal official said investigations at Trepcia were part of ongoing efforts to look into the dozens of reports coming in everyday of possible mass graves scattered throughout Kosovo.
- **Home Sales Down For Month, Up For Year.** The National Association of Realtors said today that sales of existing single-family homes decreased by 2.8 percent in August to a seasonally adjusted annual rate of 5.25 million units. However, sales are on track for a banner year. In fact, despite August's decrease, association officials said they expect existing homes sales to post another record year in 1999. Last year's record was 4.97 million units.

IN THE WHITE HOUSE AND AROUND TOWN:

- **Clinton, First Lady Announce Adoption Bonus Award.** At the White House this morning, President Clinton and the First Lady announced awards of \$20 million to 35 states that have increased the number of children adopted from the public foster care system, an initiative that was part of the 1997 Adoption and Safe Families Act. Clinton called for additional funds for other states, and awarded \$5.5 million in grants for research into new ways of increasing interstate adoptions of minority children.

Clinton explained the adoption provisions of the 1997 bill, saying, "One of the key recommendations we adopted into law in 1997 was to give states for the first time financial incentives to help children move from foster to adoptive homes. Under the new bonus system, states are entitled to up to \$4,000 or \$6,000, depending on whether the child has special needs, for each adoption above their previous average."

Clinton continued, "Today I have the honor of presenting the first round of these awards worth \$20 million to 35 of our 50 states. The good news is that these states did this, using creative new approaches and exceeding their own high goals." However, Clinton added, "Now, the bad news, if you can call it that, is that even though we believe this would work, we didn't think it would work this well this quickly. And we didn't put enough money in to give all the states all the money to which they're entitled. So, I hope we can rectify that, because I think we all think that we want to give the states the incentives to figure how best to do this."

Clinton also announced \$5.5 million in new grants, saying, "Today I'm also awarding \$5.5 million in adoption opportunity grants to outstanding public and private organizations in 16 of our states to help fund research in new ways of increasing interstate adoptions and adoptions of minority children. Together, these efforts will help to accelerate the remarkable progress we've seen."

First Lady Touts Record On Adoption Issues. Clinton prefaced his remarks by praising the role of his wife Hillary on this issue, saying, "When we were in law school together before we were married, she was talking to me about how messed up the foster care and adoption laws were in the country; how many ridiculous barriers there were." Clinton added, "So I've watched her work on these issues now for almost 30 years. And I am very grateful that one of the many blessings of our time in the White House has been the chance to make a difference on these adoption and foster care issues, and I thank her for making it possible."

The First Lady also touted her record promoting adoption, saying, "For more than 25 years, as an advocate and an attorney...I've represented perspective parents in court. I've represented foster children. I've worked on behalf of changes in legislation. I've listened to the frustrations that social workers and judges and police officers and parents and others feel about the red tape that so often keeps them from sharing their lives with children who badly need their love."

Turning to the Administration's record, she continued, "We've made a lot of progress. We've helped adoptive parents carve out the time they need to care for their new children. The first bill the President signed into law was the Family and Medical Leave Act, which allows new parents – including adoptive parents – to take time off and care for their children without fear of losing their jobs or health insurance."

The First Lady also said, "We've put an end to racial discrimination in adoption. The President signed and strengthened the Multiethnic Placement Act, prohibiting adoption agencies from keeping children of one race from the safe and loving arms of parents of another. We have made adoptions more affordable, putting in place tax credits for new adoptive families. And we're taking steps to use the Internet to help match waiting children with loving homes."

President, First Lady Call For Passage Of Chafee-Rockefeller. Both Clinton and the First Lady called for passage of legislation to reduce the amount of time children spend in foster care. Said Clinton, "Now again let me say I think the big goal we ought to have for this legislative session is to get the Senate to follow the lead of the House and schedule a vote on the Chafee-Rockefeller bill to ensure that the foster children are not cast out in the cold when their time in foster care ends." Clinton added, "I know if we can get it out and get it on the calendar, it will pass with the same overwhelming bipartisan support that we've seen in the House. So I urge all of you to do what you can to make sure that that is a big priority for the Senate, and I will do my part."

Along the same lines, the First Lady remarked, "I'm very happy that the House, under the bipartisan leadership of Representative Nancy Johnson and Representative Ben Cardin, both of whom are with us today, has passed the bill that will allow former foster children to remain on Medicaid until Age 21 and will...give them the extra help they need to finish high school, find work and a place to live. Now I would call on the Senate to take action on the companion bill that is sponsored by Senators Chafee and Rockefeller. There is no reason we cannot pass this bill this year for the good of all of our children. And I hope every one of us here will do everything we can to make sure that the Senate does that, and then we can have, I think, another celebration to sign a bill that will make such a difference in the lives of older children in foster care."

- o **House GOP Leadership Claims Clinton Still Refusing To Comply With Law On Chinese Army Companies Operating In The US.** The entire House GOP leadership has written to President Clinton once again asking him to comply with the law requiring public disclosure of all companies that are connected to the Chinese army doing business in the United States. GOP Policy Committee Chairman Chris Cox said, "The Clinton-Gore administration's failure to obey the law is knowing, willful, and longstanding." Under the law, President Clinton was to have published such a list of companies in the Federal Register by January 15, 1999.

In their September 21 letter, the House GOP leaders said the law requiring the Executive Branch to identify companies connected to the Peoples Liberation Army has been punted around, but never complied with. The GOP leaders wrote, "Your reply to Congress' formal inquiry into your noncompliance was itself delayed by nearly two months. (It is dated September 7, 1999, and we received it a few days later.) Of greater concern is that your reply is wholly inadequate. You state that you have asked the Secretary of Defense to take responsibility for compliance with the law, but he wrote us in August 1999 to say that the Defense Intelligence Agency was not doing this work and that some other executive branch agency would have to be identified. We have heard nothing further from any other agency of the executive branch excusing this violation of Public Law 105-261." The leaders concluded, "We would appreciate not only a more complete reply to our original letter, but also your administration's respect for the law you signed, exemplified by your immediate compliance with it."

- o **Cohen To Visit US Troops In East Timor.** Defense Secretary William Cohen will travel next week to Asia to meet with US troops in Darwin, Australia, who are supporting the UN peacekeeping mission in East Timor. Cohen also will confer with Indonesian President Habibie and his chief military commanders in Jakarta. Cohen is scheduled to depart Washington on Monday, and is also scheduled to visit Bangkok, Singapore and Manila before returning to Washington on Oct. 5.

US Backs Timor Atrocities Probe. The United States and other countries today threw their support behind European demands for an international inquiry into atrocities committed in East Timor. The draft resolution was made by the European Union and their East European allies at an emergency session of the UN Human Rights Commission, called at the request of Portugal, East Timor's former colonial power. However, Indonesia rejects the proposal, saying an international inquiry would only make the situation worse and make reconciliation more difficult. Instead, it wants to send its own fact-finding mission to East Timor.

- o **Another Front Opened In Lobbying War Against Health Care Lawsuits.** The Coalition for Patient Choice sent a letter to Republican members of the House today asking them to oppose both the Norwood-Dingell and Coburn-Shadegg bills on the grounds that they fail to distinguish between HMO and fee-for-service plans. Members of the Coalition include the American Association of Physicians and Surgeons, the 60 Plus Association, American Small Business Association, Americans for Tax Reform, Council for Affordable Health Insurance, the Small Business Survival Committee, and the National Taxpayers Union.

In their letter, the Coalition states that Coburn-Shadegg "does not distinguish between HMOs and fee-for-service plans, but there is a huge distinction between the two. HMOs arrange for and provide for the actual delivery of health care services by controlling doctors and their behavior. Fee-for-service plans simply reimburse policyholders for medical services and do not arrange or provide medical care. Reps. Coburn and Shadegg did not make this distinction when they wrote their bill, and as a result, HR 2824 has devastating implications on fee-for-service plans where patients choose their own doctor."

- o **House Leaders Tout Clean Audit Of House Books.** At a press conference this morning, Speaker Dennis Hastert, Congressman John Boehner (R-OH) and House Administration Committee Chairman Bill Thomas (R-CA) touted an audit of House finances which, according to a statement, showed "the US House of Representatives has received its first-ever 'clean' audit of its internal finances." Said Boehner, "This is solid evidence that some things truly have changed in Congress after four years of new management ... There's still a lot of work to be done. But we've reached a new milestone in the drive to change the way the House works."
- o **Waters Clarifies Position On CRA.** At yesterday's financial modernization conference there was an exchange between Senate Banking Committee Chairman Phil Gramm and Congresswoman Maxine Waters on CRA. Senator Gramm offered to come over to Waters' office in hopes of working out some kind of a deal. Ms. Waters respectfully declined, but many were confused as to what she wanted to

happen on CRA, with some believing she was actually asking for all CRA provisions to be taken out of the bill.

The Bulletin contacted Rep. Waters this morning to clarify her position. Waters said, "My statement yesterday was designed to say to Gramm this bill should not be used by you to dismantle CRA and we are not using it to try and expand CRA. We want CRA to be maintained and we want it be enforced, and that's all. We are not trying to take it to the securities companies, or to the insurance companies, and this bill doesn't do that. You don't try and do anything, we are not trying to do anything, really this bill is CRA neutral. It is keeping things as they are. The thing about it is this: They may see something in the bill they think is expansion and we may have two different definitions about what is expansion. Right now CRA is enforced for mergers. Whether it is a merger or an acquisition, we want CRA to be maintained as it is and to be enforced. I want to be clear about that."

- o **Roukema Offers Compromise On Op Sub.** Yesterday, during the financial services modernization conference, Congresswoman Roukema distributed a letter outlining an "Operating Subsidiary Compromise." According to her letter, "I would like to offer a possible alternative on the operating subsidiary for discussion purposes should the Federal Reserve/Treasury discussions not produce an agreement" on the matter. The Roukema alternative suggested the following:
 - Drop merchant banking from the operating subsidiary.
 - Impose an aggregate investment cap on operating subsidiaries.
 - Put the FDIC in charge of operating subsidiaries.
- o **Boehner Wins Appeal On McDermott Lawsuit.** Rep. John Boehner has won an appeal he filed regarding his lawsuit against Rep. Jim McDermott over McDermott's handling of an illegally recorded phone call involving Boehner and then-Speaker Newt Gingrich. Boehner's original suit against McDermott, asking that he be held in violation of the Electronic Communications Privacy Act, was thrown out by a Federal judge. Boehner appealed the Federal judge's decision and won a 2-1 decision this morning. The effect of the ruling will be to force a rehearing on Boehner's original complaint.
- o **FCC, FTC Take A Look At Dial-Around Long Distance Services.** Trends in the marketing of long-distance dial-around services will be the subject of a joint FTC-FCC public forum that will be held November 4. The programs, which promise low rates for users who dial around their designated long distance carrier by entering a "10-10" number, have proliferated as long-distance competition has increased. The forum is likely to focus on aspects of the advertised services that are misleading.

THE ROAD AHEAD:

Governor Thompson Speaks Out On Future Of Welfare Reform.

This morning, the Bulletin invites Wisconsin's **Governor Tommy Thompson** to discuss what he thinks the future of welfare reform is in the US, and relations between the Governors and the GOP Congress.

BULLETIN: What is the future of welfare reform?

THOMPSON: The future of welfare reform is absolutely excellent. The next step, of course, is how do we now follow-up and keep people who we have placed in jobs to continue them working and also how do we get them trained so they can advance? And also to get prepared for any economic down turns. That is truly the next step. In order to make welfare work, you have to provide for health care, transportation, training and day care. Once you have done that, which we have done in Wisconsin, and a lot of states have, you are able to move people on through the welfare rolls and you have to have strong economic conditions. The next step is to train them and keep them moving up the economic ladders.

BULLETIN: Have you embarked on a new system for day care and health care in Wisconsin?

THOMPSON: Yes, the day care is still caught up in the budget and we have not passed our budget yet. So we will have to wait for that. We have got a new medical system set up, the first of its kind in the country, and that's Badger Care. Badger Care allows for the working poor families, not just kids, to buy into our system. It has been just fantastically successful. It allows for working families that have children to buy into

our Medicaid program up to 185 percent of poverty. It has been tremendously successful. Especially for people who have come off of welfare and are working, but are not making wages or not in a position where their fringe benefits include health care. This allows them to purchase health care at a wage they can support because it is on a sliding scale.

BULLETIN: Could you see something like that working on the federal level?

THOMPSON: It could work on the federal level. I think it is going to become a model just like our W2 Welfare Program in Wisconsin has become a model for the country. Badger Care will become a model for the country in a very short time because it works.

BULLETIN: As an advisor to Governor Bush, what next steps would you recommend to him to adopt as his welfare policy to keep reform successful?

THOMPSON: What I would advise Governor Bush is something he already knows. Block grant some other programs to the states and allow us to have the flexibility, as well as the responsibility, to make those plans work. Whether it be in education, whether it be in health care, whether it be in job training – I was really hoping job training because that is the next step on welfare reform. To be able to block grant more of those funds and flexibility to the states. You will find that the states can move much more rapidly than the federal government. The states can try things and then choose from what is working and not working and take the best and adapt it to your state and then we can refer back to the federal government. That is what I would certainly be advising George W. Bush to be advocating and I think he will be.

BULLETIN: The Republicans in Congress say the states have a lot of federal dollars they are not using. Congress would like it back. What if anything are the Governors going to do to ease the federal budget crunch?

THOMPSON: We are living up to our commitment. When I was Chairman of the National Governors Organization we sat down with the Leadership in Congress and hammered out a plan. It was a quid pro quo – the states and the federal government. The federal government gave us the block grant, gave us funding for five years and told us to run the programs. We have done that, now they have seen how successful we have been. Now they want to renege on the agreement that we have and that is not right. That is not the way it should be. What I think they need to do is the same as I told you about George Bush. Block grant some other money and give us the flexibility. If they would block grant some programs, throw out the federal agency, and give that discretion to the state, they could reduce the amount of federal dollars and solve some of their federal problems by block granting the money to us. ... In fact, every single congressman and senator, all the way up to the President of the United States, brags about how they were part of the welfare reform movement that was so successful. My retort is, instead of taking back a successful program from the states and break the agreement they had with us, do more of that. Do more block grants and then level fund it, or reduce it, but give us the flexibility to run our own programs. We can get by with less and have new programs.

BULLETIN: What lessons have Republican governors learned that you would pass on to your Republican counterparts in Congress? What would you recommend they do differently?

THOMPSON: They have done it. They passed a tax bill. The President vetoed it. That shows the difference. They should pass a bill fixing up Social Security, pass it, let the President veto it. Pass the bill on Medicare and let the President veto it. Just show the difference. That is how a Republican Governor would do it. See the problem, seize the opportunity, pass it and if the President vetoes it that is his problem.

LAST LAUGHS:

Late Night Political Humor.

Jay Leno: "Shania Twain won entertainer of the year at last night's Country Music Awards. Afterwards, she got a phone call from President Clinton inviting her to the White House. She said, 'Well, thank you, for congratulating me on the award.' Clinton said, 'You won an award?'"

Jay Leno: "Today, President Clinton today vetoed a massive Republican tax cut, off the books, gone. However, he did approve a tax credit for anyone buying a home in the New York area to establish residency to run for the Senate."

Jay Leno: "To give you an idea how popular NBC's new series 'West Wing' is, Al Gore is now trailing Martin Sheen in the polls."

Jay Leno: "The 'West Wing,' actually, is pretty good. It's all about, you know, the inner workings of the White House. All the behind-the-scenes stuff. I don't know if the casting was that good. You see who they got to play Monica Lewinsky? They got Norm from 'Cheers.'"

David Letterman: "Hillary Clinton, by the way, is going to be our next senator. ... So now, she goes to a high school, a New York City high school, and spent the day there last week, and now people are saying she did it for political reasons. I'm here to tell you, no. No, that was not for political reasons. Staying married to Clinton, that's for political reasons."

Bill Maher: "President Clinton vetoed that big tax cut. ... There was a big \$792 billion tax cut. He had promised to veto it. He did it today. He said it was too big and too bloated - not that that has stopped him before."

Bill Maher: "The government, the Clinton Administration, also filed a huge lawsuit against the tobacco companies. And, right after that, Joe Lockhart, Clinton's spokesman was asked, 'Hey, you filed this lawsuit against the tobacco company, but doesn't the President use cigars?' And Joe Lockhart had to admit that the President still does. And poor Monica, not to just get dumped by him, but then to find out during a press conference that he's still seeing other women."

Craig Kilborn: "After the speech [at the UN], Clinton was put on permanent display in the Hall of Lecherous Leaders."

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September 23, 1999

ADOPTION EVENT

DATE: September 24, 1999
LOCATION: Presidential Hall, OEOB 450
BRIEFING TIME: 9:15am – 9:30am
EVENT TIME: 9:35am – 10:35am
FROM: Bruce Reed, Mary Beth Cahill

I. PURPOSE

To announce significant increases in the national rate of adoption, award the first adoption bonus awards to 35 states, as well as Adoption Opportunity grants, and receive an HHS national progress report on adoption.

II. BACKGROUND

Today, you and the First Lady will announce bonus awards of \$20 million to 35 states that have increased the number of children adopted from the public foster care system, and \$5.5 million in grants to innovative programs that remove barriers to adoption. You will also unveil a national progress report on adoption that documents the success of the Administration's strategy. From 1996 to 1998, the number of adoptions nationwide rose 29 percent from 28,000 to 36,000 – and is on a pace to meet your goal of 56,000 adoptions in 2002. This is the first significant increase in adoptions since the national foster care program was established nearly 20 years ago.

Incentive Awards Succeed In Increasing Adoptions. In the Administration's Adoption 2002 proposal and the adoption law of 1997, you created the first-ever financial incentive for states to increase adoptions of children from the foster care system. Today, you will release \$20 million in bonus awards to 35 states that in 1998 had exceeded their average adoption rate from 1995-1997. The \$20 million in bonuses provide for up to \$4,000 per adopted child, and \$6,000 for each child with special needs. In fact, the states' performance in 1998 entitled them to an additional \$22.5 million.

Innovative Grants Reduce Barriers To Adoption. You will also announce \$5.5 million in new awards under the Adoption Opportunities program. This program provides grants to public and private organizations to eliminate barriers to adoption, particularly for children with special needs. This year's grants reward a variety of initiatives, including efforts to increase adoptions of minority children, targeted field research, and awards for collaborative planning to increase adoptions across jurisdictional

lines.

Report Shows Clinton Administration Strategy Is Working. Since taking office, you have championed efforts to make foster care work better, to find and assist adoptive families, and to break down barriers to adoption. Today you will receive a progress report from the Department of Health and Human Services that documents the effectiveness of the Administration's strategy.

Reforming the Child Welfare System. In 1997, you signed the Adoption and Safe Families Act. This landmark law was based largely on recommendations from the Administration's Adoption 2002 report, which you requested by executive memorandum in order to meet your goal of doubling adoptions by 2002. The law expedited permanent placement decisions for children, ensured health insurance coverage for all special-needs children in subsidized adoptions, and created the bonus awards released today.

- **Making Adoption Affordable for Families.** The Small Business Job Protection Act of 1996, you signed in 1996, provides a \$5,000 tax credit to families adopting children, and a \$6,000 tax credit for families adopting children with special needs. This provision helps middle class families for whom adoption – particularly of children with special needs – might have been prohibitively expensive.

- **Giving States More Flexibility and Support.** The Administration has granted waivers to 20 states and the District of Columbia to test innovative strategies for improving child welfare systems. In addition, it has secured new funds to support state implementation of the 1997 law and has, through the Adoption Opportunities program, supported local initiatives to promote adoption and provide post-adoptive services.

- **Using the Internet to Make Adoption Easier.** In 1998, you directed HHS to develop Internet tools to link children in foster care more quickly to possible adoptive families. Secretary Shalala reported that HHS will launch a national web site by September 2001 to break down geographic barriers to adoption.

- **Removing Racial and Ethnic Barriers to Adoption.** New inter-ethnic adoption provisions, passed as a part of the Small Business Job Protection Act of 1996, help ensure that the adoption process is free of delays and discriminatory practices driven by race, culture and ethnicity. They do so by strengthening the Multi-Ethnic Placement Act which you signed in 1994.

- **Providing Supports for Child Protection and Adoption.** The Family and Medical Leave Act, which you signed in 1993, enables working parents to take time off to adopt a child without losing their jobs or health insurance coverage. The 1996 welfare reform law you signed also maintains child protection and adoption guarantees.

Now Is The Time To Take Important Next Steps. To follow through on this record of achievement, today you and the First Lady will urge Congress to provide new support for

young people leaving foster care. Under the current system, federal financial assistance for young people in foster care ends just as they are making the critical transition to independence. Your FY 2000 budget request increases funding by nearly \$300 million to help these youth secure health care, life skills training, and educational opportunities. With the Administration's strong support, the House has already passed bipartisan legislation to address these needs. Today you will urge the Senate to take prompt action on the companion measure and to safeguard the interests of vulnerable young people leaving foster care.

III. PARTICIPANTS

Briefing Participants:

The First Lady
Bruce Reed
Melanne Verveer
Mary Beth Cahill
Nicole Rabner
Lowell Weiss

Stage Participants:

The Manis Family

John and Brenda Manis recently adopted 3-year-old Mackenzie, and have been foster parents for 10 years. They have two biological children, Christopher, age 19, and Lindsay, age 16.

