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Karen Schimke
President and CEO

MEMORANDUM OF SUPPORT

S.3880 (Montgomery)/A.8223 (Titus)

AN ACT to amend the social services law and the family court act, in relation to permanency for destitute children, reinstatement of parental relationships and enhancement of supervised independent living programs; and to repeal certain provisions of the social services law relating thereto.

The Schuyler Center for Analysis and Advocacy (SCAA) supports S3880 (Montgomery) / A8223 (Titus). This omnibus bill addresses three specific changes in law. First, it defines a process for taking into care destitute children. Second, it allows an order of disposition vacating guardianship and custody and reinstating parental rights in limited circumstances. Third, it clarifies provisions related to the establishment of supervised independent living programs or SILPs. Our comments address the second provision related to the restoration of parental rights in certain circumstances.

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

The restoration of parental rights should be carefully considered and this bill offers several conditions under which such a return might be appropriate. The conditions include youth who: have committed to the custody of an agency for at least three years and under the jurisdiction of family court; have not been adopted and no adoption proceeding is pending; and, are 14 years of age or older. Further, children who experienced severe or repeated abuse would not be considered for return to their parents and the child must consent to the filing of the petition. The child's law guardian, the authorized agency with custody or guardianship, or the child's parents may originate a petition. The determination will be made by family court with the best interest of the child in mind.

For many older youth, in particular, the restoration of parental rights is the right thing to do and is in their best interest. SCAA fully supports this provision and the entire legislation.

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

Karen Schimke
President & CEO

May 15, 2009