

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: House Bill 79

* * * * *

Stenographic report of hearing held
in Room 140, majority Caucus Room,
Main Capitol, Harrisburg, Pennsylvania

Thursday,
February 7, 1991
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN
Hon. Gerard A. Kosinski, Subcommittee Chairman on
Courts
Hon. Kevin Blaum, Subcommittee Chairman on Crimes
and Corrections
Hon. Karen A. Ritter, Secretary

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Frank Dermody Hon. Babette Josephs
Hon. James Gerlach Hon. Robert D. Reber
Hon. Lois S. Hagarty Hon. Chris R. Wogan

Also Present:

William Andring, Chief Counsel
Galina Milahov, Research Analyst
Ken Suter, Republican Counsel
Katherine Manucci, Staff

Reported by:
Ann-Marie P. Sweeney, Reporter

ANN-MARIE P. SWEENEY
536 Orrs Bridge Road
Camp Hill, PA 17011
717-737-1367

1991-085

126 pages
+ 327
453 pages

X

INDEX

| | <u>PAGE</u> |
|----|-------------|
| 1 | |
| 2 | |
| 3 | 8 |
| 4 | |
| 5 | 18 |
| 6 | 51 |
| 7 | |
| 8 | 69 |
| 9 | 76 |
| 10 | |
| 11 | |
| 12 | |
| 13 | |
| 14 | 78 |
| 15 | 89 |
| 16 | |
| 17 | |
| 18 | 88 |
| 19 | |
| 20 | |
| 21 | 127 |
| 22 | |
| 23 | |
| 24 | |
| 25 | |

APPENDIX

1 CHAIRMAN CALTAGIRONE: I'd like to
2 welcome everybody to today's hearing on House Bill 79.

3 Today the House Judiciary Committee will focus on
4 comments from the various groups and agencies that have
5 an interest in this legislation, and individuals.

6 Today we are present to hear testimony on
7 an issue that Representative Lois Hagarty has worked on
8 for several years. Her bill makes changes in the laws
9 governing adoption seeking to facilitate permanent
10 planning for children who need and deserve families,
11 and I wish to commend Representative Hagarty for her
12 thorough redrafting of this bill. I believe that the
13 bill we are looking at today is a better bill than its
14 predecessor, and this is because issues which were
15 highlighted by social service agencies and by private
16 adoption groups were brought into play when this bill
17 was redrafted.

18 The State's responsibility is to protect
19 its citizens and to provide for their well-being. This
20 bill has endeavored to advocate for children who face
21 the prospect of disrupted care and an uncertain future.
22 This bill does not usurp parental rights to love, care
23 for, and support a child. However, in cases where the
24 interests of an adult and a helpless child compete, the
25 Commonwealth must give primary consideration to the

1 needs and welfare of the child.

2 In consideration of the turmoil that
3 parents who involuntarily relinquish their parental
4 rights, this bill seeks to be supportive of every
5 effort they make to retain their rights and to inform
6 and include them fully in the legal procedure. The
7 legal rights of the putative father are carefully
8 preserved and delineated, allowing for a very clear
9 procedure for termination of parental rights. In the
10 past, questions over a father's rights in cases where
11 the man does not claim paternity have considerably
12 slowed and complicated adoption proceedings.

13 I do not see this as an effort to take
14 poor people's babies from them. Our laws state that
15 "the right of the parent shall not be terminated solely
16 on the basis of environmental factors such as
17 inadequate housing, furnishings, income, clothing and
18 medical care if found to be beyond the control of the
19 parent." This bill strengthens the resources of the
20 State to ensure that those children who need permanent
21 parental care can receive it.

22 Thank you for your interest in this issue
23 and for your participation in this hearing today.

24 I leave it to Representative Hagarty to
25 describe the provisions of her bill.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Lois.

REPRESENTATIVE HAGARTY: Thank you, Chairman Caltagirone, and thank you for the bipartisan effort and the cooperation that I have received from you and your counsel and committee members in attempting to move forward with this important piece of legislation for the benefit of children and families.

For the past year and a half I have been working with the Pennsylvania Catholic Conference, the American Jewish Congress, Jewish Family and Children Services, Pennsylvania Bar Association, the Jewish Coalition, Pennsylvania Council of Children's Services and family law practitioners to develop a comprehensive bill to discuss a number of deficiencies in our laws regarding adoption. The goal of the legislation is to encourage adoptions in the Commonwealth as well as avoiding adoption disruption. There are a number of key provisions contained in the legislation.

The legislation strengthens the counseling sections of the law to ensure that birth mothers who are considering placing their babies for adoption receive adequate counseling. This prevents disruption of an adoption at a later point which causes turmoil and harm to the child and the adoptive parents.

Second, the legislation requires a

1 pre-placement investigation and report on the adoptive
2 parents to determine if they would be suitable parents.
3 The pre-placement report will focus on the home
4 environment, family life, parenting skills, and fitness
5 of the adoptive parents. The report must occur before
6 the child is placed in the adoptive home. However, the
7 legislation establishes a mechanism for interim
8 placement where a pre-placement investigation is still
9 being completed.

10 Third, the bill provides that an
11 intermediary may honor the preference of the natural
12 parents as to the religious faith the adoptive parents
13 intend to rear the adoptive child. This provision
14 provides for religious preference, but at the same time
15 guards against the child being unadoptable because of a
16 parent's preference for an extremely rare religion.

17 The wording of this provision was
18 developed in consultation with several religious groups
19 who place children with adoptive parents. The language
20 is intended to remedy a possible interpretation of the
21 current law whereby babies can be removed from their
22 adoptive home because the natural parents are not of
23 the same religious faith as the adoptive parents.