The Brown Family

Adrienne and Gilbert Brown adopted two children, Christopher, age 14, and Rodney, age 11, in 1994. They are also currently in the process of finalizing the adoption of Joshua, age 12.

Program Participants:

YOU

The First Lady

The Keane Family

Dawn and Steven Keane finalized their adoption of siblings Sarah, age, 8, and Brian, age 11, in May 1999. They located Sarah and Brian through an Internet site sponsored by the National Adoption Center in Philadelphia. They have one biological son, Sean.

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- YOU and the First Lady are announced, accompanied by the Keane family, onto the stage.

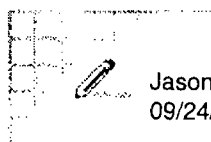
- The First Lady makes remarks and introduces Dawn Keane.
- Dawn Keane makes remarks and introduces Sean, Brian, and Sarah Keane.
- Sean, Brian, and Sarah Keane introduce **YOU**.
- **YOU** make remarks, work a ropeline, and depart.

VI. REMARKS

To be provided by speechwriting.

VI. ATTACHMENTS

- Chart of state-by-state adoption bonuses
- HHS Adoption Progress Report



Jason H. Schechter
09/24/99 09:36:47 AM

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**PRESIDENT CLINTON ANNOUNCES FIRST ADOPTION BONUS AWARDS TO STATES
AND UNVEILS REPORT THAT SHOWS ADMINISTRATION STRATEGY IS WORKING**
September 24, 1999

Today, the President and First Lady will announce bonus awards of \$20 million to 35 states that have increased the number of children adopted from the public foster care system. These bonuses, awarded for the first time today, were first proposed by President Clinton's Adoption 2002 initiative and included in the Adoption and Safe Families Act of 1997.

The President also will announce \$5.5 million in grants to innovative programs that remove barriers to adoption, and he unveiled a national progress report on adoption that documents the success of the Administration's strategy. From 1996 to 1998, the number of adoptions nationwide rose 29 percent - from 28,000 to 36,000 - and is on a pace to meet the President's goal of 56,000 adoptions in 2002. This is the first significant increase in adoptions since the national foster care program was established nearly 20 years ago.

INCENTIVE AWARDS SUCCEED IN INCREASING ADOPTIONS. In the Administration's Adoption 2002 proposal and the adoption law of 1997, the President created the first-ever financial incentive for states to increase adoptions of children from the foster care system. Today, the President will release \$20 million in bonus awards to 35 states that in 1998 exceeded their average adoption rate from 1995 to 1997. The \$20 million in bonuses provide for up to \$4,000 per adopted child, and \$6,000 for each child with special needs. In fact, the states' performance in 1998 was so strong that it would have entitled them, under the law, to an additional \$22.5 million.

INNOVATIVE GRANTS REDUCE BARRIERS TO ADOPTION. The President today also will announce \$5.5 million in new awards under the Adoption Opportunities program. This program provides grants to public and private organizations to eliminate barriers to adoption, particularly for children with special needs. This year's grants reward a variety of initiatives, including efforts to increase adoptions of minority children, targeted field research, and awards for collaborative planning to increase adoptions across jurisdictional lines.

REPORT SHOWS CLINTON ADMINISTRATION STRATEGY IS WORKING. Since taking office, the President has championed efforts to make foster care work better, to find and assist adoptive families, and to break down barriers to adoption. Today, the President will receive a progress report

from the Department of Health and Human Services that documents the effectiveness of the Administration's strategy.

- **Reforming the Child Welfare System.** In 1997, the President signed the Adoption and Safe Families Act. This landmark law was based largely on recommendations from the Administration's Adoption 2002 report, which the President requested by executive memorandum in order to meet his goal of doubling adoptions by 2002. The law expedited permanent placement decisions for children, ensured health insurance coverage for all special-needs children in subsidized adoptions, and created the bonus awards released today.
- **Making Adoption Affordable for Families.** The Small Business Job Protection Act of 1996, signed by the President in 1996, provides a \$5,000 tax credit to families adopting children and a \$6,000 tax credit for families adopting children with special needs. This provision helps middle class families for whom adoption - particularly of children with special needs - might have been prohibitively expensive.
- **Giving States More Flexibility and Support.** The Administration has granted waivers to 20 states and the District of Columbia to test innovative strategies for improving child welfare systems. In addition, it has secured new funds to support state implementation of the 1997 law and has, through the Adoption Opportunities program, supported local initiatives to promote adoption and provide post-adoptive services.
- **Using the Internet to Make Adoption Easier.** In 1998, the President directed HHS to develop Internet tools to link children in foster care more quickly to possible adoptive families. Secretary Shalala reported that HHS will launch a national web site by September 2001 to break down geographic barriers to adoption.
- **Removing Racial and Ethnic Barriers to Adoption.** New inter-ethnic adoption provisions, passed as a part of the Small Business Job Protection Act of 1996, help ensure that the adoption process is free of delays and discriminatory practices driven by race, culture and ethnicity. These provisions strengthened the Multi-Ethnic Placement Act, which the President signed in 1994.
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NOW IS THE TIME TO TAKE IMPORTANT NEXT STEPS. To follow through on this record of achievement, the President and First Lady today will urge Congress to provide new support for young people leaving foster care. Under the current system, federal financial assistance for young people in foster care ends just as they are making the critical transition to independence. The President's FY 2000 budget request increases funding by nearly \$300 million to help these youth secure health care, life skills training, and educational opportunities. With the Administration's strong support, the House has already passed bipartisan legislation to address these needs. The President today urged the Senate to take prompt action on the companion measure and to safeguard the interests of vulnerable young people leaving foster care.

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FY 1998 ADOPTION INCENTIVE BONUSES

State	3 Year Adoption Average (FY 95-97)	FY 98 Adoptions	% Increase	Bonus
Arkansas	138	251	82%	\$280,320
California	3,287	3,958	20%	\$1,841,837
Colorado	417	560	34%	\$419,540
Connecticut	207	229	11%	\$41,390
Florida	987	1,549	57%	\$1,290,603
Georgia	493	672	36%	\$449,642
Hawaii	85	297	249%	\$518,311
Illinois	2,200	4,656	112%	\$6,869,733
Indiana	495	774	56%	\$842,843
Iowa	350	517	48%	\$371,566
Maine	108	112	4%	\$11,288
Maryland	342	420	23%	\$317,947
Massachusetts	1,116	1,137	2%	\$39,508
Michigan	1,905	2,254	18%	\$942,554
Minnesota	258	427	66%	\$480,684
Mississippi	114	169	48%	\$187,194
Missouri	557	616	11%	\$110,999
Montana	115	144	25%	\$54,559
New Hampshire	45	50	11%	\$9,407
New Jersey	621	755	22%	\$409,193
New Mexico	147	197	34%	\$94,067
New York	4,716	4,822	2%	\$199,423
North Dakota	47	83	77%	\$67,728
Oklahoma	338	456	35%	\$280,320
Oregon	445	665	49%	\$586,980
Pennsylvania	1,224	1,494	22%	\$592,624
South Carolina	256	465	82%	\$500,438
South Dakota	56	58	4%	\$3,763
Texas	880	1,365	55%	\$1,350,806
Utah	225	250	11%	\$47,034
Vermont	75	116	55%	\$100,652
Washington	607	759	25%	\$291,609
West Virginia	182	211	16%	\$60,203
Wisconsin	467	589	26%	\$301,015
Wyoming	15	30	100%	\$28,220

Source: HHS Administration for Children and Families

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same way to have + same as state plant

Elmer Gribben
207-423-1868

+ Pine Tree
Signal

1002-2665 (th)

What are laws saying and who are?
How many are saying what?
When state removes child from custody
how long do they have to find placement?
must it be in the state?

along with 207-423-1868

→ 1993 - neglect + mother, plan is to remove
judges

2000 - steps taken to remove from
room for her for the day
Sally

Board member
Dana Crutcher

June

"at the time
placement"

Dept of Health + Human Services
Child + Family Services

- Symon → "best interest + he checked"
revised edits for pen
12/12/00 - pen plan

Adoption & Foster Care
file: Mame

Common
Uncommon

Full Highlighted Search Result

Director
Bureau of Child Welfare

Query Foster Care and Kinship on document CHAPTER 1061 CHAPTER 1071

Margaret
Simpson

You can navigate between the hits using the "<<" and ">>" tags around a hit. Clicking "<<" takes you to the previous hit, clicking ">>" takes you to the next hit.

Go to the first Foster Care and Kinship

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New Query

CHAPTER 1061 CHAPTER 1071 CHILD AND FAMILY SERVICES AND CHILD PROTECTION ACT SUBCHAPTER I GENERAL PROVISIONS 22 § 4001. Title This chapter may be cited as the "Child and Family Services and Child Protection Act." [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4002. Definitions As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1979, c. 733, § 18 (new).] 1. Abuse or neglect. "Abuse or neglect" means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child. [1985, c. 739, § 1 (amd).] 1-A. Abandonment. "Abandonment" means any conduct on the part of the parent showing an intent to forego parental duties or relinquish parental claims. The intent may be evidenced by: A. Failure, for a period of at least 6 months, to communicate meaningfully with the child; [1995, c. 481, § 1 (amd).] B. Failure, for a period of at least 6 months, to maintain regular visitation with the child; [1995, c. 481, § 1 (amd).] C. Failure to participate in any plan or program designed to reunite the parent with the child; [1983, c. 184, § 1 (new).] D. Deserting the child without affording means of identifying the child and his parent or custodian; [1983, c. 184, § 1 (new).] E. Failure to respond to notice of child protective proceedings; or [1983, c. 184, § 1 (new).] F. Any other conduct indicating an intent to forego parental duties or relinquish parental claims. [1983, c. 184, § 1 (new).] [1995, c. 481, § 1 (amd).] 1-B. Aggravating factor. "Aggravating factor" means any of the following circumstances with regard to the parent. A. The parent has subjected the child to aggravated circumstances including, but not limited to, the following: (1) Rape, gross sexual misconduct, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, abandonment, torture, chronic abuse or any other treatment that is heinous or abhorrent to society; or (2) Refusal for 6 months to comply with treatment required in a reunification plan. [1997, c. 715, Pt. B, § 1 (new).] B. The parent has been convicted of any of the following crimes and the victim of the crime was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent: (1) Murder; (2) Felony murder; (3) Manslaughter; (4) Aiding, conspiring or soliciting murder or manslaughter; (5) Felony assault that results in serious bodily injury; or (6) Any comparable crime in another jurisdiction. [1997, c. 715, Pt. B, § 1 (new).] C. The parental rights of the parent to a sibling have been terminated involuntarily. [1997, c. 715, Pt. B, § 1 (new).] D. The parent has abandoned the child. [1997, c. 715, Pt. B, § 1 (new).] [1997, c. 715, Pt. B, § 1 (new).] 2. Child. "Child" means any person who is less than 18 years of age. [1979, c. 733, § 18 (new).] 3. Child protection proceeding. "Child protection proceeding" means a proceeding on a child protection petition under subchapter IV, a subsequent proceeding to review or modify a case disposition under section 4038, an appeal under section 4006, a proceeding on a termination petition under subchapter VI, or a proceeding on a medical treatment petition under subchapter VIII. [1979, c. 733, § 18 (new).] 3-A. Child Welfare Services Ombudsman. "Child Welfare Services Ombudsman" means a public official appointed to receive and investigate citizens' complaints against state agencies which provide child welfare services and which

may be infringing on the rights of individuals and, when deemed necessary, propose remedial action. [1987, c. 511, Pt. A, §2 (new).] 4. Custodial parent. "Custodial parent" means a parent with custody. [1979, c. 733, §18 (new).] 5. Custodian. "Custodian" means the person who has legal custody and power over the person of a child. [1979, c. 733, §18 (new).] 5-A. Foster parent. "Foster parent" means a person whose home is licensed by the department as a family foster home as defined in section 8101, subsection 3 and with whom the child lives pursuant to a court order or agreement with the department. [1997, c. 715, Pt. B, §2 (new).] 6. Jeopardy to health or welfare or jeopardy. "Jeopardy to health or welfare" or "jeopardy" means serious abuse or neglect, as evidenced by: A. Serious harm or threat of serious harm; [1979, c. 733, §18 (new).] B. Deprivation of adequate food, clothing, shelter, supervision or care, including health care when that deprivation causes a threat of serious harm; [1979, c. 733, §18 (new).] C. Abandonment of the child or absence of any person responsible for the child, which creates a threat of serious harm; or [1983, c. 184, §2 (amd).] D. The end of voluntary placement, when the imminent return of the child to his custodian causes a threat of serious harm. [1979, c. 733, §18 (new).] [1983, c. 184, §2 (amd).] 6-A. Licensed mental health professional. "Licensed mental health professional" means a psychiatrist, licensed psychologist, licensed clinical social worker or certified social worker. [1985, c. 495, §16 (new).] 7. Parent. "Parent" means a natural or adoptive parent, unless parental rights have been terminated. [1979, c. 733, §18 (new).] 7-A. Permanent plan. "Permanent plan" means a plan designed to provide long-term stability for a child, which includes, but need not be limited to: A. Reunification of the child with his family unless reunification has been determined to be inappropriate; [1985, c. 739, §2 (new).] B. Termination of parental rights for the purposes of adoption; [1985, c. 739, §2 (new).] C. Custody to an appropriate person; [1985, c. 739, §2 (new).] D. Long-term foster care as defined in section 4064, subsection 1; [1985, c. 739, §2 (new).] E. Continued care as provided for in section 4061, subsection 1; and [1985, c. 739, §2 (new).] F. Emancipation of the child, if the requirements of Title 15, section 3506-A, are met. [1987, c. 769, Pt. A, §77 (amd).] [1987, c. 769, Pt. A, §77 (amd).] 8. Person. "Person" means an individual, corporation, facility, institution or agency, public or private. [1979, c. 733, §18 (new).] 9. Person responsible for the child. "Person responsible for the child" means a person with responsibility for a child's health or welfare, whether in the child's home or another home or a facility which, as part of its function, provides for care of the child. It includes the child's custodian. [1979, c. 733, §18 (new).] 9-A. Preadoptive parent. "Preadoptive parent" means a person who has entered into a preadoption agreement with the department with respect to the child. [1997, c. 715, Pt. B, §3 (new).] 9-B. Relative providing care. "Relative providing care" means the biological or adoptive parent of the child's biological or adoptive parent, or the biological or adoptive sister, brother, aunt, uncle or cousin of the child with whom the child lives and who has taken responsibility for the child. [1997, c. 715, Pt. B, §3 (new).] 9-C. Removal of the child from home. "Removal of the child from home" means that the department or a court has taken a child out of the home of the parent, legal guardian or custodian without the permission of the parent or legal guardian. [1997, c. 715, Pt. B, §3 (new).] 10. Serious harm. "Serious harm" means: A. Serious injury; [1979, c. 733, §18 (new).] B. Serious mental or emotional injury or impairment which now or in the future is likely to be evidenced by serious mental, behavioral or personality disorder, including severe anxiety, depression or withdrawal, untoward aggressive behavior, seriously delayed development or similar serious dysfunctional behavior; or [1985, c. 739, §3 (amd).] C. Sexual abuse or exploitation. [1979, c. 733, §18 (new).] [1985, c. 739, §3 (amd).] 11. Serious injury. "Serious injury" means serious physical injury or impairment. [1979, c. 733, §18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 184, § 1,2 (AMD). 1985, c. 495, § 16 (AMD). 1985, c. 739, § 1-3 (AMD). 1987, c. 511, § A2 (AMD). 1987, c. 769, § A77 (AMD). 1995, c. 481, § 1 (AMD). 1997, c. 715, § B1-3 (AMD). 22 § 4003. Purposes Recognizing that the health and safety of children must be of paramount concern and that the right to family integrity is limited by the right of children to be protected from abuse and neglect and recognizing also that uncertainty and instability are possible in extended foster home or institutional living, it is the intent of the Legislature that this chapter: [1997, c. 715, Pt. B, §4 (amd).] 1. Authorization. Authorize the department to protect and assist abused and neglected children, children in circumstances which present a substantial risk of abuse and neglect, and their families; [1979, c. 733, § 18 (new).] 2. Removal from parental custody. Provide that children will be taken from the custody of their parents only where failure to do so would jeopardize their health or welfare; [1979, c. 733, § 18 (new).] 3. Reunification as a priority. Give family rehabilitation and reunification priority as a means for protecting the welfare of children, but prevent needless delay for permanent plans for children when rehabilitation and reunification is not possible; and [1985, c. 739, § 4 (amd).] 4. Permanent plans for care and custody. Promote the early

establishment of permanent plans for the care and custody of children who cannot be returned to their family. It is the intent of the Legislature that the department reduce the number of children receiving assistance under the United States Social Security Act, Title IV-E, who have been in **<< foster care >>** more than 24 months, by 10% each year beginning with the federal fiscal year that starts on October 1, 1983. [1981, c. 698, § 96 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 9 (AMD). 1981, c. 698, § 96 (AMD). 1985, c. 739, § 4 (AMD). 1997, c. 715, § B4 (AMD). 22 § 4004.

Authorizations 1. General. The department may take appropriate action, consistent with available funding, that will help achieve the goals of section 4003 and subchapter XI-A, including: A. Developing and providing services which: (1) Support and reinforce parental care of children; (2) Supplement that care; and (3) When necessary, substitute for parental care of children; [1979, c. 733, §18 (new).] B. Encouraging the voluntary use of these and other services by families and children who may need them; [1979, c. 733, §18 (new).] C. Cooperating and coordinating with other agencies, facilities or persons providing related services to families and children; [1993, c. 294, §1 (amd).] D. Establishing and maintaining a Child Protective Services Contingency Fund to provide temporary assistance to families to help them provide proper care for their children; and [1993, c. 294, §1 (amd).] E. Establishing a child death and serious injury review panel for reviewing deaths and serious injuries to children. The panel consists of the following members: the Chief Medical Examiner, a pediatrician, a public health nurse, forensic and community mental health clinicians, law enforcement officers, departmental child welfare staff, district attorneys and criminal or civil assistant attorneys general. The purpose of the panel is to recommend to state and local agencies methods of improving the child protection system, including modifications of statutes, rules, policies and procedures. [1993, c. 294, §2 (new).] [1993, c. 294, §§1, 2 (amd).] 2. Duties. The department shall act to protect abused and neglected children and children in circumstances which present a substantial risk of abuse and neglect, to prevent further abuse and neglect, to enhance the welfare of these children and their families and to preserve family life wherever possible. The department shall: A. Receive reports of abuse and neglect; [1979, c. 733, §18 (new).] B. Promptly investigate all abuse and neglect cases coming to its attention or in the case of out-of-home abuse and neglect investigations, the department shall act in accordance with subchapter XI-A; [1991, c. 824, Pt. A, §45 (amd).] C. Determine the degree of harm or threatened harm to each child in each case; and [1979, c. 733, §18 (new).] D. Take appropriate action to further the purposes of this chapter. [1979, c. 733, §18 (new).] [1991, c. 824, Pt. A, §45 (amd).] 3. Objection of parent. Except as specifically authorized by law, no person may take charge of a child over the objection of his parent or custodian. [1979, c. 733, §18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1987, c. 744, § 1,2 (AMD). 1991, c. 824, § A44,45 (AMD). 1993, c. 294, § 1,2 (AMD). 22 § 4004-A. Voluntary agreements 1. Agreement authorized. If the following conditions are met, the department and a custodian may enter into a mutual agreement in which the custodian retains custody of the child and the department agrees to provide services to the child. A. The department finds that staying in the custodian's home would be detrimental to the welfare of the child. [1993, c. 724, §1 (new).] B. The department finds that, absent a mutual agreement, the child is at risk of entering the child protection system or the juvenile justice system. [1993, c. 724, §1 (new).] [1993, c. 724, §1 (new).] 2. Agreement requirements. An agreement entered into pursuant to subsection 1 must meet the following requirements. A. The agreement may not exceed 180 days unless, within the 180 days, the District Court has found that returning to the custodian's home would be detrimental to the welfare of the child. If the court has made that determination, the agreement may continue but must be reviewed by the court no more than 18 months after commencement of the agreement and at least every 2 years following the 18-month review. [1993, c. 724, §1 (new).] B. The agreement must specify the legal status of the child and the rights and obligations of the custodian, the child, the department and any other parties to the agreement. [1993, c. 724, §1 (new).] C. If the custodian is able to contribute resources to the care of the child, that contribution must be specified in the agreement. Resources include, but are not limited to, insurance coverage and disposable income. [1993, c. 724, §1 (new).] D. The agreement must be approved by the commissioner or the commissioner's designee. [1993, c. 724, §1 (new).] [1993, c. 724, §1 (new).] 3. Additional parties. The Department of Corrections, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Education, the Office of Substance Abuse and any other appropriate state agency may be additional parties to the agreement. [1993, c. 724, §1 (new); 1995, c. 560, Pt. K, §82 (amd); §83 (aff).] 4. Section 4022 not affected. This section does not apply to agreements entered into under section 4022. [1993, c. 724, §1 (new).] 5. Rules. The department may adopt rules to implement this section. [1993, c. 724, §1 (new).] Section History: 1993, c. 724, § 1 (NEW). 1995, c. 560, § K82 (AMD). 1995, c. 560, § K83

