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A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS DIXON, HARDWICK, LORIGO, MILLS, MORTON, RATH, SAVAGE,
LOUGHRAN, & BURKE

RE: Legislation to improve the provision of child protective services to New York's children and families

WHEREAS, the administration has released nineteen proposals for state laws to improve the child welfare system; and

WHEREAS, these recommendations come after much work and research by the County Executive's office and the Department of Social Services; and

WHEREAS, the first proposal amends the definition of neglect in the Social Services Law and the Family Court Act to establish a presumption of neglect if there is a single incident of excessive corporal punishment, and amends Social Service Law and the Family Court Act to add a definition of excessive corporal punishment; and

WHEREAS, this legislation would make it easier for a child protective service to make a finding of neglect against a family member and then to take appropriate action up to removing a child where warranted through a family court action when the guardian is shown to pose a risk to the child as the result of the infliction of excessive corporal punishment; and

WHEREAS, the second proposal amends the Family Court Act and Social Services Law to establish a presumption that a child's physical, mental or emotional condition has been impaired or is in imminent danger of being impaired when a newborn child's blood or urine tests positive for a controlled substance as such term is defined in subdivision 5 of section 220 of the penal law, unless such substance has been prescribed by a physician; and

WHEREAS, this legislation would make it easier for child protective services to take action to protect a baby if it is born with illegal drugs and alcohol in their system; and

WHEREAS, this proposal was submitted to the State Senate by Senator Felder (S.7060);
and

WHEREAS, the third proposal amends the Family Court Act to make three changes regarding obtaining subpoenas in child abuse and neglect proceedings:

- Adds the counsel for a local department of social services or his/her designee, and the designee of the county attorney to the list of officials able to subpoena records, photographs or other evidence relating to abuse or neglect from hospitals and any other public or private agencies;
- Expands the use of subpoenaed records from use in proceedings to also include use in investigations of an report received from the State Central Register; and

- Allows service of any such subpoena upon a hospital to be made by personal service to the hospital director; and

WHEREAS, this legislation would allow for a more complete and rapid investigation and therefore has the potential to better protect children, will save children from further acts of abuse and neglect and ultimately may save the lives of children who have experienced abuse or neglect; and

WHEREAS, this proposal was submitted to the State Senate by Senator Felder (S.7062); and

WHEREAS, the fourth proposal amends the Social Services Law and Executive Law to require various law enforcement and other governmental agencies, such as fire departments and 911 dispatch centers, to provide records to child protective services, including arrest and conviction records, orders of protection, information indicating that a person named in a report is currently under supervision of a probation or parole agency of the state or of a local government and the charge or charges related thereto, information indicating if there is an outstanding arrest warrant, information indicating if a person is a registered sex offender and information indicating if there have been requests for an emergency response involving an address or involving a person named in a report; and

WHEREAS, this legislation would give child protective workers quick access to what could prove to be critically important information that will aid in their investigation to protect children from new acts of violence and will provide additional protection for child protective services workers by providing them with important information about the people and location to which they are responding; and

WHEREAS, this proposal was submitted to the State Senate by Senator Felder (S.7061); and

WHEREAS, the fifth proposal amends the penal law to create a new felony crime of knowingly making false allegations of suspected abuse or neglect of a child or of a vulnerable person. The current misdemeanor penalty is retained. The felony offense can be applied where there are certain aggravating circumstances or repeat offenses; and

WHEREAS, this legislation would result in fewer false reports to the Statewide Central Register for Child Abuse and Maltreatment made for malicious reasons; and

WHEREAS, the sixth proposal amends the social services law to establish a civil penalty for making false allegations of suspected abuse or neglect of a child which can be prosecuted in a civil action by the Office of Children and Families or a local child protective service; and

WHEREAS, this legislation would result in fewer false reports to the Statewide Central Register for Child Abuse and Maltreatment made for malicious reasons and thus provide more time for child protective workers to investigate serious and complex cases that require a great deal of time and attention; and

WHEREAS, this proposal was submitted to the State Senate by Senator Kennedy (S.7128) and to the State Assembly by Assemblymember Peoples-Stokes (A.9436); and

WHEREAS, the seventh proposal amends the Education Law and Social Services Law to require certain officials receive an additional two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment every three years; and

WHEREAS, this legislation would improve the quality of reports made to the Statewide Central Register of Child Abuse and Maltreatment by mandated reporters; and

WHEREAS, this proposal was submitted to the State Senate by Senator Felder (S.7063); and

WHEREAS, the eighth proposal amends the Penal Law to establish a new Class D violent felony offense of endangering the welfare of a child in certain aggravated circumstances; and

WHEREAS, this legislation would create a more severe penalty in certain aggravating circumstances of abuse and maltreatment of a child where they family member knowingly or recklessly creates a risk of either serious physical injury or prolonged impairment. The current Class A misdemeanor penalty of endangering the welfare of a child is retained but is renamed as Endangering the Welfare of a Child in the Second Degree; and

WHEREAS, this proposal was submitted to the State Senate by Senator Gallivan (S.7045); and

WHEREAS, the ninth proposal amends the Social Services Law to require OCFS to notify the appropriate local child protective service if the subject of an allegation of child abuse or maltreatment is a child care provider, or if any person named in a report is a known sex offender or to have previously been the subject of a founded report of abuse or neglect. Such notice is to be provided by OCFS at the time that OCFS forwards a report to a local child protective service; and

WHEREAS, this legislation would give critical information to a local child protective service at the beginning of an investigation which will better allow it to assess the risk to children.