24 Fourth, the bill deletes constitutionally
25 questionable notice provisions of existing law relating

1 to termination of parental right proceedings for
2 putative fathers.

3 Fifth, the bill responds to a troublesome
4 Superior Court decision which has the potential of
5 disrupting a great number of adoption proceedings by
6 amending the six-month abandonment grounds for
7 involuntary termination of parental rights, providing
8 that a parent may not take remedial steps to cure the
9 abandonment after the six months has passed and a
10 petition of termination has been filed.

11 Last, new grounds for involuntary
12 termination are created. The legislation establishes
13 authority to terminate the rights of a putative father
14 who takes no interest in the child until he becomes
15 aware the child may be given up for adoption. A new
16 ground for involuntary termination is also created
17 where the parent is the father of a child conceived as
18 a result of rape.

19 If adoption is looked at as a triangle,
20 the top of the triangle being the adoptee and the
21 bottom two corners of the triangle being the adoptive
22 parents and the natural parents, the goal of this
23 legislation is to help protect every angle of the
24 triangle. By enacting this legislation, we will
25 continue to support private adoptions in the

1 Commonwealth but at the same time we will be addressing
2 the need for regulation of private adoptions. The
3 regulation will ensure that adequate counseling,
4 pre-placement investigations, and other procedures are
5 properly followed so that every person involved in the
6 triangle of adoption is protected from the devastating
7 effects of a child being placed in an adoptive home and
8 later removed. This legislation helps to ensure the
9 safety and well-being of our adoptive children.

10 Thank you.

11 CHAIRMAN CALTAGIRONE: Thank you, Lois.

12 I'd like for the record to indicate that
13 the Pennsylvania Jewish Coalition has submitted
14 testimony of which the reporter already has, and I
15 think each member has a copy in front of him or her.

16 (See appendix for a copy of the submitted
17 testimony from the Pennsylvania Jewish Coalition.)

18 CHAIRMAN CALTAGIRONE: And we'll start
19 with the testifants, and we'll go right to John Pierce,
20 the Executive Director for the Pennsylvania Council of
21 Children's Services.

22 John, did you have written testimony to
23 share? No?

24 MR. PIERCE: I'll explain that.

25 Thank you very much for the opportunity

1 to appear before you and testify on House Bill 79. I
2 apologize for you not having written comments in
3 advance of this, but we were defeated by technology
4 this morning. It is sitting in a computer and the
5 computer refused to allow it to be printed out, and in
6 working with our consultant on that over the phone, she
7 was not able to help us out with that, so later on this
8 morning we will have those available for you.

9 My name is John Pierce, and I am the
10 Executive Director of the Pennsylvania Council of
11 Children's Services. The Pennsylvania Council of
12 Children's Services is a statewide membership
13 organization composed of approximately 100 nonprofit
14 agencies which offer a full spectrum of services.
15 These include the traditional services of child
16 welfare, mental retardation, mental health, drug and
17 alcohol, special education, and provided in the whole
18 range of areas. Included in this are 21 agencies that
19 are approved to provide adoption services. This makes
20 up approximately 35 percent of all the adoption,
21 approved adoption, agencies in the State and at least
22 from our records, and as you know, it's difficult to
23 tell how many adoptions actually take place in this
24 State, but based on what we can tell, this group
25 represents somewhere around 40 to 45 percent of all the

1 adoptions done in the Commonwealth.

2 In dealing with this piece of
3 legislation, the process that we went through, so you
4 can understand the input, is that this was sent out,
5 and actually it was the previous bill as introduced in
6 the previous session, to all our agencies for comments
7 and issues concerning is this consistent with practice?
8 Is it going to create problems? Is it going to
9 facilitate that? And we got that input then back from
10 the practitioners in the field, in working with
11 Representative Hagarty and other persons and
12 organizations she mentioned, had our input into it and
13 with that, we feel very comfortable with the bill and
14 would support it.

15 I have a couple issues that I want to
16 highlight because I think they are important for us in
17 terms of practice. And it's that we view, first of
18 all, adoption as a child service, and I think it's very
19 important to look at adoption as a children's service
20 as opposed to an adult service so that when you look at
21 it that way, you ask the question, you put yourself in
22 a position as, from a child's perspective, do these
23 changes make -- what kind of impact do they have on me
24 as a child? And I think that when you look at some of
25 these, you have to answer that in a very positive way

1 in terms of this bill. So when you look at it from a
2 child's perspective, what we see here I think will help
3 in adoption, will make it in a way safer, it will
4 improve the quality of the adoptive process, and at the
5 same time I think that the amendments or some of the
6 proposals built into this dealing with the technical
7 aspects of it do provide those protections. They are
8 the notice issues, the due process issues that are
9 important for both the adoptive parents and the birth
10 parents in this.

11 Three areas I'd like to really just very
12 quickly mention in this thing. One of those is dealing
13 with the added ground for involuntary termination. We
14 support this. We have a little difference with the
15 bill as presently drafted. We would prefer, and our
16 group preferred, the three months, and a lot of that
17 was based on the issues around child development and
18 the bonding issues and the time lines involved in that.
19 It's a practice issue, and important from a child's
20 perspective. And I think it's important for adults to
21 realize that for a child, a month is like a year to us.
22 I mean, it is -- a month is a long, long period of time
23 in the development process. And it is important to be
24 dealing with as short a period of time as we can in
25 terms of the placement of the child with the adoptive

1 family, especially with infants in the very young and
2 beginning piece of this. And the difference between
3 four months and six months or three months makes a big
4 difference in the process, and what we are trying to do
5 is the stability and the bonding involved between the
6 adoptive parent and the child.