(AFF). 22 § 4005. Parties' rights to representation; legal counsel 1. Child; guardian ad litem. The following provisions shall govern guardians ad litem. The term guardian ad litem is inclusive of lay court appointed special advocates under Title 4, chapter 31. A. The court, in every child protection proceeding except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders, shall appoint a guardian ad litem for the child. The guardian ad litem's reasonable costs and expenses must be paid by the District Court. The appointment must be made as soon as possible after the proceeding is initiated. Guardians ad litem appointed on or after March 1, 2000 must meet the qualifications established by the Supreme Judicial Court. [1999, c. 251, §2 (amd).] B. The guardian ad litem shall act in pursuit of the best interests of the child. The guardian ad litem must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate, the following: (1) Review of relevant mental health records and materials; (2) Review of relevant medical records; (3) Review of relevant school records and other pertinent materials; (4) Interviews with the child with or without other persons present; and (5) Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child. The guardian ad litem shall have face-to-face contact with the child in the child's home or foster home within 7 days of appointment by the court and at least once every 3 months thereafter or on a schedule established by the court for reasons specific to the child and family. The guardian ad litem shall report to the court and all parties in writing at 6-month intervals, or as is otherwise ordered by the court, regarding the guardian ad litem's activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interest of the child. The court may provide an opportunity for the child to address the court personally if the child requests to do so or if the guardian ad litem believes it is in the child's best interest. [1997, c. 715, Pt. A, §1 (amd).] C. The guardian ad litem may subpoena, examine and cross-examine witnesses and shall make a recommendation to the court. [1983, c. 183 (new).] D. The guardian ad litem shall make a written report of the investigation, findings and recommendations, and shall provide a copy of the report to each of the parties reasonably in advance of the hearing, and to the court, except that the guardian ad litem need not provide a written report prior to a hearing on a preliminary protection order. [1997, c. 715, Pt. A, §2 (amd).] E. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed his wishes, regardless of the recommendation of the guardian ad litem. [1983, c. 183 (new).] F. The guardian ad litem or the child may request the court to appoint legal counsel for the child. The District Court shall pay reasonable costs and expenses of the child's legal counsel. [1995, c. 405, §20 (amd).] [1999, c. 251, §2 (amd).] 2. Parents. Parents and custodians are entitled to legal counsel in child protection proceedings, except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders. They may request the court to appoint legal counsel for them. The court, if it finds them indigent, shall appoint and pay the reasonable costs and expenses of their legal counsel. [1983, c. 783, §2 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 183 (AMD). 1983, c. 783, § 1,2 (AMD). 1985, c. 581, § 2 (AMD). 1995, c. 405, § 18-20 (AMD). 1997, c. 257, § 5 (AMD). 1997, c. 715, § A1,2 (AMD). 1999, c. 251, § 2 (AMD). 22 § 4005-A. Foster parents right to standing and intervenor status in child protection proceedings 1. Definition. As used in this section, unless the context indicates otherwise, the following terms have the following meanings. A. "Foster parent" means a person who has had a child in that person's home for at least 120 days and who has received a license for a family foster home as defined in section 8101, subsection 3, or who is a relative. [1997, c. 343, §1 (amd).] [1997, c. 343, §1 (amd).] 2. Petition. A foster parent may petition for standing and intervenor status in any child protection proceeding under this chapter regarding a foster child that lives or has lived in the foster parent's home. The standing and intervenor status is limited to that proceeding unless otherwise ordered by the court. [1991, c. 176, §1 (amd).] 3. Criteria. The court shall make a determination whether to grant standing based on the strength and duration of the relationship between the foster parents and the child and in the best interests of the child. [1985, c. 424 (new).] Section History: 1985, c. 424 (NEW). 1991, c. 176, § 1 (AMD). 1997, c. 343, § 1 (AMD). 22 § 4005-B. Grandparent's right to standing and intervenor status in child protection proceedings 1. Definition. For the purposes of this section, "grandparent" means the biological or adoptive parent of the child's biological or adoptive parent. "Grandparent" includes the parent of a child's parent whose parental rights have been terminated, but only until the child is placed for adoption. [1995, c. 290, §3 (amd).] 2. Petition. A grandparent of a child may petition the court for standing and intervenor status in any child protection proceeding under this chapter. The standing and intervenor status is limited to that

proceeding unless otherwise ordered by the court. [1993, c. 697, §1 (new).] 3. Criteria. The court shall grant standing and intervenor status when the court finds that the grandparent has an existing relationship or has made sufficient effort to establish a relationship with the child, that that status would be in the best interests of the child and that that status would also be consistent with the purposes of this chapter as set forth in section 4003. [1993, c. 697, §1 (new).] 4. Request for placement. In any proceeding when standing and intervenor status have been granted, the grandparent may request the court to order that the child be placed with the grandparent. In making a decision on the request, the court shall give the grandparents priority for consideration for placement if that placement is in the best interests of the child and consistent with the purposes listed in section 4003. [1993, c. 697, §1 (new).] 5. Procedure if child in jeopardy. Nothing in this section limits the department from removing the child from the grandparent's home if the child is in jeopardy. [1993, c. 697, §1 (new).] 6. Reasonable rights of visitation or access. In any proceeding in which standing and intervenor status have been granted, the grandparent may request the court to grant the grandparent reasonable rights of visitation or access. When a child is placed in the prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's right to contact or have access to the child that was granted pursuant to this chapter is suspended. If the adoption is not final within 18 months of adoptive placement, then the grandparent whose rights of contact or access were suspended may resume, as a matter of right and without further court order, contact with the child in accordance with the order granting that contact or access, unless the court determines, after a hearing, that the contact is not in the child's best interest. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 18-A, section 9-308. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when rights of contact have been previously ordered by a court. [1995, c. 694, Pt. D, §36 (amd); Pt. E, §2 (aff).] Section History: 1993, c. 697, §1 (NEW). 1995, c. 290, §3,4 (AMD). 1995, c. 694, §D36 (AMD). 1995, c. 694, §E2 (AFF). 22 § 4005-C. Rights of persons who are not parties (CONTAINS TEXT WITH VARYING EFFECTIVE DATES) The foster parent of a child, if any, and any preadoptive parent or relative providing care for the child must be provided notice of and an opportunity to be heard in any review or hearing to be held with respect to the child. The right to be heard includes the right to testify but does not include the right to present other witnesses or evidence, to attend any other portion of the review or hearing or to have access to pleadings or records. This section may not be construed to require that any foster parent, preadoptive parent or relative providing care for the child be made a party to the review or hearing solely on the basis of the notice and opportunity to be heard. [1997, c. 715, Pt. B, §5 (new).] (TEXT EFFECTIVE UNTIL 7/1/00) The foster parent of a child, if any, and any preadoptive parent or relative providing care for the child may attend a review or hearing in its entirety under this section unless specifically excluded by decision of the presiding judge. This paragraph is repealed July 1, 2000. [1999, c. 189, §1 (new).] Section History: 1997, c. 715, §B5 (NEW). 1999, c. 189, §1 (AMD). 22 § 4006. Appeals A party aggrieved by an order of a court entered pursuant to section 4035, 4054 or 4071 may appeal directly to the Supreme Judicial Court sitting as the Law Court and such appeals are governed by the Maine Rules of Civil Procedure, chapter 9. [1997, c. 715, Pt. A, §3 (rpr).] Appeals from any order under section 4035, 4054 or 4071 must be expedited. Any attorney appointed to represent a party in a District Court proceeding under this chapter shall continue to represent that client in any appeal unless otherwise ordered by the court. [1997, c. 715, Pt. A, §3 (rpr).] Orders entered under this chapter under sections other than section 4035, 4054 or 4071 are interlocutory and are not appealable. [1997, c. 715, Pt. A, §3 (rpr).] Section History: 1979, c. 733, §18 (NEW). 1983, c. 772, §3 (AMD). 1997, c. 715, §A3 (RPR). 22 § 4007. Conducting proceedings 1. Procedures. All child protection proceedings shall be conducted according to the rules of civil procedure and the rules of evidence, except as provided otherwise in this chapter. All the proceedings shall be recorded. All proceedings and records shall be closed to the public, unless the court orders otherwise. [1985, c. 495, §17 (amd).] 2. Interviewing children. The court may interview a child witness in chambers, with only the guardian ad litem and counsel present, provided that the statements made are a matter of record. The court may admit and consider oral or written evidence of out-of-court statements made by a child, and may rely on that evidence to the extent of its probative value. [1979, c. 733, §18 (new).] 3. Motion for examination. At any time during the proceeding, the court may order that a child, parent, alleged parent, person frequenting the household or having custody at the time of the alleged abuse or neglect, any other party to the action or person seeking care or custody of the child be examined pursuant to the Maine Rules of Civil Procedure, Rule 35. [1989, c. 270, §1 (amd).] 3-A. Report of licensed mental

Must include D.D.M. with signature

health professional. In any hearing held in connection with a child protection proceeding under this chapter, the written report of a licensed mental health professional who has treated or evaluated the child shall be admitted as evidence, provided that the party seeking admission of the written report has furnished a copy of the report to all parties at least 21 days prior to the hearing. The report shall not be admitted as evidence without the testimony of the mental health professional if a party objects at least 7 days prior to the hearing. This subsection does not apply to the caseworker assigned to the child. [1989, c. 226 (new).]

4. Interstate Compact on Placement of Children. The provisions of the Interstate Compact on Placement of Children, sections 4191 to 4247, shall apply to proceedings under this chapter. Any report submitted pursuant to the compact shall be admissible in evidence for purposes of indicating compliance with the compact and the court may rely on evidence to the extent of its probative value. [1985, c. 506, Pt. A, §41 (rpr).] 5. Records. Records released by the department pursuant to section 4008 shall be used only for the purposes for which that release was intended. [1985, c. 506, Pt. A, §42 (new).] 6. Benefits and support for children in custody of department. When a child has been ordered into the custody of the department under this chapter, Title 15, chapter 507 or Title 19-A, chapter 55, within 30 days of the order, each parent shall provide the department with information necessary for the department to make a determination regarding the eligibility of the child for state, federal or other 3rd-party benefits and shall provide any necessary authorization for the department to apply for these benefits for the child. Prior to a hearing under section 4034, subsection 4, section 4035 or section 4038, each parent shall file income affidavits as required by Title 19-A, sections 2002 and 2004 unless current information is already on file with the court. If a child is placed in the custody of the department, the court shall order child support from each parent according to the guidelines pursuant to Title 19-A, chapter 63, designate each parent as a nonprimary care provider and apportion the obligation accordingly. Income affidavits and instructions must be provided to each parent by the department at the time of service of the petition or motion. The court may order a deviation pursuant to Title 19-A, section 2007. Support ordered pursuant to this section must be paid directly to the department pursuant to Title 19-A, chapter 65, subchapter IV. The failure of a parent to file an affidavit does not prevent the entry of a protection order. A parent may be subject to Title 19-A, section 2004, subsection 1, paragraph D for failure to complete and file income affidavits. [1995, c. 694, Pt. D, §37 (amd); Pt. E, §2 (aff).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 772, § 4 (AMD). 1983, c. 783, § 3 (AMD). 1985, c. 495, § 17 (AMD). 1985, c. 506, § A41,42 (AMD). 1989, c. 226 (AMD). 1989, c. 270, § 1 (AMD). 1991, c. 840, § 6 (AMD). 1993, c. 248, § 1 (AMD). 1995, c. 694, § D37 (AMD). 1995, c. 694, § E2 (AFF). 22 § 4008. Records; confidentiality; disclosure 1.

Confidentiality of records. All department records which contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department are confidential and subject to release only under the conditions of subsections 2 and 3. Within the department, the records shall be available only to and used by appropriate departmental personnel and legal counsel for the department in carrying out their functions. [1979, c. 733, §18 (new).] 2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons: A. An agency or person investigating or participating on a team investigating a report of child abuse or neglect when the investigation or participation is authorized by law or by an agreement with the department; [1987, c. 511, Pt. B, §1 (rpr).] B. [1983, c. 327, §3 (rp).] C. A physician treating a child whom he reasonably suspects may be abused or neglected; [1979, c. 733, §18 (new).] D. A child named in a record who is reported to be abused or neglected, or the child's parent or custodian, or the subject of the report, with protection for identity of reporters and other persons when appropriate; [1987, c. 744, §3 (amd).] E. A person having the legal responsibility or authorization to educate, care for, evaluate, treat or supervise a child, parent or custodian who is the subject of a record, or a member of a panel appointed by the department to review child deaths and serious injuries. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record. This may also include a member of a support team for foster parents, if that team has been reviewed and approved by the department; [1993, c. 294, §3 (amd).] F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the researcher and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact; [1989, c. 270, §2 (rpr).] G. Any agency or department involved in licensing or approving homes for, or the placement of, children or dependent adults, with protection for identity of reporters and other persons when appropriate; [1989, c. 270, §3 (rpr).] H. Persons and organizations pursuant to Title 5,

section 9057, subsection 6, and pursuant to chapter 857, [1989, c. 270, §4 (rpr); c. 502, Pt. A, §76 (rpr); c. 878, Pt. A, §62 (rpr).] I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the federal Indian Child Welfare Act, 25 United States Code, Section 1903; and [1989, c. 270, §5 (new); c. 502, Pt. A, §77 (new); c. 878, Pt. A, §63 (rpr).] J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply. [1989, c. 502, Pt. A, §77 (new).] [1993, c. 294, §3 (amd).] 3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons: A. The guardian ad litem of a child named in a record who is reported to be abused or neglected; [1979, c. 733, §18 (new).] B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title 18-A, section 9-304 or Title 19-A, section 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court; [1995, c. 694, Pt. D, §38 (amd); Pt. E, §2 (aff).] C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [1983, c. 327, §4 (amd); c. 470, §12 (amd).] D. An appropriate state executive or legislative official with responsibility for child protection services or the Child Welfare Services Ombudsman in carrying out his official functions, provided that no personally identifying information may be made available unless necessary to his functions; [1987, c. 511, Pt. A, §3 (amd).] E. The protection and advocacy agency for persons with disabilities, as designated pursuant to Title 5, section 19502, in connection with investigations conducted in accordance with Title 5, chapter 511. The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency; [1991, c. 630, §2 (amd).] F. The Commissioner of Education when the information concerns teachers and other professional personnel issued certificates under Title 20-A, persons employed by schools approved pursuant to Title 20-A or any employees of schools operated by the Department of Education; and [1991, c. 630, §3 (amd).] G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall comply with the requirements of Title 18-A, section 9-304, subsection (b) and section 8205. [1995, c. 694, Pt. D, §39 (amd); Pt. E, §2 (aff).] [1995, c. 694, Pt. D, §§38, 39 (amd); Pt. E, §2 (aff).] 3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential. [1993, c. 294, §4 (new).] 4. Unlawful dissemination; penalty. A person is guilty of unlawful dissemination if he knowingly disseminates records which are determined confidential by this section, in violation of the mandatory or optional disclosure provisions of this section. Unlawful dissemination is a Class E crime, which, notwithstanding Title 17-A, section 1252, subsection 2, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days. [1989, c. 502, Pt. D, §18 (amd).] 5. Retention of unsubstantiated child protection services records. Except as provided in this subsection, the department shall retain unsubstantiated child protective services case records for no more than 18 months following a finding of unsubstantiation and then expunge unsubstantiated case records from all departmental files or archives unless a new referral has been received within the 18-month retention period. Unsubstantiated child protective services records of persons who were eligible for Medicaid services under the federal Social Security Act, Title XIX, at the time of the investigation may be retained for up to 5 years for the sole purpose of state and federal audits of the Medicaid program. Unsubstantiated child protective services case records retained for audit purposes pursuant to this subsection must be stored separately from other child protective services records and may not be used for any other purpose. [1989, c. 857, §58 (amd).] Section History: 1979, c. 733, §18 (NEW). 1983, c. 327, §3-5 (AMD). 1983, c. 354, §1,2 (AMD). 1983, c. 470, §12,13 (AMD). 1983, c. 783, §4 (AMD). 1985, c. 495, §18 (AMD). 1985, c. 506, §A43-45 (AMD). 1985, c. 739, §5,6 (AMD). 1987, c. 511, §A3,B1 (AMD). 1987, c. 714, §5-7 (AMD). 1987, c. 744, §3-7 (AMD). 1989, c. 118 (AMD). 1989, c. 270, §2-5 (AMD). 1989, c. 483, §A33 (AMD). 1989, c. 502, §A76,77,D18 (AMD). 1989, c. 700, §A89 (AMD). 1989, c. 857, §58 (AMD). 1989, c. 878, §A62,63 (AMD). 1991, c. 630, §2-4 (AMD). 1993, c. 294, §3 (AMD). 1993, c. 294, §4 (AMD). 1993, c. 686, §13 (AFF). 1993, c. 686, §8 (AMD). 1995, c. 391, §2 (AMD). 1995, c. 694, §D38,39 (AMD). 1995, c. 694, §E2 (AFF). 22 §4008-A. Child abuse and neglect investigations; disclosure 1.

disclosure permitted. Notwithstanding any other provision of law, the commissioner, with the advice of the Attorney General, may disclose information as set forth in this section regarding the abuse or neglect of a child and the investigation of and any services related to the abuse and neglect if the commissioner determines that such disclosure is not contrary to the best interests of the child, the child's siblings or other children in the household and any one of the following factors is present: A. The alleged perpetrator of the abuse or neglect has been charged with committing a crime related to the allegation of abuse or neglect maintained by the department; [1997, c. 328, §1 (new).] B. A judge, a law enforcement agency official, a district attorney or another state or local investigative agency or official has publicly disclosed, as required by law in the performance of official duties, the provision of child welfare services or the investigation by child welfare services of the abuse or neglect of the child; [1997, c. 328, §1 (new).] C. An individual who is the parent, custodian or guardian of the victim or a child victim over 14 years of age has made a prior knowing, voluntary, public disclosure; or [1997, c. 328, §1 (new).] D. The child named in the report has died. [1997, c. 328, §1 (new).] [1997, c. 328, §1 (new).] 2. Information. For the purposes of this section, the following information may be disclosed: A. The name and age of the abused or neglected child. If the child is under 13 years of age, the guardian ad litem must agree with the commissioner to release the information. If the child is 13 years of age or older, the guardian ad litem and the child must agree with the commissioner to release the information; [1997, c. 328, §1 (new).] B. The determination by the local child protective service or the state agency that investigated the alleged abuse or neglect and the findings of the applicable investigating agency upon which the determination was based; [1997, c. 328, §1 (new).] C. Identification of child protective or other services provided or actions, if any, taken regarding the child and the child's family; [1997, c. 328, §1 (new).] D. Whether any report of abuse or neglect regarding the child has been substantiated as maintained by the department; [1997, c. 328, §1 (new).] E. Any actions taken by child protective services in response to reports of abuse or neglect of the child to the department, including, but not limited to, actions taken after every report of abuse or neglect of the child and the dates of the reports; [1997, c. 328, §1 (new).] F. Whether the child or the child's family has received care or services from the child welfare services prior to every report of abuse or neglect of the child; and [1997, c. 328, §1 (new).] G. Any extraordinary or pertinent information concerning the circumstances of the abuse or neglect of the child and the investigation of the abuse or neglect, if the commissioner determines the disclosure is consistent with the public interest. [1997, c. 328, §1 (new).] [1997, c. 328, §1 (new).] 3. Limitations. The following limitations apply to information disclosed pursuant to this section. A. Information released prior to the completion of the investigation of a report must be limited to a statement that a report is under investigation. [1997, c. 328, §1 (new).] B. If there has been a prior disclosure pursuant to paragraph A, information released in a case in which the report has not been substantiated is limited to the statement that the investigation has been completed and the report has not been substantiated. [1997, c. 328, §1 (new).] C. If the report has been substantiated, information may be released pursuant to subsection 2. [1997, c. 328, §1 (new).] D. The disclosure may not identify or provide any identifying description of the source of the report, and may not identify the name of the abused or neglected child's siblings, the parent or other person legally responsible for the child or any other members of the child's household, other than the subject of the report. [1997, c. 328, §1 (new).] [1997, c. 328, §1 (new).] 4. Considerations. In determining pursuant to subsection 1 whether disclosure would be contrary to the best interests of the child, the child's siblings or other children in the household, the commissioner shall consider the privacy of the child and the child's family and the effects that disclosure may have on efforts to reunite and provide services to the family. [1997, c. 328, §1 (new).] 5. Other releases and disclosure. Except as it applies directly to the cause of the abuse or neglect of the child, nothing in this section authorizes the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or similar materials or information pertaining to the child or the child's family. [1997, c. 328, §1 (new).] Section History: 1997, c. 328, § 1 (NEW). 22 § 4009. Penalty for violations A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4010. Spiritual treatment 1. Treatment not considered abuse or neglect. Under subchapters I to VII, a child shall not be considered to be abused or neglected, in jeopardy of health or welfare or in danger of serious harm solely because treatment is by spiritual means by an accredited practitioner of a recognized religious organization. [1979, c. 733, § 18 (new).] 2. Treatment to be considered if requested. When medical treatment is authorized under this chapter, treatment by spiritual means by an accredited practitioner of a recognized religious organization may also be

