New Child Welfare Statutes 2014/2015 Session

Margaret A Burt Esq. - as of 12/4/15

The most significant legislation is mandated by the federal Preventing Sex Trafficking and Strengthening Families Act (PSTSFA) signed by the President last September that created various changes – some now, some later : Overall Description of the PSTFA mandates in **15-OCFS-INF-03**

- Successor Kin Gap Guardians (PSTSFA) **Chapter 56 of the Laws of 2015** which modifies SSL §§ 458-a and 458-b and allows the naming of a successor guardian when setting up a kin gap in case of death or incapacity of the original kin guardian – person would have to be approved of by LDSS and have criminal record checks and SCR checks and ultimately be appointed if the original kin gap guardian is incapacitated or dies but would NOT have to be a relative . This was made retroactive to 9/29/14 by signature on 4/23/15. Important info can be reviewed in **15 OCFS ADM 15**

- Placement of Sibs Together in Foster Care (PSTSFA) Important info is contained in **15 OCFS ADM 01** - OCFS requiring that when relatives are noticed about a removal must now also include notice to custodial parents of a sibling or a half sibling (OCFS legal says this includes parent of a sib or half sib that has been adopted if that information is known without opening a sealed adoption file)

- Major changes in Permanency Proceedings (PSTFA) –

  Chapter 56 of the Laws of 2015 contains the following (PSTSFA) : The following are in effect as of 9/1/15

  1. No APPLA goals for youth under age 16 (had been 14) no exceptions whatsoever, to be done at next perm hearing– will be challenging for youth 14-16 who will not consent to be adopted but appear to not be able to return home safely or have any available relatives, LDSS must use search technology including social media to find relatives **15 OCFS ADM 19**
  2. Court will have to reassess APPLA goal every perm hearing and determine why other goals are not ICBI – court must ask APPLA youth directly about the proposed permanency outcome **15 OCFS ADM 19**
  3. To assist foster youth with normalcy in activities i.e.– "to participate in extracurricular, enrichment, cultural and social activities"; the PSTSFA has coined the term " a reasonable and prudent parenting standard" that foster parents will use to determine what the child/youth will be permitted to do (things such as sleepovers, dating, use of computers have been suggested as the types of things being discussed) - court has to specifically check this issue for APPLA youth Foster parents have to be trained in the "reasonable and prudent parenting standard" to help normalize life for foster children **15 OCFS ADM 21**
  4. Youth over 14 must start transition planning and have involvement in creating case plan and can have up to 2 persons the youth has chosen at the case plan meetings (not

the case planner, case worker, case manger or foster parent) - agency can refuse people who are not going to act in child's best interests **15 OCFS ADM 22**

5. Youth over 14 are to be told of their rights at case plan meetings – Please review **15 OCFS –ADM-18** describes the legally mandated portions of that youth over 14 must be provided with regarding their rights. Also youth over 14 are to be involved in transition planning and to have annual credit checks **15 OCFS ADM -13** describes new requirements on annual credit checks
6. Youth who has been in care 6 months or more gets critical documents records when they leave at 18 or older. LDSS is to obtain birth certificates for children in care right away (modified **PHL 4173 and 4174**) **15 OCFS ADM 20**

- PSTSFA also requires - LDSS involved in more documentation and services re sex trafficked youth and those at risk of, expansion of what will be documented on the Missing Child Registry, more data to be collected on various issues : pregnancy, parenting, congregate care, disrupted adoptions/guardianships that result in foster care placements **15 OCFS ADM 16**

- **Chapter 56 of the Laws of 2015** also amended Education Law§ 6456 effective 7/1/2015; state funds to be made available to help foster youth apply to and enroll in SUNY and CUNY colleges

- **Chapter 357 of the Laws of 2014** amended SSL § 3422 (2)(a) to require OCFS to provide previous reports to local district when call is made to SCR (this changes nothing as this has been practice in any event)

- **Chapter 279 of the Laws of 2014** amended SSL § 383-b to say that LDSS has health treatment consent rights regarding children in care as destitute children (as is done for foster children under Art. 10) See details in **14 OCFS- LCM – 16**

- **Chapter 205 of the Laws of 2014** adds full time or part time paid school coaches to mandated reporter list

- **Chapter 145 of the Laws of 2015** indicated that LDSS can submit comments to fatality reports prepared by OCFS within 10 days of being provided with drafts of the report 20 days in advance of its release. If the comments are deemed "factually accurate" they will be included. The bill memo says that the comments are limited to 2000 characters.

- **Chapter 499 of the Laws of 2015** makes procedural changes to PINs and JDs in advising youth of rights, in allocations and in violation proceedings

- **Chapter 492 of the Laws of 2015** defines severe abuse to include non parents, requires that O/Ps from Art. 10s be included in the statewide O/P registry

Two significant bills have passed both houses and await delivery to the Governor. The Governor will have to determine if he will sign or veto each of them when they are delivered.

1. **A 7679 - Youth Presence at Permanency Bill**
2. **A6715 A – The "Non-Respondent parent" Bill**