7 The second issue that is important to us
8 and from practice is the counseling issue. And again,
9 this is one of these that although it is a birth parent
10 issue, in terms of the whole adoptive process and the
11 stability of an adoption, and we put in the context a
12 permanency planning, which is not only the adoption but
13 also in some cases that adoption is not the appropriate
14 alternative, but we need to make sure that the birth
15 parent or birth parents have all the information, have
16 the alternatives explained to them, and can participate
17 in that decision, especially when you get into issues
18 like religious preference and what is going to happen
19 with the child in terms of the adoptive parents. And
20 for them to participate in that and for the stability
21 of that is extremely important from our perspective.
22 And we would support that piece and the fee that goes
23 along with that and in dealing with this to guarantee
24 the accessibility of those services for persons who
25 don't have the ability to pay. That's a very important

1 piece of this thing.

2 The third part of it, the pre-placement
3 investigation, and I've had a problem with the term
4 "investigation" because that's not really what we do.
5 I can understand using that term when you are take
6 talking about the protection of the child, but really
7 what we are doing in terms of the adoptive process,
8 it's not so much an investigation which looks like a
9 negative, but it's a facilitating piece and it is a
10 critical piece in the whole adoption process and the
11 beginning to work with adoptive parents and the
12 matching issues and preparing families and the
13 stability issues and long-term success of this.

14 On a protective piece, and I say this, it
15 is unfathomable to us to believe that you can place a
16 child with a stranger without having done this. I
17 mean, we've done all the stuff in the Protective
18 Services Law and all those things to protect children
19 and yet we have a gap where basically you can take a
20 child who cannot protect himself and put him with a
21 stranger without all the work that needs to be done in
22 order to make sure that that is an appropriate, safe
23 environment. On that ground alone it ought to be in
24 there. But you go to the second step of a practice one
25 and it needs to be in there because of the importance

1 of not only protecting the child but ensuring long-term
2 stability and success of an adoption, in making sure
3 that the adoptive family is prepared and they know what
4 is going to occur and that that working relationship is
5 built there and the process of matching.

6 The last point that I would like to make
7 is that although our agencies, and all of our agencies
8 deal with infant special needs, foreign adoptions, and
9 they also provide a lot of the home study background
10 work in the independent adoptions for those when
11 requested by the court, the issue that we have, and
12 this concerns the special needs adoption piece of it,
13 that the Adoption Act as developed was not done at the
14 time that we were talking about special needs adoption,
15 and those of you who are not real involved with the
16 child welfare system, let me back up. That is the
17 piece that really fits with the child welfare system
18 and the permanency planning piece of it and that we
19 have talked about this and talked about it to
20 Representative Hagarty and some other people about a
21 special, separate piece of legislation for special
22 needs adoption that really deals with the permanency
23 issues and I think addresses some of the concerns that
24 I've heard about the lack of support of services for
25 single parents in terms of being able to keep their

1 children. I mean, we got them into really a no man's
2 land in this situation. This piece, this adoption law,
3 is not the place to address that. We think the place
4 to address that is in a special needs adoption bill
5 that would involve the permanency planning piece of it
6 and needs to be done separate from this. There are
7 some other issues that you get into in the adoption law
8 concerning confidentiality that really don't make any
9 sense when you're talking about a 6-year-old who has a
10 history of knowing birth parents and adoptive parents
11 and all those issues surrounding confidentiality.

12 And the other part or reason doing this
13 is the adoption law as it is written is a fairly
14 passive piece of legislation. It allows you to do
15 things. We need something in special needs adoptions
16 that makes it a very active process, that it is
17 something we do on behalf of children. So I would like
18 you to keep that in the context of this. This is not
19 the whole ball game in terms of adoption, in terms of
20 what we are doing and what we think needs to be done,
21 but it is certainly a very important step forward in
22 improving the quality of adoption services, in
23 guaranteeing a floor in terms of what are the
24 requirements for best practice.

25 We encourage you to do two things. One

1 is to amend the bill and put back in the three months
2 piece of that and report it out of committee.

3 Thank you very much.

4 CHAIRMAN CALTAGIRONE: Members?

5 REPRESENTATIVE HAGARTY: Thank you.

6 BY REPRESENTATIVE HAGARTY: (Of Mr. Pierce)

7 Q. Thank you, Mr. Pierce, for your
8 testimony. First, let me just indicate for the
9 committee, we had discussed the special needs
10 legislation piece and are prepared to begin to work on
11 that separate piece of adoption legislation. For those
12 members of the committee who have a particular interest
13 in adoption, I invite any of them to join with us in
14 preparing what we need to do in that case for children.

15 The one question I wanted to ask you,
16 particularly for the new members of the committee,
17 because this bill was reported out in substantially
18 similar form last session from this committee and so
19 many members of the committee are familiar with it, but
20 particularly for those new members of the committee,
21 when you mentioned the involuntary issue and the three
22 months to four months, I think some background may be
23 necessary. I'd appreciate if you would explain to
24 them, so no one thinks that we're talking in the
25 typical case of three months -- first of all, what an

1 involuntary termination is, when it occurs, and what
2 the time period is under current law and why we are
3 recommending a shorter time period in the specific
4 instance where the criteria are met that are set forth
5 in this legislation, and perhaps you would explain
6 those criteria?

7 A. I'm very willing to do that but I'll tell
8 you, I would like to defer to the Catholic Conference,
9 who is doing a much broader perspective on this who
10 deals with that in their own testimony.

11 Q. That's fine.

12 A. I'm very willing to do, but I'd steal
13 their thunder.

14 Q. No, that's fine. I just wanted to make
15 sure that there was no confusion. I mean, the adoption
16 law is very technical and there's no way that other
17 members would be familiar with what the normal
18 involuntary procedure is, so I'm certainly happy to
19 wait for counsel to the Catholic Conference to explain
20 that.