considered if requested by the child or his parent. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4010-A. Child abuse policies 1. Policy development. Every public or private agency or program that is administered, licensed or funded by the Department of Human Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Corrections and hires staff or selects volunteers and provides care or services for children shall develop a written policy regarding child abuse and neglect. The policy shall include: A. A description of how the program and children shall be managed to prevent abuse or neglect; [1989, c. 223 (new).] B. The reporting of suspected abuse or neglect or other violations to the appropriate designated authorities; [1989, c. 223 (new).] C. The agency's course of action if allegations of abuse or neglect are made against the agency or its staff; and [1989, c. 223 (new).] D. The agency's grievance procedures for staff, and for children and their parents or guardians regarding alleged abuse or neglect. [1989, c. 223 (new).] [1989, c. 223 (new); c. 819, § 1 (amd); 1995, c. 560, Pt. K, § 82 (amd); § 83 (aff).] 2. Filing. The agency shall file the policy as part of its application for licensure or renewal with the state entity that regulates the agency within one year of the effective date of this subsection or of the date the agency comes into existence. [1989, c. 223 (new).] 3. Availability of policy. The agency shall make the policy available to its staff, clients and the public. [1989, c. 223 (new).] Section History: 1989, c. 223 (NEW). 1989, c. 819, § 1 (AMD). 1995, c. 560, § K82 (AMD). 1995, c. 560, § K83 (AFF). SUBCHAPTER II REPORTING OF ABUSE OR NEGLECT 22 § 4011. Persons mandated to report suspected abuse or neglect 1. Reasonable cause to suspect. When, while acting in a professional capacity, an adult who is a medical or osteopathic physician, resident, intern, emergency medical services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant, chiropractor, podiatrist, registered or licensed practical nurse, teacher, guidance counselor, school official, children's summer camp administrator or counselor, social worker, court appointed special advocate or guardian ad litem for the child, homemaker, home health aide, medical or social service worker, psychologist, child care personnel, mental health professional, law enforcement official, state fire inspector, municipal code enforcement official, municipal fire inspector, commercial film and photographic print processor, clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications or chair of a professional licensing board that has jurisdiction over mandated reporters knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, that person shall immediately report or cause a report to be made to the department. A. Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person shall immediately notify either the person in charge of the institution, agency or facility, or a designated agent, who shall then cause a report to be made. The staff may also make a report directly to the department. [1987, c. 744, § 8 (amd).] B. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected. [1985, c. 819, Pt. A, §§ 25, 26 (rpr).] C. [1985, c. 495, § 19 (rp).] D. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person shall immediately report or cause a report to be made to the appropriate district attorney's office. [1987, c. 744, § 8 (amd).] [1999, c. 300, § 1 (amd).] 1-A. Mental health treatment. When a licensed mental health professional is required to report under subsection 1, and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions. A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B. [1985, c. 495, § 20 (new).] B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and where the department plans to initiate or has initiated a final protection action under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely. [1985, c. 495, § 20 (new).] C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution

of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion. [1985, c. 495, §20 (new).] The intent of this subsection is to encourage offenders to seek and effectively utilize treatment, at the same time providing any necessary protection and treatment for the child and other family members. [1999, c. 300, §2 (amd).] 2. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, he shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child. A. The taking of photographs shall be done in a manner consistent with professional standards, including minimizing trauma. The parent's or custodian's consent to the taking of photographs shall not be required. [1979, c. 733, §18 (new).] B. Photographs shall be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services. [1979, c. 733, §18 (new).] C. The person shall notify the department as soon as possible if he is unable to take, or cause to be taken, these photographs. [1979, c. 733, §18 (new).] D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect, or to subsequent child protection proceedings. [1979, c. 733, §18 (new).] [1979, c. 733, §18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 354, § 3 (AMD). 1985, c. 495, § 19,20 (AMD). 1985, c. 530, § 1 (AMD). 1985, c. 739, § 7 (AMD). 1985, c. 819, § A25,26 (AMD). 1987, c. 744, § 8 (AMD). 1989, c. 270, § 6 (AMD). 1989, c. 819, § 2 (AMD). 1997, c. 251, § 1 (AMD). 1999, c. 300, § 1,2 (AMD). 22 § 4012. Reporting procedures 1. Immediate report. Reports regarding abuse or neglect shall be made immediately by telephone to the department and shall be followed by a written report within 48 hours if requested by the department. [1979, c. 733, § 18 (new).] 2. Information required. The reports shall include the following information if within the knowledge of the person reporting: A. The name and address of the child and the persons responsible for his care or custody; [1979, c. 733, § 18 (new).] B. The child's age and sex; [1979, c. 733, § 18 (new).] C. The nature and extent of abuse or neglect, including a description of injuries and any explanation given for them; [1979, c. 733, § 18 (new).] D. A description of sexual abuse or exploitation; [1979, c. 733, § 18 (new).] E. Family composition and evidence of prior abuse or neglect of the child or his siblings; [1979, c. 733, § 18 (new).] F. The source of the report, the person making the report, his occupation and where he can be contacted; [1979, c. 733, § 18 (new).] G. The actions taken by the reporting source, including a description of photographs or x rays taken; and [1979, c. 733, § 18 (new).] H. Any other information that the person making the report believes may be helpful. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4013. Mandatory reporting to medical examiner for postmortem investigation A person required to report cases of known or suspected abuse or neglect, who knows or has reasonable cause to suspect that a child has died as a result of abuse or neglect, shall report that fact to the appropriate authority as provided in section 3026. A child shall not be considered to be abused or neglected solely because he was provided with treatment by spiritual means by an accredited practitioner of a recognized religious organization. [1983, c. 343, § 2 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 343, § 2 (AMD). 22 § 4014. Immunity from liability 1. Reporting and proceedings. A person, including an agent of the department, participating in good faith in reporting under this subchapter or participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding. [1987, c. 395, Pt. A, § 89 (amd).] 2. Photographs and x rays. A person participating in good faith in taking photographs or x rays under this subchapter is immune from civil liability for invasion of privacy that might otherwise result from these actions. [1979, c. 733, § 18 (new).] 3. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 783, § 5 (AMD). 1987, c. 395, § A89 (AMD). 22 § 4015. Privileged or confidential communications The husband-wife and physician and psychotherapist-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 20-A,

sections 4008 and 6001, to the extent allowed by applicable federal law; Title 24-A, section 4224; Title 32, sections 1092-A and 7005; and Title 34-B, section 1207, are abrogated in relation to required reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding. Information released to the department pursuant to this section shall be kept confidential and may not be disclosed by the department except as provided in section 4008. [1985, c. 495, § 21 (amd).] Statements made to a licensed mental health professional in the course of counseling, therapy or evaluation where the privilege is abrogated under this section may not be used against the client in a criminal proceeding except to rebut the client's testimony contradicting those statements. Nothing in this section may limit any responsibilities of the professional pursuant to this Act. [1985, c. 495, § 21 (new).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 211, § 1 (AMD). 1983, c. 781, § 2 (AMD). 1985, c. 495, § 21 (AMD). 22 § 4016. Confidentiality of employee records Notwithstanding Title 5, section 554, subsection 2, paragraph E or any other provision of law, the confidentiality of employee records is abrogated in relation to required reporting, cooperating with the department or guardian ad litem in an investigation or other child protective activity or giving evidence in a child protective proceeding. [1983, c. 354, § 4 (new).] Section History: 1983, c. 354, § 4 (NEW). 22 § 4017. Discrimination No person may be discriminated against by any employer in any way for participating in good faith in reporting under this subchapter or in a related child protection investigation or proceeding. [1983, c. 354, § 4 (new).] Section History: 1983, c. 354, § 4 (NEW). **SUBCHAPTER III INVESTIGATIONS AND EMERGENCY SERVICES** 22 § 4021. Investigations 1. Subpoenas and obtaining criminal history. The commissioner, his delegate or the legal counsel for the department may: A. Issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation of a report of suspected abuse or neglect, to a subsequent child protection proceeding or to a panel appointed by the department to review child deaths and serious injuries. (1) The department may apply to the District Court to enforce a subpoena. (2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department; and [1993, c. 294, § 5 (amd).] B. Obtain nonconviction data and other criminal history record information under Title 16, section 611, et seq., which he deems relevant to an abuse or neglect case. [1979, c. 733, § 18 (new).] [1993, c. 294, § 5 (amd).] 2. Confidentiality. Information or records obtained by subpoena shall be treated in accordance with section 4008. [1979, c. 733, § 18 (new).] 3. Interviewing the child without prior notification. The department may interview a child without prior notification under the following provisions. A. The department may interview a child without prior notification to the parent or custodian when the department has reasonable grounds to believe that prior notice would increase the threat of serious harm to the child or another person. The department may conduct one initial interview with a child without prior notification to the parent or custodian of the child when the child contacts the department or a person providing services puts the child into contact with the department. [1989, c. 270, § 7 (amd).] B. The interview may take place at a school, hospital, police station or other place where the child is present. [1981, c. 369, § 10 (new).] C. School officials shall permit the department to meet with and interview the child during school hours, if the interview is necessary to carry out the department's duties under this chapter. [1981, c. 369, § 10 (new).] [1989, c. 270, § 7 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 10 (AMD). 1989, c. 270, § 7 (AMD). 1993, c. 294, § 5 (AMD). 22 § 4022. Voluntary care On the written request of a person responsible for the child, the department may care for that child for a specified period by agreement, unless a custodian objects. Voluntary care agreements shall not affect custody. The department may require reimbursement from a parent or custodian for these services. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4023. Short-term emergency services 1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings. A. "Agency" means a person with a contract or written agreement with the department to provide short-term emergency services. [1979, c. 733, § 18 (new).] B. "Short-term emergency services" means protective services, emergency shelter care, counselling, emergency medical treatment and other services which are essential to the care and protection of a child. These services may include emergency caretaker or homemaker services in the child's home or care outside his home when no parent or other responsible adult is available and willing to care for the child in his home. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 2. Authorization. The department may provide short-term emergency services, directly or through contracts or written agreements with agencies, to a child who has been or appears to be: A. Threatened with serious harm; [1979, c. 733, § 18 (new).] B. A runaway

from the child's parents or custodian; [1989, c. 270, §8 (amd).] C. Without any person responsible for the child; or [1989, c. 270, §8 (amd).] D. Taken into interim care under Title 15, section 3501, by a law enforcement officer. [1989, c. 270, §8 (new).] [1989, c. 270, §8 (amd).] 3. Consent to treatment. The department may give consent for the child to receive necessary emergency medical treatment while receiving short-term emergency services. When the department has given its consent, a physician or health care provider shall be immune from civil liability for providing emergency medical treatment without the informed consent of the child or the child's parents or custodian. [1979, c. 733, §18 (new).] 4. Contacting parents. The following procedures shall apply. A. Prior to or on initiating short-term emergency services, the department or agency shall take reasonable steps to notify a custodian that the child will receive or is receiving the services. Notwithstanding this subsection, shelters for homeless children, as defined in section 8101, subsection 4-A, are governed by the parental notification requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children. [1989, c. 270, §9 (amd); c. 819, §3 (amd).] B. Short-term emergency services, except for medical treatment, shall not be provided to a child who expresses a clear desire not to receive them. [1979, c. 733, §18 (new).] C. If a parent or custodian objects to medical treatment, it shall be discontinued within 6 hours of receiving the objection. [1979, c. 733, §18 (new).] [1989, c. 270, §9 (amd); c. 819, §3 (amd).] 5. Time limit. Short-term emergency services shall not exceed 72 hours from the time of the department's assumption of responsibility for the child. Notwithstanding this subsection, shelters for homeless children, as defined in section 8101, subsection 4-A, are governed by the time-limit requirements contained in the Department of Human Services rules for the licensure of shelters for homeless children. [1989, c. 270, §10 (amd); c. 819, §4 (amd).] 6. Parent's obligations. Providing short-term emergency services to a child shall not affect a parent's obligation for the support of the child. [1979, c. 733, §18 (new).] 7. Reimbursement. The department may, by agreement or court order, obtain reimbursement from a parent for the support of a child who receives short-term emergency services. An agency may also obtain reimbursement from a parent subject to its contract or written agreement with the department. [1979, c. 733, §18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 354, § 5 (AMD). 1989, c. 270, § 8-10 (AMD). 1989, c. 819, § 3,4 (AMD). 22 § 4024. Department responsible for required services If the department requires that a child receive mental health services or other medical services as an alternative to the initiation of a child protection proceeding, the department shall inform the person responsible for the child that the services must be approved by the department. If the person responsible for the child's medical expenses is unable to pay for the services required, the department shall inform the person responsible for the child that the department will pay for the services if the services are approved by the department. [1991, c. 623 (new).] Section History: 1991, c. 623 (NEW). SUBCHAPTER IV PROTECTION ORDERS 22 § 4031. Jurisdiction; venue 1. Jurisdiction. The following provisions shall govern jurisdiction. A. The District Court shall have jurisdiction over child protection petitions. [1979, c. 733, §18 (new).] B. The Probate Court and the Superior Court shall have concurrent jurisdiction to act on requests for preliminary child protection orders under section 4034. As soon as the action is taken by the Probate Court or the Superior Court, the matter shall be transferred to the District Court. [1989, c. 270, §11 (amd).] C. [1989, c. 270, §12 (rp).] D. The District Court has jurisdiction over judicial reviews transferred to the District Court pursuant to Title 18-A, section 9-205. [1995, c. 694, Pt. D, §40 (amd); Pt. E, §2 (aff).] [1995, c. 694, Pt. D, §40 (amd); Pt. E, §2 (aff).] 2. Venue. A. Petitions shall be brought in the district where the child legally resides or where the child is present. When a child is in voluntary placement with the department or an agency, the petition may be brought only in the district where he legally resides. [1979, c. 733, §18 (new).] B. The court, for the convenience of the parties or in the interests of justice, may transfer the petitions to another district or division. [1979, c. 733, §18 (new).] C. A judge from another district, division or county may hear a petition and make a preliminary or final protection order if no judge is available in the district and division in which the petition is filed. [1979, c. 733, §18 (new).] [1979, c. 733, §18 (new).] 3. Scope of authority. The court shall consider and act on child protection petitions regardless of other decrees regarding a child's care and custody. The requirements and provisions of Title 19-A, chapter 58 do not apply to child protection proceedings. If custody is an issue in another pending proceeding, the proceedings may be consolidated in the District Court with respect to the custody issue. In any event, the court shall make an order on the child protection petition in accordance with this chapter. That order takes precedence over any prior order regarding the child's care and custody. [RR 1999, c. 1, §29 (cor).] Section History: 1979, c. 733, § 18 (NEW). 1985, c. 547 (AMD). 1989, c. 270, § 11,12 (AMD). 1991, c. 548, § A19 (AMD). 1993, c. 686, § 13 (AFF). 1993, c. 686, § 9 (AMD). 1995, c. 694, § D40,41 (AMD). 1995, c. 694, § E2 (AFF).

1999, RR c. 1, § 29 (COR) 22 § 4032. Child protection petition; petitioners; content; filing 1. Who may petition. Petitions may be brought by: A. The department through an authorized agent; [1979, c. 733, § 18 (new).] B. A police officer or sheriff; or [1979, c. 733, § 18 (new).] C. Three or more persons. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 2. Contents of petition. A petition shall be sworn and shall include at least the following: A. Name, date, place of birth and municipal residence, if known, of each child; [1979, c. 733, § 18 (new).] B. The name and address of the petitioner and the nature of his relationship to the child; [1979, c. 733, § 18 (new).] C. Name and municipal residence, if known, of each parent and custodian; [1979, c. 733, § 18 (new).] D. A summary statement of the facts which the petitioner believes constitute the basis for the petition; [1979, c. 733, § 18 (new).] E. An allegation which is sufficient for court action; [1979, c. 733, § 18 (new).] F. A request for specific court action; [1979, c. 733, § 18 (new).] G. A statement that the parents and custodians are entitled to legal counsel in the proceedings and that, if they want an attorney but are unable to afford one, they should contact the court as soon as possible to request appointed counsel; and [1979, c. 733, § 18 (new).] H. A statement that petition proceedings could lead to the termination of parental rights, under section 4051 et seq. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 3. Hearing date. On the filing of a petition, the court shall set the earliest practicable time and date for a hearing. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4033. Service and notice 1. Petition service. A child protection petition shall be served as follows: A. The petition and a notice of hearing shall be served on the parents and custodians, the guardian ad litem for the child and any other party at least 10 days prior to the hearing date. A party may waive this time requirement if the waiver is written and voluntarily and knowingly executed in court before a judge. Service shall be made in accordance with the District Court Civil Rules. [1979, c. 733, § 18 (new).] B. If the department is not the petitioner, the petitioner shall serve a copy of the petition and notice of hearing on the State. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 2. Notice of preliminary protection order. If there is to be a request for a preliminary protection order, the petitioner shall, by any reasonable means, attempt to notify the parents and custodians of his intent to request that order and of the time and place at which he will make the request. This notice is not required if the petitioner includes in the petition a sworn statement of his belief that: A. The child would suffer serious harm during the time needed to notify the parents or custodians; or [1979, c. 733, § 18 (new).] B. Prior notice to the parents or custodians would increase the risk of serious harm to the child or petitioner. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 3. Service of preliminary protection order. If the court makes a preliminary protection order, a copy of the order shall be served on the parents and custodians by: A. In-hand delivery by the judge or court clerk to any parent, custodian or their counsel who is present when the order is made; [1979, c. 733, § 18 (new).] B. Service in accordance with the Maine Rules of Civil Procedure. Notwithstanding the Maine Rules of Civil Procedure, the court may waive service by publication of a preliminary protection order for a party whose whereabouts are unknown if the department shows by affidavit that diligent efforts have been made to locate the party; or [1989, c. 819, § 5 (amd).] C. Another manner ordered by the court. [1979, c. 733, § 18 (new).] [1989, c. 819, § 5 (amd).] 3-A. Information provided to parents. When the court makes a preliminary protection order on a child who is physically removed from his parents or custodians, the following information shall be provided to the parents or custodians in written form by the petitioner at the time of removal of the child: A. The assigned caseworker's name and work telephone number; [1987, c. 395, Pt. A, § 90 (new).] B. The location where the child will be taken; and [1987, c. 395, Pt. A, § 90 (new).] C. A copy of the complete preliminary protection order. [1987, c. 395, Pt. A, § 90 (new).] This information is not required if the petitioner includes in the petition a sworn statement of his belief that providing the information would cause the threat of serious harm to the child, the substitute care giver, the petitioner or any other person. [1987, c. 395, Pt. A, § 90 (new).] 4. Service of final protection order. The court shall deliver in-hand at the court, or send by ordinary mail promptly after it is entered, a copy of the final protection order to the parent's or custodian's counsel or, if no counsel, to the parents or custodians. The copy of the order shall include a notice to them of their rights under section 4038. Lack of compliance with this subsection does not affect the validity of the order. [1979, c. 733, § 18 (new).] 5. Notice to foster parents, preadoptive parents and relatives providing care. The department shall provide written notice of all reviews and hearings in advance of the proceeding to foster parents, preadoptive parents and relatives providing care. The notice must be dated and signed, must include a statement that foster parents, preadoptive parents and relatives providing care are entitled to notice of and an opportunity to be heard in any review or hearing held with respect to the child and must contain the following language: "The right to be heard includes only the right to testify and does not include the right to

present other witnesses or evidence, to attend any other portion of the review or hearing or to have access to pleadings or records." A copy of the notice must be filed with the court prior to the review or hearing. [1997, c. 715, Pt. B, §6 (new).] Section History: 1979, c. 733, § 18 (NEW). 1987, c. 395, § A90 (AMD). 1989, c. 819, § 5 (AMD). 1997, c. 715, § B6 (AMD). 22 § 4034. Request for a preliminary protection order 1. Request. A petitioner may add to a child protection petition a request for a preliminary protection order, which shall include a sworn summary of facts to support the request. [1979, c. 733, § 18 (new).] 2. Order. If the court finds by a preponderance of the evidence presented in the sworn summary or otherwise that there is an immediate risk of serious harm to the child, it may order any disposition under section 4036. A preliminary protection order shall automatically expire at the time of the issuing of a final protection order under section 4035. [1979, c. 733, § 18 (new).] 3. Custodial consent. If the custodian consents in writing and the consent is voluntarily and knowingly executed in court before a judge, or the custodian does not appear after proper notice has been given, then the hearing on the preliminary protection order need not be held, except as provided in subsection 4. [1983, c. 184, § 3 (amd).] 4. Summary preliminary hearing. If the custodial parent appears and does not consent, or if a noncustodial parent requests a hearing, then the court shall hold a summary preliminary hearing on that order within 10 days of its issuance or request. If a parent or custodian is not served with the petition before the summary preliminary hearing, the parent or custodian may request a subsequent preliminary hearing within 10 days after receipt of the petition. The petitioner bears the burden of proof. At a summary preliminary hearing, the court may limit testimony to the testimony of the caseworker, parent, custodian, guardian ad litem, foster parent, preadoptive parent or relative providing care and may admit evidence, including reports and records, that would otherwise be inadmissible as hearsay evidence. If after the hearing the court finds by a preponderance of the evidence that returning the child to the child's custodian would place the child in immediate risk of serious harm, it shall continue the order or make another disposition under section 4036. If the court's preliminary order includes a finding of an aggravating factor, the court may order the department not to commence reunification or to cease reunification, in which case a permanency planning hearing must commence within 30 days of entry of the preliminary order. [1997, c. 715, Pt. A, §4 (amd).] 5. Contents of order. The order must include a notice to the parents and custodians of their right to counsel, as required under section 4032, subsection 2, paragraph G and, if the order was made without consent, notice of the date and time of the summary preliminary hearing. The order must include a notice to the parent or custodian that if a parent or custodian is not served with the petition before the summary preliminary hearing, the parent or custodian is entitled to request a subsequent preliminary hearing within 10 days after receipt of the petition. [1997, c. 715, Pt. A, §5 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 184, § 3,4 (AMD). 1997, c. 715, § A4,5 (AMD). 22 § 4035. Hearing on jeopardy order petition 1. Hearing required. The court shall hold a hearing prior to making a jeopardy order. [1997, c. 715, Pt. A, §7 (amd).] 2. Adjudication. After hearing evidence, the court shall make a finding, by a preponderance of the evidence, whether the child is in circumstances of jeopardy to his health or welfare. [1979, c. 733, §18 (new).] 3. Grounds for disposition. If the court determines that the child is in circumstances of jeopardy to his health or welfare, the court shall hear any relevant evidence regarding proposed dispositions, including written or oral reports, recommendations or case plans. The court shall then make a written order of any disposition under section 4036. If possible, this dispositional phase shall be conducted immediately after the adjudicatory phase. Written materials to be offered as evidence shall be made available to each party's counsel and the guardian ad litem reasonably in advance of the dispositional phase. [1983, c. 184, §5 (amd).] 4. Final protection order. [1997, c. 715, Pt. A, §8 (rp).] 4-A. Jeopardy order. The court shall issue a jeopardy order within 120 days of the filing of the child protection petition. This time period does not apply if good cause is shown. Good cause does not include a scheduling problem. [1997, c. 715, Pt. A, §9 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 184, § 5 (AMD). 1991, c. 176, § 2 (AMD). 1995, c. 481, § 2 (AMD). 1997, c. 475, § 1 (AMD). 1997, c. 715, § A6-9 (AMD). 22 § 4036. Disposition and principles 1. Disposition. In a protection order, the court may order one or more of the following: A. No change in custody; [1979, c. 733, §18 (new).] B. Departmental supervision of the child and family in the child's home; [1979, c. 733, §18 (new).] C. That the child, the custodians, the parents and other appropriate family members accept treatment or services to ameliorate the circumstances related to the jeopardy; [1979, c. 733, §18 (new).] D. Necessary emergency medical treatment for the child when the custodians are unwilling or unable to consent; [1979, c. 733, §18 (new).] E. Emancipation of the child, if the requirements of Title 15, section 3506-A are met; [1983, c. 480, Pt. B, §27 (amd).] F. Removal of the child from his custodian and granting custody to a