WHEREAS, this proposal was submitted to the State Senate by Senator Gallivan (S.7044); and

WHEREAS, the tenth proposal amends the Social Services law to allow local social services districts to forbid an informal day care provider who is the subject of an indicated report on file with the statewide central register or a felony conviction at any time for a sex offense, crime against a child, or a crime involving violence, or a felony conviction within the past five years for a drug-related offense from participating in the New York State Child Care Block Grant program. Informal day care providers are not required to be licensed or registered by OCFS or by

a local social services district, but they may seek to be reimbursed for providing day care services in certain circumstances; and

WHEREAS, this legislation would extend the criteria used to protect children from unsafe licensed or registered child day care providers to informal child care providers; and

WHEREAS, this proposal was submitted to the State Senate by Senator Grisanti (S.7055); and

WHEREAS, the eleventh proposal amends the Social Services Law to require the Statewide Automated Child Welfare Information System (Connections) to allow for the upload of digital images and electronic documents; and

WHEREAS, the legislation will allow supportive documentation be stored in the official CPS case files; and

WHEREAS, this proposal was submitted to the State Senate by Senator Gallivan (S.7041); and

WHEREAS, the twelfth proposal amends the Social Services Law to require calls made to the central register be recorded and such recording made part of any report of suspected child abuse and neglect. The voice recording shall be transmitted to the appropriate local child protective service for investigation. The recording of all calls whether considered a report on not shall be retained by OCFS for specified periods; and

WHEREAS, this legislation would make it easier for child protection workers to investigate reports made to the Register and for OCFS to document whether calls were made and what they contained; and

WHEREAS, this proposal was submitted to the State Senate by Senator Gallivan (S.7042); and

WHEREAS, the thirteenth proposal amends Social Services Law to require OCFS to include, in its transmittal of an allegation of child abuse or maltreatment for investigation, all previous reports and calls on a statewide basis involving the subject of the report and children named in the report including reports of allegations of child abuse or maltreatment; and

WHEREAS, this legislation would give child protective workers information about previous investigations at the beginning of an investigation. In addition, the workers will have access to previous allegations of abuse or neglect, including allegations that were not transmitted to the local district; and

WHEREAS, this proposal was submitted to the State Senate by Senator Gallivan (S.7043); and

WHEREAS, the fourteenth proposal amends section 422 of the Social Services Law to require the statewide central register to:

- Receive allegations of child abuse and maltreatment by internet and webpage reporting in addition to the traditional telephone reporting method;
- Receive photographs in electronic format and include such photographs in the official report;
- Establish an internet address to receive allegations of child abuse or maltreatment from mandated reporters in addition to the statewide telephone number; and

WHEREAS, this legislation would make it easier for the public and mandated reports to make allegations of child abuse or neglect to the statewide central register and to substantiate such reports by uploading photographs and documents in digital format; and

WHEREAS, this proposal was submitted to the State Senate by Senator Kennedy (S.7126) and to the State Assembly by Assemblymember Peoples-Stokes (A.9438); and

WHEREAS, the fifteenth proposal amends Social Services Law by removing the requirement that the sixty-five percent state reimbursement by social services districts for child protective services, preventive services provided, as applicable, to eligible children and families of children who are in and out of foster care placement, independent living services, aftercare services, and adoption administration and services other than adoption subsidies be subject to the approval of the director of the budget; and

WHEREAS, this legislation would increase the resources available to local child protective services; and

WHEREAS, the sixteenth proposal amends the Social Service Law by reducing the amount of extraneous information included in the fatality report to information related to the child's death; and

WHEREAS, this legislation would better maintain the privacy of a family grieving the loss of a child while still producing a report that helps create a better child protective system, and still provides the public with a clear view of the work undertaken by a child protective services in investigating allegations of abuse or maltreatment against a child and in protecting such child; and

WHEREAS, the seventeenth proposal amends the Public Health Law to require hospitals and birth centers to request each mother and father of a newborn view a video presentation on safe sleeping practices for newborns; and

WHEREAS, this legislation would inform parents about the dangers of unsafe sleeping, which will result in fewer children put at risk; and

WHEREAS, this proposal was submitted to the State Senate by Senator Kennedy (S.7129) and to the State Assembly by Assemblymember Peoples-Stokes (A.9435); and

WHEREAS, the eighteenth proposal amends the Civil Service Law in relation to establishing a priority in the scheduling of an examination for any position in the classified services that provides child protection services pursuant to Title 6 of the social services law; and

WHEREAS, this legislation would allow local districts that certify a need for an examination on a priority basis to quickly establish an eligible list for these critical positions; and

WHEREAS, this proposal was submitted to the State Senate by Senator Felder (S.7056); and

WHEREAS, the nineteenth proposal amends the Social Services Law to prohibit prosecuting any city or county social services commissioner for disclosing information pertaining to a child abuse or maltreatment investigation if done in good faith adherence to the standards contained in Social Services Law; and

WHEREAS, this legislation would better allow Social Services Commissioners to inform the public of child abuse investigations as allowed by New York State Social Services law, thereby restoring public confidence in child protective services, and

WHEREAS, this proposal was submitted to the State Senate by Senator Kennedy (S.7127) and to the State Assembly by Assemblymember Peoples-Stokes (A.9437).

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature does hereby declare its strong support for all nineteen proposals; and be it further

RESOLVED, that the Erie County Legislature urges the Governor and State Legislature to adopt the legislation as proposed to improve the provision of child protective services to New York's children and families; and be it further

RESOLVED, that certified copies of this resolution be forwarded to Governor Andrew Cuomo; State Assembly Speaker Sheldon Silver; State Senate Co-Majority Leaders Dean Skelos and Jeffrey Klein; the WNY Delegation to the New York State Legislature; Erie County Executive Mark Poloncarz; and Department of Social Services Carol Dankert-Maurer.

FISCAL IMPACT: NONE