21 Thanks.

22 CHAIRMAN CALTAGIRONE: Are there any
23 other questions?

24 (No response.)

25 CHAIRMAN CALTAGIRONE: Thank you for your

1 testimony.

2 MR. PIERCE: Thank you.

3 CHAIRMAN CALTAGIRONE: We'll next move to
4 Martin Leventon, from the National Adoption Network,
5 Limited. And we do have testimony that has been
6 submitted.

7 MR. LEVENTON: I want to thank you very
8 much for giving us the opportunity to come before this
9 panel today. We were absolutely thrilled to be
10 invited. Jane Fischer, who is our Executive Director,
11 want to be here along with myself, and because of a
12 medical disability could not travel up to Harrisburg,
13 so regretfully she could not attend and she's asked me
14 to come and basically speak for us both concerning
15 adoption.

16 First of all, we want to applaud the
17 committee on an excellent piece of legislation,
18 particularly from those of us that practice adoption
19 law on a daily basis and practice adoption law
20 exclusively in the context of a private adoption
21 agency. Over the past 2 1/2 years, our agency has
22 successfully completed almost 150 adoptions, and almost
23 all of those include court appearances and legal work
24 in connection with it. We're also involved in many,
25 many interstate adoptions where certain facets of the

1 adoption will take place in one State and another facet
2 will take place in the Commonwealth of Pennsylvania.
3 So we feel especially prepared to comment on
4 Pennsylvania adoption law vis-a-vis other States in the
5 country and how they handle a number of the items that
6 you might be discussing today.

7 There are three specific areas that we
8 wanted to talk about in this bill. We also have some
9 general comments about the bill and then I'd be happy
10 to answer any questions that any of you folks would
11 have concerning any of the aspects in here and how it
12 would affect us as an agency that is involved on a
13 daily basis.

14 The first section that we're particularly
15 very pleased with is 2725, which basically talks about,
16 again, a replacement of language. Before the language
17 read, "Whenever possible, the adopting parents shall be
18 of the same religious faith as the natural parents of
19 the adoptee." The committee has wisely replaced that
20 language with language that reads, "The intermediary
21 may honor the preference of the natural parents as to
22 the religious faith in which the adoptive parents
23 intend to rear the adopted child."

24 As the law presently stands, the courts
25 are required to match the religion of the birth parents

1 with that of the adopting parents. We believe, first
2 of all, that the present act violates the First
3 Amendment of the Constitution by mandating that courts
4 apply a religious litmus test to all adoptions. You
5 may ask, why hasn't that been challenged? As a
6 practical matter, most folks simply do not have the
7 financial resources to hire counsel to take an issue
8 such as this up to the appellate levels, and therefore
9 I think most people have just coped with it in general
10 and have sought ways to comport with the law and
11 somehow find exceptions to it.

12 Again, under the present law, a baby
13 could be placed in the best possible home and solely on
14 the basis of the adopting couple's religion the court
15 could disallow the adoption when the finalization
16 proceedings would be initiated. I think the beauty of
17 the change is it prevents the type of religious
18 discrimination that we don't want to see but still
19 empowers the intermediary or an agency like ours to
20 honor a birth parent's religious preferences with
21 regard to the placement of the child. The amendment
22 also prevents the forcing of a religious match between
23 a birth mother and birth father and the adopting
24 couple.

25 As a practical matter, what is happening

1 right now, and I can give you one quick example and
2 then I'll move on. You could have an interstate
3 adoption, and that would be a situation where a child
4 would be placed with a Pennsylvania couple but that
5 child would be born out of State. Termination
6 proceedings would occur out of State, the baby would
7 come back to Pennsylvania, meet the interstate compact
8 requirements, the couple would have a home study and
9 then proceed to finalize the adoption in Pennsylvania.
10 Now, under the present act, again, it does require
11 wherever possible that there be a religious match
12 between the birth mother and the adopting couple. Now,
13 in the particular State where the baby was born there
14 may not be such a requirement. In theory, the couple
15 could petition the court to finalize the adoption and
16 suddenly the court could say, do you have an affidavit
17 from the birth mother indicating that she has no
18 objections to you raising her child of your particular
19 religion? As a result, in theory one would have to go
20 back to the birth mother after she's basically put the
21 matter behind her and simply say, by the way, would you
22 sign this religious affidavit? As a result, the
23 practical effect could be that old wounds would be
24 opened up if the birth mother had to be approached with
25 regard to signing this religious affidavit, and I can

1 tell you from personal experience we have had to go
2 through that in at least a couple of instances, and
3 again, something like this is a terrible, terrible
4 situation and I think the amendment, or the change,
5 rather, in 2725 is definitely welcome.

6 As far as Section 2530, which is the
7 requirement that a pre-placement investigation and
8 report exists, we like to call it a home study in the
9 lingo of an adoption agency. Again, it is not an
10 investigation. And in terms of the home study, it is
11 not a study per se of the home of the adopting couple,
12 although a visit would be made there. There are many,
13 many things that go into the writing of a home study,
14 and so again, I would agree that it is not an
15 investigation.