noncustodial parent, other person or the department; [1979, c. 733, §18 (new).] F-1. Removal of the perpetrator from the child's home, prohibiting direct or indirect contact with the child by the perpetrator and prohibiting other specific acts by the perpetrator which the court finds may threaten the child; [1985, c. 164 (new).] G. Payment by the parents of a reasonable amount of support for the child as determined or modified according to Title 19-A, chapter 63; [1995, c. 694, Pt. D, §42 (amd); Pt. E, §2 (aff).] G-1. [1997, c. 715, Pt. A, §10 (rp).] G-2. If the court's jeopardy order includes a finding of an aggravating factor, the court may order the department to cease reunification, in which case a permanency planning hearing must commence within 30 days of the order to cease reunification. [1997, c. 715, Pt. A, §11 (new).] H. Other specific conditions governing custody; or [1995, c. 405, §22 (amd).] I. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19-A, section 4014. [1995, c. 694, Pt. D, §43 (amd); Pt. E, §2 (aff).] [1997, c. 715, Pt. A, §§10, 11 (amd).] 2. Principles. In determining the disposition, the court shall apply the following principles in this priority: A. Protect the child from jeopardy to his health or welfare; [1979, c. 733, §18 (new).] B. Give custody to a parent if appropriate conditions can be applied; [1979, c. 733, §18 (new).] C. Make disposition in the best interests of the child; and [1979, c. 733, §18 (new).] D. Terminate department custody at the earliest possible time. [1979, c. 733, §18 (new).] [1979, c. 733, §18 (new).] 3. Time of order. The order may be for a specified period, with a review at the end of that period, or it may be for an indeterminate period, not beyond age 18. [1979, c. 733, §18 (new).] 4. Disposition of child in custody of department. The court may not order that a child who has been ordered into the custody of the department be placed with a parent. Nothing in this subsection prevents the department from placing a child in its custody in the home of a parent for a trial period. [1985, c. 739, §10 (new).] 5. Notice of criminal penalties. If an order is issued under this section that contains a provision subject to criminal penalties under section 4036-A, the order must indicate in a clear and conspicuous manner the potential consequences of violating the order. [1993, c. 443, §1 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 480, § B27 (AMD). 1985, c. 164 (AMD). 1985, c. 739, § 8-10 (AMD). 1989, c. 834, § B15 (AMD). 1993, c. 443, § 1 (AMD). 1995, c. 405, § 21-23 (AMD). 1995, c. 694, § D42,43 (AMD). 1995, c. 694, § E2 (AFF). 1997, c. 715, § A10,11 (AMD). 22 § 4036-A. Criminal penalty 1. Definition. For purposes of this section, "order" means an order entered in a case filed pursuant to this chapter. [1993, c. 443, §2 (new).] 2. Crime committed. When disposition under section 4036 includes a provision that a party named in a petition not have contact with a child or children named in the petition or a provision that a party named in the petition not enter the residence of a child or children named in the petition, and the party has prior actual notice of the order containing those provisions, violation of that provision is a Class D crime. The criminal sanctions in this subsection are in addition to and not in lieu of contempt powers of the court. [1993, c. 443, §2 (new).] 3. Warrantless arrest. Notwithstanding any statutory provision to the contrary, an arrest for criminal violation of an order may be without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of an order by telephone or radio communication with an agency with knowledge of the order. [1993, c. 443, §2 (new).] Section History: 1993, c. 443, § 2 (NEW). 22 § 4037. Authority of custodian When custody of the child is ordered to the department or other custodian under a preliminary or final protection order, the custodian has full custody of the child subject to the terms of the order and other applicable law. Custody does not include the right to initiate adoption proceedings without parental consent, except as provided under Title 18-A, section 9-302. [1995, c. 694, Pt. D, §44 (amd); Pt. E, §2 (aff).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 11 (AMD). 1993, c. 686, § 10 (AMD). 1993, c. 686, § 13 (AFF). 1995, c. 694, § D44 (AMD). 1995, c. 694, § E2 (AFF). 22 § 4038. Mandated review; review on motion 1. Mandated review. If a court has made a jeopardy order, it shall review the case at least once every 6 months, unless the child has been emancipated or adopted. [1997, c. 715, Pt. B, §7 (amd).] 1-A. No mandated review. Notwithstanding subsection 1, no subsequent judicial review is required unless petitioned for by any party or unless specifically ordered by the court: A. When custody has been granted to a person other than a parent or the department; [1987, c. 269, §2 (new).] B. When custody has been granted to a parent who did not have custody at the time the child protection petition was filed; [1997, c. 475, §3 (amd).] C. When the child lives with the foster parent with whom the department has entered into a long-term **<< foster care >>** agreement pursuant to section 4064; or [1997, c. 475, §3 (amd).] D. When there is a signed adoptive placement agreement regarding the child between the department and the prospective parent or parents. [1997, c. 475, §4 (new).] [1997, c. 475, §§3,4 (amd).] 2. Review on motion. The court, the child's parent, custodian or guardian ad litem or a

party to the proceeding, except a parent whose rights have been terminated under subchapter VI, may move for judicial review. The moving party shall have the burden of going forward. [1985, c. 739, §12 (amd).] 3. Notice of review. Notice of the reviews must be given to all parties to the initial proceeding according to District Court Civil Rule 4. Notice may not be given to a parent whose rights have been terminated under subchapter VI. The department shall provide written notice of all reviews and hearings in advance of the proceeding to the foster parent, preadoptive parent and relative providing care. The notice must be dated and signed, must include a statement that the foster parent, preadoptive parent and relative providing care are entitled to notice of and an opportunity to be heard in any review or hearing held with respect to the child and must contain the following language: "The right to be heard includes only the right to testify and does not include the right to present other witnesses or evidence, to attend any other portion of the review or hearing or to have access to pleadings or records." A copy of the notice must be filed with the court prior to the review or hearing. [1997, c. 715, Pt. B, §8 (amd).] 4. Disposition. 1985, c. 739, §13 (rp).] 5. Hearing. The court shall hear evidence and shall consider the original reason for the adjudication and disposition under sections 4035 and 4036, the events that have occurred since then and the efforts of the parties as set forth under section 4041 and shall consider the effect of a change in custody on the child. [1985, c. 739, §14 (new).] 6. Disposition. The court may make any further order, based on a preponderance of evidence, that is authorized under section 4036. A. [1989, c. 270, §13 (rp).] B. [1989, c. 270, §13 (rp).] C. [1989, c. 270, §13 (rp).] [1989, c. 270, §13 (amd).] 7. Review of child in custody of the department. [1997, c. 715, Pt. B, §9 (rp).] 7-A. Permanency planning hearing. The court shall conduct a permanency planning hearing and shall determine a permanency plan within 12 months of the time a child is considered to have entered << foster care >> and every 12 months thereafter. If the court's jeopardy ruling includes a finding of an aggravating factor, the court may order the department to cease reunification, in which case a permanency planning hearing must commence within 30 days of the order to cease reunification. A. A child is considered to have entered << foster care >> on the date of the first judicial finding that the child has been subjected to child abuse or neglect or on the 60th day after removal of the child from home, whichever occurs first. [1997, c. 715, Pt. B, §10 (new).] B. The permanency plan for the child must contain determinations on the following issues. (1) The permanency plan must determine whether and when, if applicable, the child will be: (a) Returned to the parent. Before the court may enter an order returning the custody of the child to a parent, the parent must show that the parent has carried out the responsibilities set forth in section 4041, subsection 1, paragraph B; that to the court's satisfaction the parent has rectified and resolved the problems that caused the removal of the child from home and any subsequent problems that would interfere with the parent's ability to care for and protect the child from jeopardy; and that the parent can protect the child from jeopardy; (b) Placed for adoption, in which case the department shall file a petition for termination of parental rights; (c) Referred for legal guardianship; or (d) Placed in another planned permanent living arrangement when the department has documented to the court a compelling reason for determining that it would not be in the best interests of the child to be returned home, be referred for termination of parental rights or be placed for adoption, be placed with a fit and willing relative, or be placed with a legal guardian. (2) In the case of a child placed in << foster care >> outside the state in which the parents of the child live, the permanency plan must determine whether the out-of-state placement continues to be appropriate and in the best interests of the child. (3) In the case of a child who is 16 years of age or older, the permanency plan must determine the services needed to assist the child to make the transition from << foster care >> to independent living. [1997, c. 715, Pt. B, §10 (new).] C. The court shall consider, but is not bound by, the wishes of the child in making a determination under this subsection if the child is 12 years of age or older. [1997, c. 715, Pt. B, §10 (new).] [1997, c. 715, Pt. B, §10 (new).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 12 (AMD). 1983, c. 185 (RPR). 1985, c. 739, § 11-14 (AMD). 1987, c. 269, § 1,2 (AMD). 1989, c. 270, § 13,14 (AMD). 1991, c. 176, § 3 (AMD). 1993, c. 198, § 1 (AMD). 1997, c. 475, § 2-6 (AMD). 1997, c. 715, § B7-10 (AMD). 22 § 4038-A. Transfer to District Court If a case is transferred to the District Court pursuant to Title 18-A, section 9-205, the court shall conduct a hearing and enter a dispositional order using the same standards as set forth in section 4036. The court after the hearing and entering of a dispositional order shall conduct reviews in accordance with section 4038. [1995, c. 694, Pt. D, §45 (amd); Pt. E, §2 (aff).] Section History: 1993, c. 686, § 11 (NEW). 1993, c. 686, § 13 (AFF). 1995, c. 694, § D45 (AMD). 1995, c. 694, § E2 (AFF). 22 § 4039. Enforcement of custody orders When the court has ordered a change in the custody of a child and a person not entitled to custody refuses to relinquish physical custody to the custodian, then, at the request of the department or custodian, a law enforcement officer may take any

necessary and reasonable action to obtain physical custody of the child for the rightful custodian. Necessary and reasonable action may include entering public or private property with a warrant based on probable cause to believe that the child is there. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). SUBCHAPTER V FAMILY REUNIFICATION 22 § 4041. Departmental responsibilities 1. Rehabilitation and reunification. A child is considered to have entered << foster care>> on the date of the first judicial finding that the child has been subjected to child abuse or neglect or on the 60th day after the child is removed from the home, whichever occurs first. When a child is considered to have entered << foster care>>, the responsibility for reunification and rehabilitation of the family must be shared as follows. A. The department shall: (1) Develop a rehabilitation and reunification plan, which must include the following: (a) The reasons for the removal of the child from home; (b) Any changes that must occur for the child to return home; (c) Rehabilitation services that must be completed satisfactorily prior to the return home; (d) Services available to assist the parents in rehabilitating and reunifying with the child, including reasonable transportation within the area in which the child is located for visits if the parents are unable to afford that transportation; (e) A schedule of visits between the child and the parents when visits are not detrimental to the child's best interests, including any special conditions under which the visits must take place; (f) A reasonable time schedule for proposed reunification, which is reasonably calculated to meet the child's needs; and (g) A delineation of the financial responsibilities of the parents and the department during the reunification process; (2) Provide the parents with prompt written notice of the following, unless that notice would be detrimental to the best interests of the child: (a) The child's residence and, when practicable, at least 7 days' advance written notice of a planned change of residence; and (b) Any serious injuries, major medical care received or hospitalization of the child; (3) Make good faith efforts to cooperate with the parents in the development and pursuit of the plan; (4) Periodically review with the parents the progress of the reunification plan and make any appropriate changes in that plan; (5) Petition for judicial review and return of custody of the child to the parents at the earliest appropriate time; and (6) Petition for termination of parental rights at the earliest possible time that it is determined that family reunification efforts will be discontinued pursuant to subsection 2 and that termination is in the best interests of the child; b! 1997, c. 715, Pt. B, §11 (amd). ?b B. Parents are responsible for rectifying and resolving problems that prevent the return of the child to the home and shall take part in a reasonable rehabilitation and reunification plan and shall: (1) Maintain meaningful contact with the child pursuant to the reunification plan. When a parent has left the area where the child has been placed, this must include making arrangements to visit the child at or near the child's placement; (2) Seek and utilize appropriate services to assist in rehabilitating and reunifying with the child; (3) Pay reasonable sums toward the support of the child within the limits of their ability to pay; (4) Maintain contact with the department, including prompt written notification to the department of any change of address; and (5) Make good faith efforts to cooperate with the department in developing and pursuing the plan; b! 1997, c. 715, Pt. B, §11 (amd). ?b C. [1997, c. 715, Pt. B, §11 (rp).] C-1. Unless excused for good cause shown, at any hearing held under section 4034, subsection 4 or within 10 days of the filing of the petition if no hearing under section 4034, subsection 4 is held, the department shall present to the court for review a reunification plan, a plan to avoid removal of the child from home or decision not to commence reunification. In the presentation to the court, the department shall include information about other parents or relatives with whom the child could be placed. Prior to review by the court, the department shall provide a copy of its proposal to counsel for the parents, or to the parents if they have no counsel, and to the guardian ad litem. The court may review the proposal in a hearing that does not allow testimonial evidence with all parties and counsel present or may hold a summary hearing at which the court may limit testimony to the testimony of the caseworker, parent, guardian ad litem, person to whom trial placement was given, foster parents, preadoptive parents or relatives providing care and may admit evidence, including reports and records, that would otherwise be inadmissible as hearsay evidence; and [1997, c. 715, Pt. B, §11 (new).] D. [1983, c. 772, §5 (rp).] E. The department may make reasonable efforts to place a child for adoption or with a legal guardian concurrently with reunification efforts. [1997, c. 715, Pt. B, §11 (new).] [1997, c. 715, Pt. B, §11 (amd)] 2. Determination of need to commence or discontinue rehabilitation and reunification efforts. The following provisions determine when rehabilitation and reunification efforts are not necessary or may be discontinued. A. [1997, c. 715, Pt. B, §11 (rp).] A-1. The court may order that the department need not commence or may cease reunification efforts only if the court finds the existence of an aggravating factor or that continuation of reunification efforts is inconsistent with the permanency plan for the child. When 2 placements with the same parent have failed and the child is

returned to the custody of the department, the court shall make a finding that continuation of reunification efforts is inconsistent with the permanency plan for the child and order the department to cease reunification unless the parent demonstrates that reunification should be continued and the court determines reunification efforts to be in the best interests of the child. [1997, c. 715, Pt. B, §11 (new).] B. [1997, c. 715, Pt. B, §11 (rp).] B-1. When the department discontinues efforts to return the child to a parent, it shall give written notice of this decision to that parent at the parent's last known address. This notice must include the specific reasons for the department's decision, the specific efforts the department has made in working with the parent and child and a statement of the parent's rights under section 4038. The department shall seek an order authorizing it to discontinue reunification efforts. Within 10 days of sending written notice of the decision to discontinue reunification efforts, the department shall file a motion for approval of discontinuance of reunification efforts with supporting affidavits. If the parents file a responsive pleading within 21 days, the court shall conduct a summary proceeding in accordance with the provisions of section 4034, subsection 4. If no responsive pleading is filed, the court may hold a summary hearing in accordance with the provisions of section 4034, subsection 4 or may decide the matter without a hearing. [1997, c. 715, Pt. B, §11 (new).] C. If the department discontinues efforts to return the child to a parent but does not seek termination of parental rights, then subsection 1, paragraph A, subparagraph (1), division (e) and subsection 1, paragraph A, subparagraph (2) still apply. [1997, c. 715, Pt. B, §11 (amd).] [1997, c. 715, Pt. B, §11 (amd).] 3. Notice to guardian ad litem. The department shall notify the guardian ad litem, as described in section 4005, of any substantial change in circumstances that may have an impact on the best interests of the child. A substantial change in circumstances includes but is not limited to any change in the child's residence. [1991, c. 356 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 772, § 5,6 (AMD). 1983, c. 862, § 71 (AMD). 1985, c. 739, § 15 (AMD). 1989, c. 759 (AMD). 1991, c. 161 (AMD). 1991, c. 356 (AMD). 1995, c. 694, § D46 (AMD). 1995, c. 694, § E2 (AFF). 1997, c. 715, § B11 (AMD). SUBCHAPTER VI TERMINATION OF PARENTAL RIGHTS 22 § 4050. Purpose Recognizing that instability and impermanency are contrary to the welfare of children, it is the intent of the Legislature that this subchapter: 1. Termination of parental rights. Allow for the termination of parental rights at the earliest possible time after rehabilitation and reunification efforts have been discontinued and termination is in the best interest of the child; [1983, c. 772, § 7 (new).] 2. Return to family. Eliminate the need for children to wait unreasonable periods of time for their parents to correct the conditions which prevent their return to the family; [1983, c. 772, § 7 (new).] 3. Adoption. Promote the adoption of children into stable families rather than allowing children to remain in the impermanency of << foster care >>; and [1983, c. 772, § 7 (new).] 4. Protect interests of child. Be liberally construed to serve and protect the best interests of the child. [1983, c. 772, § 7 (new).] Section History: 1983, c. 772, § 7 (NEW). 22 § 4051. Venue A petition for termination of parental rights must be brought in the court that issued the final protection order. The court, for the convenience of the parties or other good cause, may transfer the petition to another district or division. A petition for termination of parental rights may also be brought in a Probate Court as part of an adoption proceeding as provided in Title 18-A, article IX, when a child protective proceeding has not been initiated. [RR 1997, c. 2, §48 (cor).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 13 (AMD). 1997, RR c. 2, § 48 (COR). 22 § 4052. Termination petition; petitioners; time filed; contents 1. Petitioner. A termination petition may be brought by the custodian of the child or by the department. [1997, c. 715, Pt. B, §12 (amd).] 2. Time filed. [1997, c. 715, Pt. B, §13 (rp).] 2-A. Department as petitioner or as party. The department shall file a termination petition or seek to be joined as a party to any pending petition in the following circumstances: A. A child has been in << foster care >> for 15 of the most recent 22 months. This paragraph does not apply if the department is required to undertake reunification efforts and the department has not provided to the family of the child such services as the department determines to be necessary for the safe return of the child to the child's home consistent with the time period in the case plan; or [1997, c. 715, Pt. B, §14 (new).] B. A court order includes a finding of an aggravating factor and an order to cease reunification. [1997, c. 715, Pt. B, §14 (new).] The department is not required to file a termination petition if the department has chosen to have the child cared for by a relative or the department has documented to the court a compelling reason for determining that filing such a petition would not be in the best interests of the child. [1997, c. 715, Pt. B, §14 (new).] 3. Contents of petition. A termination petition shall be sworn and shall include at least the following: A. The name, date and place of birth and municipal residence, if known, of the child; [1979, c. 733, §18 (new).] B. The name and address of the petitioner and the nature of his relationship to the child; [1979, c. 733, §18 (new).] C. The name and municipal residence, if known, of each of the