16 We like the provision in the amendment
17 about the interim placement. There had been some
18 discussion previously about special needs children. We
19 deal with that peripherally as a private agency, but we
20 do have a pro bono program for special needs and
21 minority placements. In many instances, special needs
22 children and the necessity to find an adopting couple
23 can come up rather quickly and as a result, there are
24 many people that have had home studies done but the
25 home study perhaps has lapsed. That is, it would be

1 more than a year old. As a result, the child would
2 have to be placed in foster care without the interim
3 provision in this bill. Foster care can run \$50 a day,
4 and there are some people who are willing to adopt a
5 special needs child that cannot afford that.
6 Therefore, the committee in its infinite wisdom I think
7 has done something that is acceptable, it's letting the
8 intermediary or the agency permit an interim placement
9 when various criteria are met. Even in the private
10 sector there are many people who ostensibly have had an
11 approved home study but due to the amount of
12 documentation that has to go into that home study,
13 there may be a letter or something very minute that is
14 missing to a final approval of the home study, and
15 again, it would really be a sin to have to place a
16 child in foster care because their home study hadn't
17 been completely approved by the agency. So we welcome
18 that.

19 Again, as far as the overall requirement
20 that a home study be provided, we wholeheartedly agree
21 that the -- it's a danger to place a child in an
22 unstudied home and exposing that child to the "Jack the
23 Rippers" of the world. It's really outrageous to think
24 that a child would be placed in an adoptive home
25 without a home study, yet in the sector that handles

1 private adoptions that is precisely what is going on
2 and would continue to go on without the bill itself.
3 In theory, a child could be placed in an adoptive home,
4 it could be a private adoption handled by private
5 counsel, and until such time as counsel approached the
6 court to finalize that petition for the adoption, no
7 home study would be required. That child could remain
8 in the home indefinitely without a home study.

9 And I'd like to also point out that in
10 the private sector it's been our experience that it
11 takes considerably longer to finalize an adoption as
12 opposed to an agency. That's part and parcel to the
13 fact that we have the availability to do home studies
14 under one roof at our agency. And also, the time
15 period for voluntary relinquishments is a bit shorter
16 in the agency petition than it is in the private
17 petition, so we wholeheartedly agree that it's
18 absolutely outrageous to think that a child would be
19 placed in a home without any kind of home study
20 whatsoever. Even in California, I might add in a State
21 that does not specifically require a home study, they
22 have empowered their Interstate Compact Office to at
23 least make a cursory inspection of the home, even in a
24 private adoption, before a child would be placed in the
25 home. But Pennsylvania not having any requirement

1 against is totally beyond conception for people that
2 work in an agency context.

3 Finally, with regard to counseling,
4 that's a very, very important section as well. One
5 technical point. Initially, the last version of the
6 bill had some language that needed to be changed. Now
7 we have language that talks about the court being able
8 to make an inquiry of a parent whose rights are to be
9 terminated and is present in court. I think it's very
10 important that that language not be changed, and the
11 reason is this: There are a number of people whose
12 parental rights are terminated by other methodology,
13 either by consent or by a putative father petition. As
14 a result, if the present in court language were not
15 there, it would require people who would not be
16 required under the law to appear in court to have to
17 come into court in order for the court to make an
18 inquiry with regard to counseling.

19 In a voluntary relinquishment petition,
20 which is precisely where you have that language, it's
21 fine. The court can make an inquiry to the petitioner
22 who's testifying in front of a judge. But to an
23 individual who wishes not to participate in the court
24 proceedings, and there are numerous birth parents that
25 are willing to sign consents but simply do not want to

1 walk into a courtroom. It would not be a good idea to
2 force them to come before a court with regard to the
3 inquiry insofar as counseling is concerned. And I
4 think there is a safeguard in the bill because under
5 2531, which is your basically your report of intent to
6 adopt, it does require an agency to list the various
7 dates and times that counseling has occurred, so the
8 court does make an inquiry at that level. But again,
9 the bill does not force the birth parent to come into
10 court to discuss that.

11 One general point about counseling. When
12 it comes to counseling, there's a big difference
13 between an agency and a non-agency adoption. Every
14 agency licensed by its home State is obligated by law
15 to provide quality counseling to birth parents and
16 adoptive parents. We at our agency and in most
17 agencies do not represent a particular side. We
18 advocate for the child. Private adoptions are
19 different because generally the adoptive couple has
20 hired counsel, they are paying counsel, and therefore
21 counsel is protecting their interests. They are
22 legally and ethically obligated to do that, but where a
23 conflict will develop between a birth parent and an
24 adoptive parent, these lawyers must side against the
25 birth parents. In our own practice we've avoided that

1 by simply saying that, myself or Jane Fischer, we
2 represent our agency, we don't represent in a court
3 proceeding the adopting parents or the birth parents.
4 The birth parents are protected because they understand
5 if they chose to they could have brought an attorney to
6 the proceedings. They've had adequate notice and an
7 opportunity to consult with counsel, and that is clear
8 and it is put on the record in front of your judges.
9 But given the circumstances, I think you can see how
10 easily private adoptions can often neglect counseling
11 of birth parents.

12 One final anecdote. In terms of where we
13 stand as a State with respect to termination of
14 parental rights in general, Pennsylvania's one of the
15 strictest States in the United States. Such States as
16 New Jersey, West Virginia, Indiana, the District of
17 Columbia, Arkansas, Arizona and Nebraska, and after we
18 had written this we forgot about Massachusetts, have
19 provisions where a surrender or a single piece of paper
20 is signed, and that surrender will, in many instances,
21 irrevocably terminate parental rights after a matter of
22 days. Pennsylvania, of course, has the procedural
23 elements that are in the pre-existing legislation, and
24 I think that, coupled with the additional procedural
25 safeguards that you see in 2503 that talk about a

1 putative father, 2505 that discussed counseling, and
2 2711 which require a birth parent who wishes to revoke
3 their consent to place that in writing, I think they
4 add additional procedural safeguards to an otherwise
5 relatively strict termination process at least on a
6 national scale.

7 Again, we find the bill a laudable effort
8 by the committee. We strongly urge the passage of the
9 bill in its form, and hopefully we can all better serve
10 both birth parents, children, and adopting couples in
11 their continued completion of successful adoptions.

12 I'm open for questions if anybody has
13 any, otherwise, again, I appreciate you very, very much
14 giving me the opportunity to come before you today.

15 CHAIRMAN CALTAGIRONE: Thank you.

16 Questions?

17 Lois.

18 REPRESENTATIVE HAGARTY: Thank you.

19 BY REPRESENTATIVE HAGARTY: (Of Mr. Leventon)

20 Q. Thank you for presenting that testimony.

21 I just had one point I guess I wanted you
22 to expound on. There are going to be witnesses
23 testifying later today who expressed concerns to me,
24 and frankly they are the only concerns that I have
25 heard about this legislation and I fear that they're

1 misplaced, but I just wanted to make clear, the concern
2 that was expressed was that somehow there was something
3 in this bill that does not protect parental rights to
4 children and that there is something in this bill that
5 may effectuate children being taken away from homes,
6 and so I had, I guess, two questions in that was: The
7 first is, do you think that this bill better protects
8 parents who wish to keep their children or effectuates
9 some speedier removal and taking children away from
10 natural parents?

11 A. No. The process -- there are additional
12 procedural safeguards in this bill. There is no
13 question about that. It does -- it could be nothing
14 farther from the truth that it expedites the process.
15 If anything, it just basically adds additional layers
16 of procedural safeguards and procedural protections.
17 There are additional procedural safeguards for putative
18 fathers because specifically the bill gives
19 instructions to a putative father to protect your
20 rights. It says, go ahead and do two things that are
21 required - file an acknowledgement or claim of
22 paternity, and the second thing is either write to the
23 court or come to court and express your desires if you
24 are a putative father and there's a chance that your
25 rights will be terminated. The previous bill did not

1 do that. So there is definitely an additional
2 procedural safeguard that is built in insofar as the
3 putative father is concerned. So if nothing, that
4 would certainly protect a putative father and
5 conceivably slow the process down.

6 The counseling amendment in theory could
7 slow the process down. A birth mother could be in
8 court, the court could inquire about counseling, there
9 may be a determination that she would benefit from
10 additional counseling, and the bill so provides for
11 that. So again, another procedural safeguard that did
12 not exist before that does exist now.

13 Again, the purpose of this bill is to
14 protect people and protect children. It is not to
15 limit or take away parental rights in a faster fashion.
16 As far as I can see, and I've read this bill three or
17 four times over and over again, there is nothing in
18 there, Representative Hagarty, that would do that.

19 Q. Thank you.

20 One other question. The other States
21 that you referred to you, you have indicated that
22 Pennsylvania is much stricter in our termination
23 procedures and in fact we require six months for an
24 involuntary termination. For a voluntary termination
25 we require significant information to the natural

1 parent, the court proceeding plus the papers being
2 signed, and which in fact can't even be signed until a
3 couple of days after the baby is born. I'm wondering,
4 in some of the States you mentioned, what time periods
5 exist for a termination of parental rights?

6 A. Okay. Well, to give you an example, in
7 New Jersey, where an agency is involved, they wait 72
8 hours, as we do, a parental rights surrender is signed,
9 and that is it. Those rights are irrevocably
10 terminated, period. That's it. There is no court
11 proceeding. If the notice is defective, if there's a
12 misunderstanding of what's going on, there is no
13 judiciary that will review that. Those consents are
14 taken and they are put away in a file and if, God
15 forbid, proceedings start to take that child out of a
16 home where that child has been for a substantial period
17 of time, there's no procedural safeguards because the
18 court has not reviewed the process in some of these
19 States that have empowered an agency to simply say,
20 sign this consent and your rights are terminated.
21 Nebraska's is very similar, although and again we're
22 talking about an immediate termination. Now, some of
23 these States where it's relatively fast, the process
24 slows up when you involve a private attorney as opposed
25 to an agency. In the District of Columbia, again, it's

1 about 10 days. There is no court proceeding.

2 There are some States that also have a
3 peculiar process where a surrender is signed but what
4 happens is the parental rights are not terminated until
5 the adoption is finalized. So one gets into a state of
6 limbo because in theory until that adoption is
7 finalized, and that could be perhaps a year, a birth
8 mother in theory could change their mind and set up a
9 best interest of the child hearing. So that
10 Pennsylvania, on the average, on our daily practice on
11 the average, in a voluntary relinquishment proceeding
12 where a birth mother comes to court, at least in the
13 county where we do most of our work, Montgomery County,
14 you're probably looking at at least a month, if not
15 five weeks, and again, the birth mother is coming right
16 into court. In a situation where one files a petition
17 to confirm consent, you have to wait 43 days before you
18 can even file anything, and then thereafter the court
19 has to set a hearing date and again you're probably
20 looking at month. So on the consent procedures at
21 least that we deal with on a daily basis, you're
22 talking about 2 1/2 months, and those are voluntary,
23 those are voluntary proceedings.

24 Again, the process in Pennsylvania is
25 very tedious and it is nowhere close to at least a

1 dozen States where a mere signature terminates parental
2 rights. And the bill makes the procedural safeguards
3 stronger. It does not weaken those. There's no
4 question about that.