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the ability or willingness to show the court that the parent has sought services that would rehabilitate the parent or the parent can not show evidence that an additional period of services would result in reunification in a time reasonably calculated to meet the needs of the child and the child's need for a permanent home; or [1995, c. 481, §4 (new).] E. The child has been placed in the legal custody or care of the department for at least 9 months, and the parents have been offered or received services to correct the situation but have refused or have made no significant effort to correct the situation. [1997, c. 475, §9 (amd).] [1997, c. 475, §9 (amd).] 2. Primary considerations. In deciding to terminate parental rights, the court shall consider the best interest of the child, the needs of the child, including the child's age, the child's attachments to relevant persons, periods of attachments and separation, the child's ability to integrate into a substitute placement or back into the parent's home and the child's physical and emotional needs. [1997, c. 475, §10 (amd).] 3. Wishes of child. The court shall consider, but is not bound by, the wishes of a child 12 years of age or older in making an order under this section. [1997, c. 715, Pt. A, §12 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 369, § 15,16 (AMD). 1983, c. 249, § 2 (AMD). 1983, c. 772, § 8,9 (AMD). 1985, c. 739, § 16 (AMD). 1993, c. 198, § 2 (AMD). 1995, c. 481, § 3-5 (AMD). 1995, c. 694, § D48 (AMD). 1995, c. 694, § E2 (AFF). 1997, c. 475, § 9,10 (AMD). 1997, c. 715, § A12 (AMD). 22 § 4056. Effects of termination order 1. Parent and child divested of rights. An order terminating parental rights divests the parent and child of all legal rights, powers, privileges, immunities, duties and obligations to each other as parent and child, except the inheritance rights between the child and his parent. [1979, c. 733, § 18 (new).] 2. Only one parent affected. The termination of one parent's rights shall not affect the rights of the other parent. [1979, c. 733, § 18 (new).] 3. Parent not entitled to participate in adoption proceedings. A parent whose rights have been terminated shall not be entitled to notice of the child's adoption proceedings, nor shall he have any right to object to the adoption or participate in the proceedings. [1979, c. 733, § 18 (new).] 4. Child not disentitled to benefit. No order terminating parental rights may disentitle a child to benefits due him from any 3rd person, agency, state or the United States; nor may it affect the rights and benefits that a native American derives from his descent from a member of a federally-recognized Indian tribe. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4057. Termination orders of other states If parental rights have been terminated by judicial order in another state, the order, unless against the public policy of this State, shall be accorded full faith and credit. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4058. Sunset provision The provision in chapter 1071 dealing with family rehabilitation and reunification shall be reviewed in accordance with the Maine Sunset Act, Title 3, chapter 23, no later than June 30, 1989. [1985, c. 739, § 17 (new).] Section History: 1985, c. 739, § 17 (NEW). SUBCHAPTER VII CARE OF CHILD IN CUSTODY. 22 § 4061. Expenses; reimbursement 1. Department. The department shall care for a child ordered into its custody in licensed or approved family foster homes, in other residential child care facilities or in other living arrangements as appropriate to meet the child's individual needs. [1983, c. 354, § 6 (amd).] 2. Reimbursement. The department may obtain reimbursement for child care expenses from the child's parents according to a support order or agreement. [1979, c. 733, § 18 (new).] 3. Other custodian. When a child is ordered into the custody of a custodian other than the department, that custodian shall support the child, subject to a support order or agreement. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1983, c. 354, § 6 (AMD). 22 § 4062. Payments 1. Payments by department. The department shall provide payments to facilities caring for children to meet the costs of clothing, board and care, within the limits of available funds. The department may establish, by rule, different categories of facilities, levels of need and care and flat-rate or reimbursement methods to distribute these funds. The department may provide child care and travel expense payments to foster and adoptive parents and trainers participating in foster and adoptive parent training programs and volunteers participating in the administrative case review program. Notwithstanding section 4061, subsection 3, any federally recognized Indian tribe in this State or any Indian foster family home is eligible for benefits and reimbursement under any state or federally funded program administered by the State for the benefit of Maine children, including, but not limited to, children within the jurisdiction of the Passamaquoddy Tribe or Penobscot Indian Nation under the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq. [1999, c. 392, §1 (amd).] 2. Unexpended balance. An unexpended balance of funds for these purposes shall not be transferred to another account and shall not lapse. [1979, c. 733, §18 (new).] 3. Priority of payments. The department shall ensure that payments for << foster care >> made under this subchapter have the same priority as payments for temporary assistance for needy families pursuant to section 3769, subsection 1. [1997, c. 530, Pt. A, §31 (amd).] 4. << Kinship >> preference. In the residential placement of a child, the

department shall consider giving preference to an adult relative over a nonrelated caregiver when determining placement for a child, as long as the related caregiver meets all relevant state child protection standards. [1999, c. 382, §1 (new).] Section History: 1979, c. 733, § 18 (NEW). 1985, c. 521 (AMD). 1991, c. 747, § 4 (AMD). 1997, c. 530, § A31 (AMD). 1999, c. 382, § 1 (AMD). 1999, c. 392, § 1 (AMD). 22 § 4063. Religious faith of placements; parents' request If the parents of a child in the custody of the department request in writing that the child be placed in a family of the same general religious faith, for << foster care >> or adoption, the department shall do so when a suitable family of that faith can be found. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). 22 § 4063-A. Medical and psychological examination 1. Physical examination required. The department shall ensure that a child ordered into its custody receives an appointment for a medical examination by a licensed physician or nurse practitioner within 10 working days after the department's custody of the child commences. [1991, c. 194 (new).] 2. Psychological assessment. If the physician or nurse practitioner who performs a physical examination pursuant to subsection 1 determines that a psychological assessment of the child is appropriate, the department shall ensure that an appointment is obtained for such an assessment within 30 days of the physical examination. [1991, c. 194 (new).] Section History: 1991, c. 194 (NEW). 22 § 4063-B. Establishment of early counseling Whenever a child is ordered into the custody of the department under this chapter and the child is not expected to be returned to the home within 21 days, the department shall obtain counseling for the child as soon as possible, unless the department finds that counseling is not indicated. [1991, c. 882, §2 (new); §4 (aff).] Section History: 1991, c. 882, § 2 (NEW). 1991, c. 882, § 4 (AFF). 22 § 4064. Long-term << foster care >> 1. Defined. "Long-term << foster care >>" means a foster family placement for a child in the custody of the department in which the department retains custody of the child while delegating to the foster parents the duty and authority to make certain decisions. The placement is intended to continue until the child becomes 18 years old, unless altered or terminated in the best interests of the child. [1979, c. 733, § 18 (new).] 2. Authority for placement. The department may place in long-term << foster care >> a child in its custody, if: A. The child has been in << foster care >> for 6 months or parental rights have been terminated; [1997, c. 39, §1 (amd).] B. The department has decided that it is not likely that the child can be returned to his parents and has so notified the parents; [1979, c. 733, § 18 (new).] C. In the judgment of the department, it is not likely that the child can be placed in an adoptive home; [1979, c. 733, § 18 (new).] D. The prospective foster parents have met standards established by the department for a placement; and [1979, c. 733, § 18 (new).] E. A written agreement between the foster parents and the department has been completed which specifies the duty and authority delegated by the department to the foster parents and the rights retained by the department and the parents, and includes an individual plan for the care of the child. A foster child at least 14 years old may participate in the development of the agreement. The department shall, after consultation with the foster parents, review and, if necessary, revise the plan at least once every 6 months. [1979, c. 733, § 18 (new).] [1997, c. 39, §1 (amd).] 3. Duty and authority delegated by the department. The foster parents may make the following decisions: A. Consent to emergency medical treatment; [1979, c. 733, § 18 (new).] B. Consent to the application for a driver's license; and [1979, c. 733, § 18 (new).] C. Permit travel by the child outside of the State. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 4. Rights of department. Except as delegated in this section or by agreement, the department shall retain custody of the child and all custody rights as provided by court order, statute or rule. [1979, c. 733, § 18 (new).] 5. Rules. The department may adopt rules for long-term << foster care >> placements in accordance with the Maine Administrative Procedure Act, Title 5, section 8001, et seq. These rules may include, among other things, standards for settings appropriate for long-term << foster care >>, methods of supervising of those settings, procedures for selecting children and foster parents, methods for establishing and reviewing individual plans, additional rights or powers that may be delegated and requirements or conditions for exercising the delegated authority. [1979, c. 733, §18 (new).] Section History: 1979, c. 733, § 18 (NEW). 1997, c. 39, § 1 (AMD). 22 § 4065. Department's responsibility after death of committed child If a child in the custody of the department dies, the department shall arrange and pay for a decent burial for the child. If administration of the deceased child's estate is not commenced, within 60 days after the date of death, by an heir or a creditor, then the department may petition the Probate Court to appoint an administrator and settle the estate of the deceased child pursuant to Title 18-A. [1981, c. 470, Pt. A, § 102 (amd).] Section History: 1979, c. 733, § 18 (NEW). 1981, c. 470, § A102 (AMD). 22 § 4066. Annual report The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1st each year covering the operations of the Bureau of Child and Family Services and the

experience of the department with << foster care >> and adoptions of children in the care and custody of the department, including but not limited to the following topics: [1997, c. 322, §1 (new).] 1. Types of reports. A listing of the types of reports on the operations of the Bureau of Child and Family Services that are available to the public, including a notice on how the public can request those reports; [1997, c. 322, §1 (new).] 2. Listing of services. A listing of services provided to children and their families and foster families and any services needed but not provided by the department, and a listing of problems experienced by children and their families and foster families; [1997, c. 322, §1 (new).] 3. Custody. The number of children in the care and custody of the department, the average and median lengths of their custody and the number who were previously in the custody of the department; [1997, c. 322, §1 (new).] 4. Reunification efforts. The number of children in the care and custody of the department in the process of reunification efforts, and the number in which parental rights have been terminated or are in the process of termination; [1997, c. 322, §1 (new).] 5. Adoption. The number of children in the care and custody of the department available for adoption and the number of children adopted, identifying special needs and nonspecial needs; the number receiving adoption assistance; and the number adopted by their foster parents; [1997, c. 322, §1 (new).] 6. Out-of-state placement. The number of children in the care and custody of the department placed out-of-state for hospitalization and residential care and the costs for each; and [1997, c. 322, §1 (new).] 7. Analysis. An analysis of any major initiatives planned by the department to improve the functioning of the Bureau of Child and Family Services and the delivery of services to children in the care and custody of the department and their families and foster families. [1997, c. 322, §1 (new).] Section History: 1997, c. 322, § 1 (NEW).

SUBCHAPTER VIII MEDICAL TREATMENT ORDER 22 § 4071. Medical treatment order 1. Petitioner. The department, a physician or a chief medical administrator of a hospital may petition for a medical treatment order. [1979, c. 733, § 18 (new).] 2. Contents of petition. A petition shall be sworn and shall include at least the following: A. Name, date of birth and municipal residence, if known, of the child; [1979, c. 733, § 18 (new).] B. The name and address of the petitioner and his professional position; [1979, c. 733, § 18 (new).] C. Name and municipal residence, if known, of each parent and custodian; [1979, c. 733, § 18 (new).] D. A summary of the medical diagnosis and treatment alternatives; [1979, c. 733, § 18 (new).] E. A request for the court to order specific treatment; and [1979, c. 733, § 18 (new).] F. A statement that attempts to notify and secure consent from the custodians have been unsuccessful, either because they cannot be located or they have refused consent. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 3. Notice to parents and custodians. The petitioner shall, by any reasonable means, attempt to notify the parents and custodians of his intent to request the order and of the time and place he will make the request, unless the petitioner believes that the child would suffer increased serious injury during the time needed to notify them. [1979, c. 733, § 18 (new).] 4. Order. On the basis of the petition or other evidence, the court may order medical treatment for the child if the custodians are unable or unwilling to consent to it, and the treatment is necessary to treat or prevent an immediate risk of serious injury. The order shall include a notice to the parents and custodians of their right to counsel, as required under section 4032, subsection 2, paragraph G, and notice of the date and time of the hearing. [1979, c. 733, § 18 (new).] 5. Service of order. If a hearing has not been held prior to issuing the order, a copy of the order and petition shall be served on the parents and custodians by: A. In-hand delivery by the judge or court clerk to any parent, custodian or their counsel who is present when the order is issued; [1979, c. 733, § 18 (new).] B. Service in accordance with the District Court Civil Rules. Notwithstanding the civil rules, service by publication of an order and petition shall be complete 5 days after a single publication; or [1979, c. 733, § 18 (new).] C. Another manner ordered by the court. [1979, c. 733, § 18 (new).] [1979, c. 733, § 18 (new).] 6. Hearing. If a hearing has not been held prior to issuing the order, then it shall be held within 10 days of its issuance, unless all parties agree to a later date. If, after the hearing, the court finds, by a preponderance of the evidence, that the medical treatment ordered is necessary to treat or prevent the immediate risk of serious injury to the child, then it may continue the order. [1979, c. 733, § 18 (new).] Section History: 1979, c. 733, § 18 (NEW). SUBCHAPTER IX HOSPITAL BASED SUSPECTED CHILD ABUSE AND NEGLECT COMMITTEES (HEADING: T. 22, §4085 (rp)) 22 § 4081. Purpose Definitions (REPEALED) Section History: MRSA, § T.22 SEC.4085 (RP). 1985, c. 441, § 3 (NEW). 1985, c. 500 (NEW). 1987, c. 402, § A143 (RPR). 1987, c. 402, § A144 (RP). 22 § 4082. Definitions Maine Children's Trust Fund (REPEALED) Section History: MRSA, § T.22 SEC.4085 (RP). 1985, c. 441, § 3 (NEW). 1985, c. 500 (NEW). 1987, c. 402, § A143 (RPR). 1987, c. 402, § A144 (RP). 22 § 4083. Hospital based Suspected Child Abuse and Neglect Committees Board; establishment (REPEALED) Section History: MRSA, § T.22 SEC.4085 (RP). 1985, c. 441, § 3 (NEW). 1985, c. 500

(NEW). 1987, c. 402, § A143 (RPR). 1987, c. 402, § A144 (RP). 22 § 4084. Report Duties (REPEALED) Section History: MRSA, § T.22 SEC.4085 (RP). 1985, c. 441, § 3 (NEW). 1985, c. 500 (NEW). 1985, c. 667, § 1 (RPR). 1985, c. 785, § B93 (AMD). 1987, c. 402, § A143 (RPR). 1987, c. 402, § A144 (RP). 22 § 4084-A. Report (REPEALED) Section History: 1985, c. 667, § 2 (NEW). 1987, c. 402, § A143 (RP). 22 § 4085. Disbursement of fund money (REPEALED) Section History: MRSA, § T.22 SEC.4085 (RP). 1985, c. 441, § 3 (NEW). 1985, c. 500 (NEW). 1985, c. 667, § 3 (AMD). 1987, c. 366 (AMD). 1987, c. 402, § A143 (RPR). 1987, c. 402, § A144 (RP). 1987, c. 769, § A78 (AMD). 22 § 4086. Review (REPEALED) Section History: 1985, c. 441, § 3 (NEW). 1987, c. 402, § A144 (RP). SUBCHAPTER X CHILD WELFARE SERVICES OMBUDSMAN (HEADING: PL 1989, c. 400, §6 (rp)) 22 § 5001. Child Welfare Services Ombudsman (REPEALED) Section History: 1987, c. 511, § A4 (NEW). 1989, c. 400, § 6,14 (RP). 1989, c. 410, § 23 (AMD). 1995, c. 462, § A45 (AMD). SUBCHAPTER X-A CHILD WELFARE SERVICES (HEADING: PL 1989, c. 400, §7 (new)) 22 § 4087. Child welfare services ombudsman 1. Office established. The Office of Child Welfare Services Ombudsman is established within the Executive Department and is autonomous from any other state agency. Its purpose is to represent the best interests of individuals involved in the State's child welfare system as a class and to investigate and resolve complaints against state agencies that may be infringing on the rights of individuals involved in the State's child welfare system. [1989, c. 400, §7 (new).] 2. Appointment of child welfare services ombudsman. The child welfare services ombudsman shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over human resource matters and to confirmation by the Legislature and shall serve at the pleasure of the Governor. Any vacancy shall be filled by similar appointment. [1989, c. 400, §7 (new).] 3. Powers and duties. [1989, c. 400, §7 (new).] The ombudsman may: A. Provide ombudsman services to individual citizens in matters relating to those child welfare services provided by and under the jurisdiction of the State; [1989, c. 400, §7 (new).] B. Advise, consult and assist the executive and legislative branches of State Government, especially the Governor, on activities of State Government related to child welfare. The ombudsman shall be solely advisory in nature, shall not be delegated any administrative authority or responsibility nor supplant existing avenues for recourse or appeals. The ombudsman may make recommendations regarding any function intended to improve the quality of child welfare services in State Government. If findings, comments or recommendations of the ombudsman vary from, or are in addition to, those of the bureau, department or other state agency, the statements of the ombudsman shall be sent to the respective branches of State Government as attachments to those submitted by the bureau, department or other state agency. Recommendations may take the form of proposed budgetary, legislative or policy actions; [1989, c. 400, §7 (new).] C. Review and evaluate, on a continuing basis, state and federal policies and programs relating to the provision of child welfare services conducted or assisted by any state departments or agencies for the purpose of determining the value and impact on individuals involved in the State's welfare system; [1989, c. 400, §7 (new).] D. Receive and address inquiries, complaints, problems or requests for information and assistance regarding the State's child welfare services; [1989, c. 400, §7 (new).] E. Conduct research, gather facts and evaluate procedures and policies regarding the State's child welfare services; [1989, c. 400, §7 (new).] F. Consult with and advise state agencies on operational and management issues or specific or special situations regarding child welfare services and recommend remedial actions when necessary through direct oral communication, memoranda, reports or meetings; [1989, c. 400, §7 (new).] G. Serve as a coordinator of communication and cooperation for all components of the State's child welfare services system, especially among state agencies, whenever desirable or necessary; [1989, c. 400, §7 (new).] H. Make referrals for service to relevant state agencies when appropriate; [1989, c. 400, §7 (new).] I. Set priorities to effectively carry out the purposes of this subchapter; and [1989, c. 400, §7 (new).] J. Inform the public to encourage a better public understanding of the current status of the State's child welfare system by collecting and disseminating information, conducting or commissioning studies and publishing the results, and by issuing publications and reports. [1989, c. 400, §7 (new).] [1989, c. 400, §7 (new).] 4. Confidentiality of records. No information or records maintained by the office relating to a complaint or investigation may be disclosed unless the ombudsman authorizes the disclosure and the disclosure is otherwise permitted pursuant to section 4008. The ombudsman shall not disclose the identity of any complainant unless: A. The complainant or a legal representative consents in writing to the disclosure; or [1989, c. 400, §7 (new).] B. A court orders the disclosure. [1989, c. 400, §7 (new).] A complainant or a legal representative, in providing the consent, may specify to whom the identity may be disclosed and for what purposes, in which event no other disclosure is authorized. [1989, c.

400, §7 (new).] 5. Administration. The ombudsman shall administer, in accordance with current fiscal and accounting rules of the State and in accordance with the philosophy, objectives and authority of this subchapter, any funds appropriated for expenditure by the ombudsman or any grants or gifts which may become available, accepted and received by the ombudsman; make an annual report which shall be submitted directly to the commissioner, the Governor and the joint standing committee of the Legislature having jurisdiction over human resource matters, not later than March 1st of each year, concerning its work, recommendations and interests of the previous fiscal year and future plans; and make such interim reports as the ombudsman deems advisable. Copies of these reports shall be available to all Legislators and other state agencies upon request. [1989, c. 400, §7 (new).] 6. Expenses of ombudsman. The ombudsman, within established budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related necessary expenses of the ombudsman or members of the office, incurred while traveling on official business. [1989, c. 400, §7 (new).] 7. Information from state agencies. State agencies shall provide to the ombudsman copies of all reports and other information required for the fulfillment of this chapter pursuant to section 4008, subsection 3, paragraph D. [1989, c. 400, §7 (new).] 8. Legal services. The Department of the Attorney General shall provide legal services as necessary to carry out the purposes of this subchapter. [1989, c. 400, §7 (new).] 9. Location. Office space shall be made available for the ombudsman within the Capitol Complex. [1989, c. 400, §7 (new).] 10. Review. This office shall be reviewed by July 1, 1989, by the joint standing committee of the Legislature having jurisdiction over human resource matters and the joint standing committee of the Legislature having jurisdiction over audit and program review matters. [1989, c. 400, §7 (new).] Section History: 1989, c. 400, § 7,14 (NEW). SUBCHAPTER XI

OUT-OF-HOME ABUSE AND NEGLECT INVESTIGATING TEAM (HEADING: PL 1989, c. 400, §8 (rp)) 22 § 5005. Out-of-home abuse and neglect investigating team (REPEALED) Section History: 1987, c. 511, § B2 (NEW). 1987, c. 744, § 9 (AMD). 1989, c. 400, § 8,14 (RP). SUBCHAPTER XI-A OUT-OF-HOME ABUSE AND NEGLECT INVESTIGATING TEAM (HEADING: PL 1989, c. 400, §9 (new)) 22 § 4088. Out-of-home abuse and neglect investigating team 1. Definitions. As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

A. "Bureau" means the Bureau of Child and Family Services within the Department of Human Services. [1989, c. 400, §9 (new).] B. "Department" means the Department of Human Services. [1989, c. 400, §9 (new).] C. "License" shall be defined in accordance with Title 5, section 8002, and shall include approval and registration. [1989, c. 400, §9 (new).] D. "Out-of-home abuse and neglect" means abuse and neglect of a child which occurs in a facility or by a person subject to licensure or inspection by this department, the Department of Education, the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services or in a facility operated by these departments. [1989, c. 700, Pt. A, §90 (amd); 1995, c. 560, Pt. K, §82 (amd); §83 (aff).] E. "Team" means the out-of-home abuse and neglect investigating team. [1989, c. 400, §9 (new).] [1989, c. 700, Pt. A, §90 (amd); 1995, c. 560, Pt. K, §82 (amd); §83 (aff).] 1-A. Applicability of other definitions. Any terms defined or used in section 4002 have the same meaning when used in this subchapter. [1991, c. 824, Pt. A, §46 (amd).]