5 Q. Thank you, Mr. Leventon.

6 A. Thank you very much.

7 CHAIRMAN CALTAGIRONE: Representative
8 Josephs.

9 REPRESENTATIVE JOSEPHS: Thank you, Mr.
10 Chairman.

11 BY REPRESENTATIVE JOSEPHS: (Of Mr. Leventon)

12 Q. Mr. Leventon, I'm concerned about Section
13 2511, subsection 6, it's on page 10 in what I have in
14 my copy of the bill. Case of a newborn child, the
15 parent knows or has reason to know of the child's
16 birth, does not reside with the child, or the parent,
17 which allows for involuntary termination, has failed
18 for a period of four months immediately preceding the
19 filing of the petition and has failed during the same
20 four-month period to provide substantial financial
21 support. A couple of questions. What do we mean by
22 "has reason to know of the child's birth"?

23 A. I think it's abundantly clear. There are
24 many instances where birth parents are aware that a
25 child has been born yet take no affirmative action one

1 way or the other. It's not a situation where the child
2 is abandoned but it's a situation where there has been
3 no affirmative action taken in terms of supporting the
4 child, giving assistance, attempting to reunite
5 familial relationship, where basically somebody sits
6 passively and doesn't really care.

7 Q. I'm concerned about the person who has
8 reason to know of the child's birth and may not have
9 any idea that a child has been born. What do we mean
10 by "has reason to know"? That, for instance if this is
11 a father, that he's had intercourse with the mother? Is
12 that enough reason to know that there's a child having
13 been born? What do we mean by that?

14 A. Well, I suspect that a birth mother can
15 certainly provide testimony to the court that she has
16 maintained contact with the birth father and has told
17 him that I am pregnant with your child, do you care
18 about the situation? Do you want to do something about
19 it? In most of these instances, okay, and there are
20 some conceivably where a birth father would not know,
21 but the prevalency that I'm seeing is that there is
22 interaction between a birth mother and birth father
23 saying, I'm pregnant with your child and either a
24 reluctance to get involved or to sit by passively. The
25 situations that you're talking about, "have reason to

1 know," are precisely that, someone says, I am carrying
2 your child, do you care about it? Do you want to do
3 anything about it? Do you want to give me support,
4 emotional support, or do you just simply want to sit
5 by? And I think that would be the situation it would
6 be addressing.

7 Q. Do we have any case law that interprets a
8 phrase like that, either in this State or in the States
9 that have similar statutes?

10 A. "Has reason to know," the word "reason"
11 is reasonable. It's a reasonable person test. Would
12 the reasonable person, the birth father in that
13 situation, based on the particular facts of that
14 situation, know that he was the father of the child?
15 It's a reasonable grounds test.

16 Q. Um-hum.

17 A. And I think the court would look at the
18 totality of the circumstances with regard to that.
19 There is actual notice and there is implied notice, and
20 there are certain factors that would strongly suggest
21 that somebody would be aware of that situation and want
22 to do simply nothing about it. And that's why you have
23 the abandonment section, too, where somebody literally
24 abandons--

25 Q. What section is that, sir?

1 A. The abandonment section is the section
2 that previously exists where we're talking about --
3 counsel can provide me with the particular section.

4 MR. ANDRING: Page 9, 2511(A)(1).

5 MR. PIERCE: Page 9, I believe
6 2511(A)(1). And that would be a situation where
7 someone would literally abandon the family and move to
8 another State or disappear or whose whereabouts could
9 not be found. But I think what Section 6 is doing is
10 that that always is not the case. There's always a
11 kind of a modified situation where a birth father is
12 around, he hasn't abandoned in the sense that he has
13 totally disappeared or totally removed himself but
14 peripherally is there and I don't think he's taken
15 affirmative steps to participate in the family, to
16 acknowledge his paternity, to provide emotional
17 support, where it's abundantly clear that this
18 individual has no interest in the child, the child
19 could be placed with a foster family or a loving
20 couple, and I think at some point a decision has to be
21 made, do you want the child or don't you? There's a
22 loving couple available who's in the process of bonding
23 with the child, who wants that child very much, the
24 birth mother wants the child placed, and it's basically
25 you're acting passively, you're not making any

1 affirmative attempts to show your interest in the
2 child, and the committee, in its infinite wisdom, has
3 tried to provide an additional set of criteria so that
4 people can get on with their lives and people that are
5 bonding with children can continue to do that and a
6 family will not be disrupted.

7 BY REPRESENTATIVE JOSEPHS: (Of Mr. Pierce)

8 Q. Okay, I'm concerned about the situation
9 where the parent may or may not know, or may or may not
10 believe what he probably has been told, doesn't reside
11 with the child because the other parent won't permit
12 it, hasn't married the child's other parent because the
13 other parent won't permit it, has failed for a period
14 of four months immediately preceding, et cetera,
15 because perhaps he's in jail or in the Armed Services
16 or who knows, and has failed during the same four-month
17 period to provide substantial support because he's
18 poor, and that's my concern.

19 A. Well, let me--

20 Q. I don't -- it's not a question. I just
21 want to put my concern down for the record because I'm
22 probably going to have to leave here before we hear
23 people who have that same concern.

24 I'm also concerned with Section 7. I'm
25 trying to figure out how we show that the act to

1 conceive the child was a rape, whether it has to be
2 reported or whether it had to have been prosecuted.
3 I'm very confused about that.

4 A. In my opinion it does not, under Section
5 7. One would elicit testimony from a birth mother
6 indicating that she had been raped and under this
7 proceeding one could then move over to the involuntary
8 process in order to terminate the birth father under
9 that context.

10 Q. Well, I would suggest that there are
11 probably circumstances in which the birth mother's
12 testimony might be questionable.