2. Team established. The out-of-home abuse and neglect investigating team is established to investigate reports of suspected abuse and neglect of children by persons or in facilities subject to licensure pursuant to this Title. The team is also authorized to assist other persons or agencies to investigate suspected abuse and neglect by persons or in facilities providing services to children that are subject to licensure pursuant to other Titles and to assist in investigations of suspected abuse and neglect in state-operated facilities providing services for children. [1989, c. 400, §9 (new).]

3. Authority and responsibility. The team shall have the following authority and responsibilities regarding investigation of out-of-home abuse and neglect. The team: A. Shall receive all reports of out-of-home abuse and neglect; [1989, c. 400, §9 (new).] B. Shall investigate all reports received by the department regarding alleged out-of-home abuse and neglect occurring in facilities or by persons subject to licensure by the department; [1989, c. 400, §9 (new).] C. Shall conduct a single investigation sufficient to determine not only if abuse or neglect has occurred but also to determine whether a licensing violation has occurred in order to protect children from further harm and establish a basis upon which to take licensing action. This procedure minimizes duplicative or redundant investigations to the extent possible in response to the same or related allegations of out-of-home abuse or neglect in facilities or by persons subject to licensure by the department; [1989, c. 400, §9 (new).] D. Shall coordinate and consult with the bureau staff performing general licensing functions to eliminate duplicative or redundant investigations to the extent possible and to prevent, correct or eliminate the abuse or neglect or threat of abuse or neglect in out-of-home settings; [1989, c. 400, §9 (new).] E. Shall

provide the results of the investigation to the bureau's licensing staff for appropriate action; [1989, c. 400, §9 (new).] F. Shall include relevant professionals outside the department as members of the team for all investigations of residential treatment centers, group homes or day care centers mandated by this subchapter and for other child care facilities as warranted; [1989, c. 400, §9 (new).] G. When a report alleges out-of-home abuse and neglect in facilities or by persons not subject to licensure by the department, shall immediately refer the report to the agency or department charged with the responsibility to investigate such a report or, if applicable, to the state department operating the facility; [1989, c. 400, §9 (new).] H. With respect to reports described in paragraph G, may, on its own initiative or upon request of another department or agency charged with the responsibility to investigate, participate in the out-of-home abuse and neglect investigation of persons or facilities subject to licensure or operated by the Department of Education, the Department of Corrections or the Department of Mental Health, Mental Retardation and Substance Abuse Services; [1989, c. 700, Pt. A, §91 (amd); 1995, c. 560, Pt. K, §82 (amd); §83 (aff).] I. Shall refer to the office of the district attorney or office of the Attorney General, when appropriate, any case in which criminal activity is alleged and shall coordinate its investigation with that office to minimize the trauma to the children involved; and [1989, c. 400, §9 (new).] J. Shall consult and train law enforcement personnel, advocates and others in the identification, reporting, prevention and investigation of out-of-home abuse and neglect as time allows. [1989, c. 400, §9 (new).] [1989, c. 700, Pt. A, §91 (amd); 1995, c. 560, Pt. K, §82 (amd); §83 (aff).] 4. Training. The team shall be trained in techniques of investigating out-of-home abuse and neglect of children, as well as child development; identification of abuse and neglect; interview techniques; treatment alternatives for perpetrators, victims and their families; licensing regulations applicable to facilities or persons licensed pursuant to Subtitle 6; and other statutory and regulatory remedies available to prevent, correct or eliminate abuse and neglect in out-of-home settings. [1989, c. 400, §9 (new).] 5. Records; confidentiality; disclosure. Records created pursuant to this subchapter shall be maintained in accordance with section 4008 and shall not be disclosed except as provided by that section or by section 7703, subsections 2 to 4. [1989, c. 400, §9 (new).] 6. Assistance. Staff performing general licensing functions may assist the team in conducting out-of-home investigations upon the request of the Director of the Bureau of Child and Family Services, provided that the licensing staff member has neither currently licensed nor monitored for compliance the subject of the investigation. [1989, c. 400, §9 (new).] Section History: 1989, c. 400, § 9,14 (NEW). 1989, c. 700, § A90,91 (AMD). 1991, c. 824, § A46 (AMD). 1995, c. 560, § K82 (AMD). 1995, c. 560, § K83 (AFF).

SUBCHAPTER XII CHILD WELFARE ADVISORY COMMITTEE (HEADING: PL 1989, c. 400, §10 (new)) 22 § 4089. Child Welfare Advisory Committee 1. Composition. The Child Welfare Advisory Committee, as established by Title 5, section 12004-I, subsection 37-A, shall be constituted as follows. A. Members shall serve on the committee at the invitation of the Commissioner of Human Services. In making the appointments, the commissioner shall give due consideration to the following: (1) Private citizens interested in child welfare service programs; (2) Past or present recipients of department services to children and families or their representatives; (3) Representatives of professional, civic or other public or private organizations; and (4) Representatives of state agencies concerned with child welfare services. [1989, c. 400, §10 (new).] B. The committee shall consist of not fewer than 10 nor more than 30 members. [1989, c. 400, §10 (new).] C. The commissioner shall designate one member as chair of the committee. [1989, c. 400, §10 (new).] D. The commissioner shall appoint members of the committee for terms of 3 years, except that: (1) Of the first members appointed, 1/3 shall be appointed for terms of 3 years, 1/3 for terms of 2 years and 1/3 for terms of one year; and (2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. [1989, c. 400, §10 (new).] E. The child welfare services ombudsman, appointed in accordance with section 4087, shall serve as a permanent member. [1989, c. 819, §6 (new).] [1989, c. 400, §10 (new); c. 819, §6 (amd).] 2. Duties. The committee shall have the following duties: A. To advise the department on the development of policies and programs which affect the well-being of children and their families for whom the department has responsibility under chapter 1071, as well as those programs which prevent the maltreatment of children in the State; [1989, c. 400, §10 (new).] B. To reinforce the department's awareness of the needs of Maine's children and their families; [1989, c. 400, §10 (new).] C. To increase the department's awareness of the impact of its activities on Maine's children and their families; and [1989, c. 400, §10 (new).] D. To assist in communicating the activities and goals of the department to the public. [1989, c. 400, §10 (new).] [1989, c. 400, §10 (new).] 3. Compensation. Members of the committee shall serve without pay, but shall be reimbursed for expenses incurred in the performance of

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Information About...

The AIDS Orphans Adoption Program

Description and Purpose of the Program:

The purpose of the AIDS Orphans Adoption Program is to assist parents terminally ill with AIDS to plan for the future care of their children and avoid having their children placed into foster care.

The AIDS Orphans Adoption Program features a specialized legal and social service team who work with parents terminally ill with AIDS to help them create a permanency plan for their children and avoid the placement of those children into the maze of the foster care system. Adoptive parents, including kindred relations, are now being recruited and the staff attorney is managing the adoption process.

The full scope of services of the AIDS Orphans Adoption Program includes:

- 1) Permanency Planning: discussions with the biological parent of the options available, the development of will and custody documents;**
- 2) Adoptive Parent Recruitment and matching with the children;**
- 3) Family Support Services: Individual, and Family Counseling, as well as Support Groups for prospective guardians and appropriate referrals made where necessary through a network of resources and;**
- 4) Legal Services: the advocacy and legal services of a staff attorney**

Thousands of children are expected to be orphaned due to AIDS in the next few years. COAC's AIDS Orphans Adoption Program is demonstrating that they can be placed with a new family, avoiding the foster care system, and that the court system can be prodded to move faster to accommodate the accelerated time frame needs of the AIDS-affected biological parent. We aim to expedite by as much as six months the adoption or custody process for these families.

The parents do not have the time to wait for the legal system and the adoption process to operate at their normal speed.

The few programs in New York which have been set up recently to deal with the issue of the growing numbers of AIDS Orphans have chosen to focus on increasing the availability

of foster care placements -- a short-term solution to the growing numbers of children needing homes.

COAC's AIDS Orphans Adoption Program, on the other hand, is the first non-governmental program to pose adoption as a viable option. We believe that adoption, as a permanent solution, is a more nurturing alternative than placement in the overwhelmed foster care system. In foster care, the children typically move from home to home, unnecessarily disrupting young ones already grieving over the death of their parents.

The Need for the AIDS Orphans Adoption Program:

COAC has become aware of the increasing numbers of AIDS Orphans entering the foster care system, thereby entering COAC's client base. We have been involved in finding adoptive parents for hard-to-place children, including those of HIV affected parents. We are aware of the slowness and un-nurturing nature of the over-burdened foster care system, and want to help AIDS-affected parents to avoid having to place their children in foster care and to plan for secure homes for their children.

In New York City, there are already more than 35,000 children in foster care. Youngsters entering foster care typically spend 3-5 years there before they are legally freed to be adopted. Even after they are legally free, adoptable children languish for years waiting for a permanent home because there are significant economic disincentives for foster care agencies to move with speed to find permanent homes for the children -- while the children are in foster care, the agencies are paid on a per diem basis. COAC is committed to moving children, as quickly as possible after the death of the parents, into new, permanent homes so they can begin their new lives.

About COAC:

The New York Council On Adoptable Children founded in 1972, is an adoptive services agency which has a strong track record of recruiting minority parents for the adoption of children in foster care in New York City, in particular, special needs children: children who are mentally and physically disabled, children of color, and sibling groups that are considered "hard to place". In recent years we have been placing children exposed to crack-cocaine in utero and HIV-negative children orphaned by AIDS.

COAC's primary functions have historically been to recruit and prepare African-American and Hispanic families for adoption, facilitate parent/child matching, keep in touch with the parents and with the foster care agency holding the child, clear logjams and keep the process moving. COAC's intervention has shortened the bureaucratic public adoption process, which typically takes 3-5 years, by as much as two years. The new AIDS Orphans Adoption Program builds upon COAC's established adoption programs, performing many of the same services, but adding home-based social services, counseling, and legal services for a new population, AIDS-affected families.

IF YOU KNOW ANY AIDS-AFFECTED PARENTS WHO MAY NEED OUR SERVICES, PLEASE CALL US AT (212) 475-0222.

IF YOU ARE INTERESTED IN ADOPTING A CHILD OR CHILDREN ORPHANED BY AIDS, PLEASE CALL US AT 212) 475-0222. ASK FOR THE AIDS ORPHANS ADOPTION PROGRAM STAFF.

ALL OF COAC'S SERVICES ARE FREE.

**New York Council On Adoptable Children
666 Broadway - Suite 820
New York, NY 10012
(212) 475-0222**

INFORMATION ABOUT THE COUNCIL ON ADOPTABLE CHILDREN...

Goals

The Council on Adoptable Children (COAC), founded in 1972, is an adoption services agency which offers programs to parents interested in adopting abused and neglected children in the N.Y.C. foster care system. COAC's mission is to insure that as many adoptable children as possible are placed, as expeditiously as possible, with families that will love and care for them.

History

COAC evolved from a group of adoptive parents who met informally in 1970 to discuss the severe delays they had encountered with the bureaucratic foster care system, to propose methods to get the system to act faster, and to provide mutual support. Today, hundreds of children who are in the process of becoming legally free to be adopted, languish for years unnecessarily in the limbo of the glacially-slow foster care system. COAC is devoted to recruiting parents and helping them shorten the length of waiting time for these adoptable children.

Programs

COAC offers four programs to New Yorkers interested in adoption:

1) **African-American and Hispanic Parent Recruitment, Education and Assistance Programs**

Through these programs, COAC recruits and works with minority parents interested in adopting children in foster care. We assist these parents through all phases of the adoption process. These programs are the centerpiece of COAC's programmatic services:

- *the African-American Child Adoption Program*
- *the Hispanic Child Adoption Program, and*
- *the Forever Families/Familias Para Siempre - Post Adoption Program*

Under these programs, COAC recruits and then provides a two-part orientation for prospective parents. Personal interviews are then conducted by COAC staff to evaluate the suitability of the family for adoption, and prepare them for the rigors of the lengthy adoption process. A child is identified, a preliminary home study is conducted and then COAC makes contact with the agency that has the child. At this point COAC serves as an advocate for the parents with the agencies -- it keeps in touch with the parents, and with the foster care agency, clearing logjams and keeping the process moving until a child is placed with them.

2) **Family Education and Support Services**

COAC provides parent training and support groups for families who have adopted special needs children. These children pose a major challenge to any parent and moreso to the adoptive parent. Life's ordinary tasks assume amplified proportions when a parent deals with a child's mental, physical or emotional handicap. COAC provides the support needed to enable the family to adjust.

3) **Adoption Education and Referral Program**

For people interested in adoption, COAC serves as a clearinghouse for information on the process. If the inquirers are not interested in adopting a special needs child, COAC refers them to the appropriate agency to meet their needs.

4) **AIDS Orphans Adoption Program**

In 1993, COAC undertook a new initiative, the first independent service offering assistance to AIDS-affected parents so they can plan for the future of their children and avoid their placement into the foster care system. The program features a specialized social and legal services team who work with parents terminally ill with AIDS to help them create a permanency plan for their children, including the recruitment of adoptive parents for those orphans whose kin are unable to raise them. Since its inception, over 350 AIDS affected children have secured permanency.

The Population COAC Serves

COAC serves primarily African-American and Hispanic New Yorkers who seek to adopt children in the city's foster care system. We mainly serve families from the five boroughs and the surrounding region, but we also help families from other states and countries who seek to adopt New York children.

There are currently over 38,000 children in foster care in New York City. The vast majority (over 95%) are African-American and Hispanic. About 15,000 of the 38,000 children have the goal of adoption; approximately 8,000 of these are legally free to be adopted. COAC's target population is the hardest to place sub-group of special needs children - minority, older, handicapped, sibling groups. These are the innocent victims of the problems of their parents and our society, placed in foster care due to neglect, abuse, poverty, substance abuse, and homelessness.

The vast increase in the number of children in foster care in New York City can be traced to the two poverty-related issues of homelessness and drug abuse. Since the advent of the crack epidemic in the mid-eighties, we have seen thousands of "boarder babies" entering the foster care system. The vast majority of the children under 5 who are in foster care, were exposed to crack in utero and were born with developmental disabilities.

60% of these children will be returned to the biological parents after an average of 4 years in a foster home. The remaining 40% will be eventually freed for adoption, and most of these children will be adopted by their foster parents. But the older, developmentally disabled, or minority "special needs" children will languish in foster care for years before they are legally freed to be adopted, costing society upwards of \$15,000 for every year they remain unadopted.

The Need for COAC

Even after these children become legally adoptable, the current bureaucratic foster care system does not have an incentive to move them quickly out of foster care and into adoptive homes -- they are paid on a "per diem" basis for every child in foster care. The system does not actively pursue adoptive families and work with them until a child is placed; it is glacially slow; there are dozens of delays. Meanwhile, infants grow into school-age children, toddlers grow into pre-teens -- in short, children who are grieving the loss of their biological parents are made to wait years for a permanent, loving family. The lasting emotional damage this process causes is not only heartbreaking and cruel, it is an injustice to these children and to society.

To deal with this injustice, COAC is devoted to expediting the adoption process for these children and reducing their waiting time in foster care. Unlike the homeless, whose plight is visible to the public eye, the situation of these children is hidden from public view. We therefore try to bring visibility to the problems of these children by participating in advocacy and publicity campaigns.

COAC's Role and Its Effectiveness

COAC is the oldest independent program in New York City that recruits minority parents for special needs children and then guides them through the maze of the adoption process. As such, we are intimately familiar with the barriers to adoption that exist for all special needs children.

The success of COAC is most clearly demonstrated in the dramatically higher rate of successful adoptions among COAC-counseled families (90% vs industry-wide 70%). COAC's staff is composed of African-American and Hispanic professionals and the agency has strong grass-roots linkages that enable it to successfully recruit large numbers of adoptive parents from the African American and Hispanic community. Since its inception, COAC has helped place over 2,000 special needs children a remarkably high number for a small agency and for this field. Finally, we take great pride in the fact that **COAC's interventions have proven to shorten the adoption process by six months to two years.**



May 17, 2000

Melanne Verveer
Chief of Staff
to the First Lady, Hillary Rodham Clinton
Old Executive Office Building
The White House
Washington, DC 20502

Dear Ms. Verveer:

I wish to convey a very *special* thank you for the attention and time you gave me this past May 1st when I was in D.C.

My immediate goal upon my return to New York City was to communicate with you within a week's time; however, this was not to be the case until now.

Again, thank you for the time you so thoughtfully afforded me in your extremely hectic schedule.

I will keep in touch.

Sincerely,

Julie Aguilera
President, Board of Directors

JA:ph
Enc.

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666 Broadway, New York, NY 10012

NEWS

Winter 1999-2000

COAC CELEBRATES AT 16TH ANNUAL AWARDS CEREMONY

The traditional candle-lit procession that has become the hallmark of COAC's Annual Awards Ceremony was especially stirring as it filed through the Sutton Ballroom of the New York Hilton on November 10, 1999. Both in number (a record twenty-nine) and in age range (from three years to adult) it set a precedent that illustrated the strong bonds that endure between this pioneering organization, its supporters, and the children (some now adults) for whom COAC provided the ultimate support in the form of a permanent, loving family.

This year, a lavish pre-dinner reception sponsored by Con Edison provided the opportunity for more than 200 guests to meet and mingle in a festive atmosphere that continued into the dining room, where honoree Willie Gary delivered the invocation in the stentorian tones for which he is famous in both courtroom and pulpit.

Representing the European American Bank, which acted as the dinner chair, Senior Vice President Raul Cruz was introduced by Susana Duarte of Anheuser-Busch. COAC, he said, had made him aware of the role adoption can play in people's lives. He saluted all parents who have been willing to share their lives with adopted children.

Fabian Rivera, Director of Community Relations for Keyspan Energy (formerly Brooklyn Union Gas Co.) took the podium to present the man he called "a guardian angel of adopted children", COAC's Executive Director, Ernesto Loperena. Mr. Loperena explained the significance of the COAC Award in recognizing outstanding examples of dedication and service in behalf of children. A summary of his remarks appears in his message on page 2.

In a charming innovation, this year's

honored guests were escorted to the podium by candle-bearers, the children who had found loving homes through COAC.

Alan G. Hevesi, Comptroller of the City of New York, who is well-known for eliminating waste and fraud in government operations, deserves equal renown, said Mr. Loperena, for his long-term efforts to improve and monitor New York's services for children. The Foster Care Advisory Committee, established as a forum for discussion of child welfare issues, led to a Task Force on Foster Care Performance Standards. Another initiative, the Task Force on Adoption Options, deals with permanency planning. In accepting the award, Mr. Hevesi described the importance of faith in accomplishing good works. COAC accomplishes things that government cannot do, he said. It is doing God's work.

The keynote speaker, Willie Edward Gary, who is internationally famous as an attorney and philanthropist, has never lost sight of the debt he owes to God in helping him to achieve the success he enjoys today. He has dedicated

himself to giving back to the community whatever is in his power to improve the lot of his neighbors, and his contributions to education, medical care, civil rights, and religious and civic causes at all levels of government are legendary. He urged parents to be role models for their children, and inspire them to "be the best they can be." He challenged the children in the audience to do their best to be *somebody*; to dream their dreams, to go out and make a difference. "Tough times don't last", he said, "but tough people do." He also paid tribute to the role of his wife in helping him to achieve success. We will all be judged, not by what we did for ourselves, but by what we did for others. Mr. Gary's award was presented by COAC President Julie Aguilera.

Alma Scott-Buczak, Vice President of COAC's Board of Directors, presented the COAC Award to the Hispanic Federation, an organization of 62 health and human service agencies in New York and New Jersey, dedicated to improving the quality of life and meeting the needs of the Hispanic community in our region by providing it with

continued on page 5



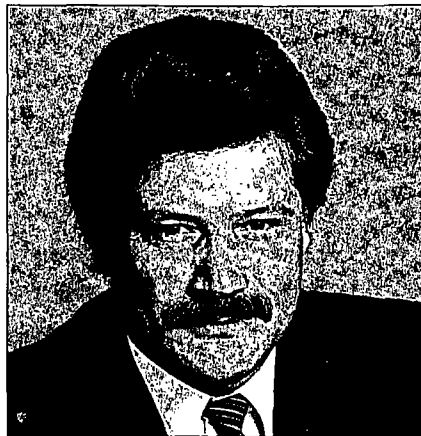
left to right, Hon. Robert Lippmann, Raul Cruz, Susana Duarte, Hon. Alan Hevesi, Lorraine Cortés-Vasquez, and Willie Gary, Esq..

A MESSAGE FROM THE EXECUTIVE DIRECTOR

As we leave this millenium there is much to be thankful for; yet as we enter upon the next there is so much confronting us to do. We at COAC are thankful that the issue of permanence for children has become an accepted part of the child welfare lexicon. Our mission statement: "Every child truly needs and deserves a permanent, loving and nurturing family" has become a mantra for thousands of organizations and parent groups since our founding in 1972. As we celebrate our 27th year as a corporation, we are proud of our accomplishments. We have proven, time and time again, that *every* child is adoptable. Whatever a child's age, race, ethnicity, gender, physical or mental challenge or sibling group status, there are special people to be found who will adopt that child.

COAC has been a pioneer in expanding the pool of potential adoptive parents to include people who had previously been considered ineligible to adopt. In the early 1970s, COAC began actively to recruit single people, people of non-traditional religions, people who lived in apartments rather than houses, people with low-income jobs, people over the age of 50, and even people on welfare as prospective adoptive parents. All of these groups can and do make wonderful parents. Some, indeed, come to the process with valuable experience in parenting that can greatly benefit an adopted child. Since 1972 COAC's Minority Adoption Program has recruited more than 7000 families, and placed more than 2000 children in permanent, loving, nurturing homes.

COAC has also been a pioneer in respond-



Ernesto Loperena, Executive Director

ing to the challenge posed by the epidemic that has become the scourge of modern society: AIDS. During the 90s, as the adult population affected by AIDS came to include more and more parents, primarily women, it became increasingly apparent that unless help was forthcoming, their children would suffer serious consequences as a result of their mothers' disease. AIDS would not only deprive them of their mothers, but, because of the stigma surrounding the diagnosis, probably also deprive them of the support of an extended family, and condemn them to the vagaries of an already overburdened foster care system.

COAC's response was to create a program that would enable parents with AIDS to be assured that in the event of their incapacity or death, their children would be provided with a permanent loving home. Furthermore, in a departure from existing practice, this would not mean that the parent had to

relinquish either custody or decision-making power during her lifetime. Instead, she could remain in charge of her children as long as she was able. A pioneer in developing and refining procedures for permanency planning using a team approach combining social work with legal counsel, the AIDS Orphans Adoption Program has since 1993 provided more than 500 children with permanent, loving, nurturing homes, thereby avoiding the necessity for these children to enter the foster care system.

As one millenium comes to a close and we embark on the next, we can look back proudly on these accomplishments. COAC's philosophy has always been on the cutting edge, seeking to break down the barriers that defined certain groups of children as being unadoptable and relegated certain groups of adults to categories deemed unsuitable for parenthood. Today, COAC's philosophy has become the accepted approach, and its programs are emulated far and wide. As a result, thousands of children who would otherwise have entered foster care will be spending their holidays in the midst of their permanent loving families, and thousands of warm-hearted adoptive parents will be rejoicing in their opportunity to provide these children with the love and nurturing they so richly deserve.

We at COAC feel blessed to be able to serve those who are most vulnerable in our society. We look forward to the opportunities the new millenium will provide to maintain and expand our mission.



President Aguilera's Remarks: 2000



Julie Aguilera, President

Welcome 2000!

As we awake to the dawn of a new millenium, my heart jumps at the thought: which of the children born in 2000 will become COAC babies? Will the first child born in 2000 become one? Will this child be American-born? How many children will suffer through the uncertainties and the maze of the Child Welfare System? Scary!

This agency was founded with the intent to phase itself out. At the time, COAC's founders felt that if they accomplished their task correctly, every child who needed a

permanent home would be placed in one, and a model would be established for posterity. Unfortunately, this has not been the case, and today our services are needed more than ever. However, in 1999 we have succeeded in solidifying COAC, keeping it ready and strong for the next hundred years!

What diseases will affect the lives of parents and children? What changes in Family Law must we advocate? How do we empower the poor, the weak, and the disenfranchised in our society: the children? What new effective means of funding are we to undertake? What areas of society must we address with reform, assistance, and new initiatives?

COAC is well-positioned to face the challenges of the year 2000 and beyond. Fortunate in having a Board of Directors with a well-balanced philosophy, and a ded-

icated professional staff with a wealth of experience, COAC is ready to embark on trail blazing roads of challenge and change. Together with government, corporate and foundation resources, we shall be policing the system, finding ourselves again on the cutting edge of new ideas and reform. The hearts and souls of many people, present and absent, will be an inspiration to the leaders in special needs adoption in providing refuge to the children and families whom we shall lovingly embrace in the future. There will be new adjectives for us. What will they be? For certain, they will reflect integrity, creativity, reform and an unwillingness to back down when it comes to promoting the best interests of our nation's most valuable resource: our *children*.

January 1st, 2000: COAC has just heard the first knock at its door!

NEW FACES AT COAC 2000



ALLISON ARCHER, Family Care Coordinator

After receiving a BA from Buffalo State College, where she majored in English, Allison began work toward a Master's degree in Education at Long Island University. Allison also worked full-time as a case manager at the Brownsville Multi-Service center, a community-based organization, where she dealt with a special needs population. She has also been a case coordinator at VIP Health Care Services in Queens, supervising home health aides. When a friend mentioned COAC to Allison, she was immediately interested. "I realized that at COAC I could work with a special needs population, which I enjoy" she said. "I like being in the community helping people." Because she herself was adopted, Allison feels, "I can relate to my clients better, helping with permanency planning and the emotional aspects involved, and showing them that there's an alternative to the foster care system."



JENAI BELTON, Family Coordinator, AIDS Orphans Adoption Program

After earning a B.S. at Lincoln University in Pennsylvania where she majored in Human Services, Jenai returned to New York to work with the Police Athletic League directing a play site at Baruch Houses. Her uncle, an administrator with the ACS, told her about COAC and Jenai decided to learn more about COAC first-hand. Her interview convinced her that she would fit into the COAC team, and she was delighted when she was offered the opportunity to be part of it. She is enjoying learning on the job, and feels particular satisfaction in knowing that already she has been able to help families who attend orientation sessions to find answers to their questions about adoption.



PRISCILLIA GORE, Project Director of "Forever Families", COAC's Post-Adoption Services Program

"Forever Families", a program begun in 1998, pro-

vides educational workshops, support groups, crisis intervention and counseling to adoptive families. When Priscillia learned that COAC intended to start such a program, she saw a perfect opportunity to use her skills and experience. Originally from North Carolina, Priscillia attended college at SUNY, in Westbury, N.Y. majoring in Psychology. After serving as a project coordinator for ITT, Priscillia became a Protective Diagnostic Case Worker for the Bureau of Child Welfare, supervising investigations of allegations of child abuse and child neglect. Her next move amounted to taking on three full-time jobs simultaneously: graduate student, mother, and employee. Returning to graduate school for an MSW at Hunter as a full-time parent, she also worked full-time at the Brooklyn Bureau of Community Service, dealing with adolescents who were mentally retarded and/or developmentally disabled. She has also worked with mentally ill chemical abusers, and has run a drop-in center for the homeless for the Salvation Army. Today her family includes a 19-year-old son and a six-year-old daughter.

"Programs that educate parents in dealing with problems of adolescents are not always dealt with in other social work programs," she says. "Such programs can make a big difference, and keep parents from placing kids with problems back into the foster care system."



DEEDAR JILLAH, Paralegal

From early childhood, Deedar has been fascinated by the law. Deedar grew up in a family that was active in the fight for social justice during the period when the former British Guyana was gaining its independence. In Guyana, he earned a Bachelor's Degree from Queen's College, and then went to work in a sugar factory as a lab technician.

But studying law remained his primary ambition. Some years later, when another job with a shipping organization led to his being sent to the U.S. on business, Deedar decided that New York was where he wanted to make his home and practice his chosen profession. His first step was to enroll in the New York Paralegal School where he received a diploma in 1996. Since then, he has held legal assistant positions at well-known law firms, increasing his knowledge of American law, with the aim of eventually being accepted as a law student. In the interim, he has also become a Notary Public and a licensed Process Server. Deedar came to

COAC in July, 1999, assuming the responsibilities of legal assistant to COAC's staff attorney. He and his wife have a three-year-old daughter.



YVA MONTREUIL, Family Care Coordinator

Yva's story is one of persistence and triumph over adversity. A native of Haiti, Yva came to the U.S. twenty-five years ago as a student. Some years later, she returned, holding a Bachelor's and a Nursing degree from College St. Pierre, and a degree in Accounting from the Ecole de Commerce de Maurice Laroche. After polishing her English language skills at the American Language Institute, Yva soon found work as a pediatric nurse, and returned to nursing school to increase her qualifications. Then calamity struck. Atrophy of her optic nerve caused Yva to lose her vision and forced her to interrupt her studies. Although some vision returned after six seemingly-endless months, it was no longer adequate for nursing. So Yva enrolled in N.Y.U. where she earned a B.A. in Psychology. This led to a job at a hospital doing counseling and admissions assessment. Later, at the Young Adult Institute, Yva gained experience working with people who were mentally retarded. As a legally blind individual, Yva was registered with the N.Y. State Commission for the Visually Impaired, and it was through the Commission that she learned of an opening at COAC that would give her the opportunity she sought to use her experience with HIV+ people. "They really need help" says Yva, "and need to feel free from discrimination. I can identify with them."



MAYRA REYES, Family Coordinator

Mayra's interest in service to others goes back to her childhood in Puerto Rico, where her mother taught her first to help others, and then help herself. As a Family Coordinator, Mayra's responsibilities involve finding children for the Minority Adoptions Program. "It's a challenge," she says, "the ongoing search to fill that void" in a family that seeks a child.

Mayra particularly enjoys working with the Latino community. After receiving her B.A. from Boricua College in New York,

NEW FACES AT COAC 2000 (continued)

where she majored in Human Services, Mayra held various internships with the 33rd Precinct in the Bronx, gaining experience in the field of domestic violence. She also worked with M. I. C. A. (Mentally Ill Chemical Abusers) dealing with mentally ill substance abusers. "This was one of my most important experiences" she says, and when her internship ended, she returned as a volunteer. "You get to see a different side of children in these settings." In order to increase her skills, Mayra plans to return to study for a Master's degree.



PERRI SIEGEL,
Staff Attorney

A person with multiple abilities may not easily find a career helping others that can encompass all her interests. Yet Perri Siegel, COAC's new Staff

Attorney, feels that at COAC she has done just that. At COAC, Perri finds that she can utilize her undergraduate training in Sociology, her experience in medical set-

tings, and her professional legal skills to help the people who are most in need of her assistance.

Perri's B.A. was earned at Clark University in Massachusetts, where she concentrated in Gerontology. After acquiring a Masters degree in Social Work from the University of Pennsylvania, Perri came to New York and worked in the in-patient medical service of Jacobi Hospital. Here she became aware of the many ways in which patients with HIV may need legal help in addition to social services and medical care. Knowledge of the law, she felt, would enable her to do more for this population.

So Perri enrolled in law school, and in 1998 received her J.D. from Brooklyn Law. In 1999 Perri was admitted to the New York State Bar.

While working at Bedford-Stuyvesant Legal Services, Perri noticed a job listing whose requirements seemed a remarkable match for her qualifications. When she submitted her resume, COAC agreed. Perri is now one of the rare people able to combine several professional skills in a career that calls on all of them.



MIDELLE ROMULUS-DENIS, Family Care Coordinator

Born in New York to Haitian parents, Midelle describes herself as a Haitian-American.

After graduating from Audrey Cohen College where she majored in Human Services, Midelle enrolled at Fordham for a Master's degree in Social Work, which she is in the process of completing. Over the past several years, Midelle has acquired considerable experience working with HIV+ people and AIDS patients in a variety of settings: the Renaissance Health Care Network in Harlem, the East New York Diagnostic and Treatment Center, and the Brooklyn AIDS Task Force. The best thing about her work at COAC, she says, is that it allows her to use her professional skills to help people who are HIV+ to get the services and treatment that they need. Midelle has a twenty-two-year-old daughter, Kaila, and an eight-year-old son Treston.

William, A Child Who Waits



William is an adorable little boy who is small in stature but big on energy. Like most children, William loves to spend his time outdoors or mock-wrestling with his foster siblings. William also likes to watch cartoons, play video games, and draw.

William likes to rough-house and requires monitoring with limit-setting. He receives medication to control his hyperactivity, which has enabled him to focus at school and enjoy more positive social interactions with his classmates. William makes a conscious effort to correct his conduct and he tries hard to behave and wants to please. With appropriate discipline, lots of attention and love, William will be a great addition to a large, loving family.

Getting Ready For Rosie's Future

Delores knew that she was dying. Living with her eight-year-old daughter, Rosie, in a three-story walk-up in the Bronx, she had no family or friends who could become her daughter's guardian after Delores died. Although her mother was alive, she and Delores did not get along, and Delores believed that Rosie would be better off with someone else.

COAC had been contacted by a couple, Lorna and Tom, who wanted to adopt a child, and who were willing to adopt an

AIDS orphan. COAC arranged for them to meet with Delores. The meeting was the beginning of a series, during which Delores and the couple bonded, and she came to believe they would be good parents for Rosie. Next, Lorna and Tom met Rosie, and after several meetings over a period of time, the decision was made. They would become Rosie's standby guardians, while Delores was alive, and then her adoptive parents, if their petition was approved by the court. The petition was successful, and Rosie's future was assured, allowing Delores to have peace of mind during the remainder of her life.

The Guardians From Puerto Rico

Anna M. was critically ill with HIV/AIDS. Her two-year-old daughter Yvette and her five-year-old son Robert would need a family when Anna was gone, but the only relatives who would make appropriate guardians for her children were her mother and her brother, and they lived in Puerto Rico. Although COAC knew of no agency that had ever arranged a guardianship in Puerto Rico, and knew the process would be much more complicated outside the continental U.S., they agreed with Anna that the children would be much better off with their grandmother and uncle than with strangers, and they decided to try to arrange the adoption.

First, the grandmother and uncle were flown to New York for a brief visit with Anna and her children, during which they visited court to take care of the legal requirements for adoption. Because they lived in Puerto

Rico, the judge agreed to excuse them from the second court visit that is normally required. COAC was also able to arrange for the required visit by a social worker to the relatives' home to take place by telephone. When the time came, all the legal requirements having been met, the children were able to go to their new home without delay.

Happy Ending - New Beginning

Quentin, the young boy who appeared in our Winter 1998 Newsletter, is no longer "a child who waits". Thanks to COAC, Quentin has been matched with a single father, whose family includes three other adopted boys.

COAC NEWS

Published by
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On Adoptable Children
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New York, NY 10012
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Julie Aguilera
President

Ernesto Loperena
Executive Director

Barbara Baumann
Editor



1999 Awards

continued from cover

Fund Development, Technical Services, and Advocacy. These services include day care, health care, education, housing, leadership development, employment training and other services. Ms. Scott-Buczak recalled that in 1991, when COAC desperately needed assistance, the Hispanic Federation provided the support that enabled COAC to remain in existence. Accepting the award on behalf of the organization, Lorraine Cortes-Vasquez, President of the Hispanic Federation, thanked COAC for taking on what she termed "a labor of love."

The Honorable Robert Lippmann became also the Honoree Robert Lippmann on this memorable occasion, as his COAC award was presented by Treasurer Duncan Whiteside, thus making him "the Honorable Honoree", who has devoted his private life as well as his career to furthering the interests of children. For more than eight years, Judge Lippmann served on COAC's Board of Directors, playing an active role in policy planning and providing

valued leadership. After being elected to the Civil Court of the City of New York he became in 1992 a Judge of the New York State Supreme Court, where he currently presides. In 1995 Judge Lippmann was instrumental in creating Standby Guardianship Task Forces with the judges of the New York City Family Court. The Task Forces met with members of COAC's AIDS Orphans Adoption Program and their efforts resulted in new recognition of the issues facing HIV+ parents, and their needs for permanency planning. Their example has already served as a model for numerous other organizations. As adoptive parents, Judge and Mrs Lippmann have raised three sons who have themselves already demonstrated aptitude for public service. In accepting the Award, Judge Lippmann recalled that while in the early days of COAC, the Child Welfare System often "got in the way" of parents waiting to adopt, today things are fortunately much improved.

Susana L. Duarte, representing Anheuser-Busch Companies, which, along with Banco Popular, Con Edison, Pfizer, and Philip Morris Companies, Inc., was a Co-Chair of the evening,

expressed the sentiments of all when she praised the work of COAC, and paid special tribute to its President, Julie Aguilera. She assured the audience of her company's continuing cooperation with COAC's aims, and pledged its support for COAC's future efforts.

Rising to express her thanks to all those who had made the splendid evening possible, President Julie Aguilera concluded her remarks with a thought-provoking reflection on the role of COAC in the new millennium. A summary of her observations appears on page 2.

In conclusion, Raul Cruz of the European American Bank, the evening's Dinner Chair, expressed his pleasure in the evening's success. Assuring those present that in his view "COAC is definitely Y2K compliant" he urged the participants to enjoy the delightful rhythms of La Rebelión, and invited everyone onto the dance floor.



COAC is grateful to the following corporations, foundations, and government agencies for their invaluable support of our programs:

ALTMAN FOUNDATION
CHASE MANHATTAN FOUNDATION
CHILDREN AFFECTED BY AIDS FOUNDATION
CON EDISON
HISPANIC FEDERATION
MARION E. KENWORTHY - SARAH H. SWIFT
FOUNDATION
MEDICAL & HEALTH RESEARCH ASSOCIATION
OF NEW YORK CITY

NEW YORK CITY ADMINISTRATION FOR
CHILDREN'S SERVICES
NEW YORK CITY DEPARTMENT OF YOUTH AND
COMMUNITY DEVELOPMENT
NY STATE OFFICE OF MENTAL RETARDATION &
DEVELOPMENTAL DISABILITIES
JEFFREY M. & BARBARA PICOWER FOUNDATION
PINKERTON FOUNDATION
THE SWINT FOUNDATION
U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES

COAC takes pride in announcing a partial list of children who were placed in permanent, loving homes during the period of January to December 1999. We congratulate the happy parents and the participating organizations.

Families

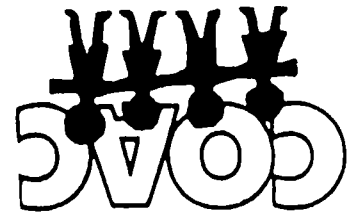
Mr. & Mrs. Robert Davis
Mr. Kevin Dawson
Mr. & Mrs. Alford Ford
Mr. & Mrs. Ira Manning
Ms. Georgia Mobley
Ms. Cheri Statuto
Mr. & Mrs. Henry Thompson
Ms. Carolyn Whitehead

Child(ren)

Nancy
David
Darren
Kevin, Frankie
Christina
Michael
Angela
Akeem, Nefertiti, Luis

Agency(ies)

Westchester County DSS
McMahon/Good Shepherd
Little Flower
Little Flower
Forestdale
Family Support Unlimited
Abbott House
Cardinal McCloskey



council on adoptable children
666 Broadway, New York, NY 10012



CAUSE FOR INVOLVEMENT

In 1970, the founders of COAC thought of themselves as individual families coming together to talk about their adopted children. Today, the family has grown. COAC is not just a few families; it is hundreds of families. It is not just a few adopted children; it is hundreds of children adopted or waiting to be adopted. It is also people like you concerned about children and their welfare. We need your moral and financial support so that the message of homeless children waiting too long can be heard. Thank you on behalf of the children.

If you are interested in joining the COAC family, mail to: **Council On Adoptable Children,
666 Broadway,
NY, NY 10012.**

COAC IS A TAX EXEMPT ORGANIZATION.
YOUR MEMBERSHIP AND/OR CONTRIBUTIONS ARE TAX DEDUCTIBLE.

- ☐ Yes, I want to join the COAC family, and enclosed is \$25 for annual membership (includes the newsletter).
☐ I do not wish to become a member; however, enclosed is my donation of:

☐ \$10 ☐ \$25 ☐ \$50 ☐ \$100 ☐ other _____

Name _____

Address _____

Phone _____

Fax _____



COAC AWARD RECIPIENTS

1984

Anthony Drexel Duke
Clara "Mother" Hale
Dr. Helen Rodriguez-Trias

1985

Dr. Evelina Antonetty
Arthur Mitchell
Dr. Kenneth Clark

1986

Dr. Antonia Pantoja
Dr. James Dumpson
The Joseph P. Kennedy, Jr. Foundation

1987

Carol Bellamy
Kaity Tong
Hon. Frank Torres

1988

Marian Wright Edelman
Hon. Olga Mendez
The Avon Products Foundation

1989

Fred Noriega
First Lady Matilda Cuomo
Dr. David Fanshel
Hon. Al Vann

1990

Anna Carbonell
Joyce & Peter Forsythe
Carol Jenkins

1991

WNJU Channel 47
Angela Cabrera
Darwin N. Davis
John L. Tishman

1992

Brooklyn Union
Johnny Colon
Dr. Patricia Morisey
The Tri-State McDonald's Owner Operators

1993

Leland C. Brendsel
Charlayne Hunter-Gault
Pepsi Cola Bottling Co. of N.Y.
Philip Morris Companies, Inc.

1994

Coors Brewing Co.
Hon. Fernando Ferrer
Carol Levine
Megan McLaughlin

1995

Lionel Hampton
Iris Margarita "Maga" Nevares de Rosello
Libby Pataki
WABC Channel 7
Univision 41

1996

Hon. Michael Gage
Liliana Marin
Tina Ramirez
Con Edison

1997

Thelma Stackhouse
Trudy Festinger
Doreen Spence
Belen Robles
Banco Popular
Pfizer

1998

First Lady Hillary Rodham Clinton

1999

Willie Gary, Esq.
Hon. Alan Hevesi
Hon. Robert D. Lippmann
The Hispanic Federation, Inc.