13 A. May I suggest that with regard to Section
14 6, a couple of things to point out. One is that going
15 back over to the putative father sections that you find
16 in 2504 and 2503, it still empowers agencies or private
17 counsel to terminate individuals as putative fathers.
18 It's not considered, quote, "an involuntary process,"
19 and in so doing, the better practice would be to
20 provide an affidavit from a birth mother indicating
21 where the birth father may reside, his last known
22 address his last known whereabouts, an affidavit
23 indicating that friends and relatives have no idea
24 where this individual may reside. It can be coupled in
25 my practice with a Freedom of Information Act letter to

1 verify last known addresses. We send certified mail,
2 restricted, ordinary mail, and more often than not the
3 court will require publication in a newspaper of
4 general circulation in the town that he is last known
5 to reside, and I can tell you in the practice, in my
6 practice where we had a putative father who was in Ohio
7 and then there was some belief that he moved on to
8 Florida, that we published in legal newspapers both in
9 Ohio, a paper of general circulation for the State of
10 Florida, the Montgomery County Law Reporter, because it
11 was our newspaper in the county where his rights were
12 to be terminated. So you do have those procedural
13 safeguards, and in an agency practice, more often than
14 not the petition will be under 2503 or 2504, which is a
15 putative father petition.

16 And, again, with Representative Hagarty's
17 changes in this bill that the putative father would be
18 told precisely that if you wish to make a claim of
19 paternity, file an acknowledgement or a claim of
20 paternity, and if you can't do that or you don't know
21 how to do that or if you don't have a lawyer, then all
22 you basically have to do is file that objection in
23 writing either with the court, if you don't want to
24 show up, or show up. And I can tell you that I believe
25 our judiciary is very sensitive to that and if they do

1 get a letter, more often than not I believe the
2 judiciary is reluctant to terminate parental rights and
3 will make a further inquiry as to who these people are
4 that are writing to the court inquiring about the
5 termination of their rights.

6 So what I'm saying to you is that you
7 have those procedural safeguards, they are used every
8 day that we practice. We spend thousands of dollars a
9 year on certified mail, on publications in newspapers,
10 to make sure that those safeguards are there.

11 I might point out that, again, the last
12 thing that we want to see is a disruption, and the best
13 way to do that is to create an inference that
14 procedural notices were not given. And as an agency,
15 at least as an agency attorney, I am committed to give
16 the best possible notice available, and we will even go
17 beyond what the statute requires again in terms of
18 sending letters, notices, so forth and so on. I have
19 even published, where the court has not required me to
20 do so, just on the one-thousandth of a chance that
21 somebody would see that and be alerted to it.

22 So again, it's very important that there
23 not be a disruption and at the same time balance that
24 against the procedural safeguards of birth parents.

25 Q. Thank you.

1 REPRESENTATIVE JOSEPHS: Thank you, Mr.
2 Chairman.

3 CHAIRMAN CALTAGIRONE: Thank you.
4 Representative Reber.

5 BY REPRESENTATIVE REBER: (Of Mr. Pierce)

6 Q. I'd like to commend you, first of all, on
7 the manner of your testimony. I've sat in committee
8 hearings, be it on the Judiciary Committee or others,
9 for over 10 years, and it's always very comforting to
10 get someone that has practical hands-on knowledge with
11 the application of what we're talking about when
12 they're speaking to us, and I was extremely impressed
13 with the manner of your responses to Representative
14 Hagarty and Representative Josephs, and I can't recall
15 in 10 years ever saying that to anyone and I felt it
16 important to point that out.

17 I was very interested, too, the way you
18 discussed in relationship to the voluntary termination
19 language, some of the ramifications of that aspect in
20 other States, and I'm just wondering what other States
21 also do in the way of the religious preference
22 language. The reason I say that, I've always felt
23 there to be some concern, obviously, with the current
24 status as you discussed it with the separation of
25 church and State aspects of the Constitution and the

1 fact that in my mind, I always thought that the
2 compelling State interest was for the placement of the
3 child into an adoptive setting that was in their best
4 interest, religion or anything else notwithstanding,
5 but for the general welfare of the child being the
6 consideration. What do other States do, if anything,
7 in attempting to embody this religious preference
8 language as we currently have it. and frankly more
9 importantly, how is the language that's in the proposed
10 legislation in balance or out of balance with other
11 States?

12 A. I think the proposed change in 2725 does
13 bring us more into balance with the general practice of
14 agencies throughout the country. Most agencies in
15 counseling a birth mother will basically particularly
16 we do, just as an aside, we do mostly open adoptions,
17 which are adoptions basically where the birth parents
18 choose the adopting couple that they wish to place
19 their child with, and so in an initial interview, we'll
20 ask all sorts of preferences: Do you want the adopting
21 mom to be a working mom, a stay-at-home mom? Do you
22 want other siblings, so forth and so on? And in that
23 context of the conversation, we would say, do you have
24 a particular religious preference? And the large
25 majority of our birth mothers, while they do practice a

1 religion, don't say I want a couple of a particular
2 religion. I've seen some people say I don't want a
3 couple of a particular religion, I was raised that way,
4 I didn't like it, so forth and so on.

5 But to answer your question, I think what
6 we're doing is we're trying to be consistent in that we
7 want to honor birth parents' wishes, particularly in
8 the context of an open adoption that we do, but we
9 don't want a religious litmus test and we don't want to
10 force people to have to like each other, if you will,
11 and a birth mother may not want to place her child with
12 a couple, and a couple may not want to work with a
13 particular birth mother.

14 The one or two times that we had to
15 approach the out-of-State counsel or agency saying, by
16 the way, we need this religious affidavit, I think they
17 were absolutely outraged. Speaking with an agency in
18 Massachusetts where we had to do that, they were just
19 totally beside themselves. In fact, initially they
20 refused to do it. They said, it's against the law, how
21 dare they do it? I said, as a practical matter, we
22 want to see the child remain in the home where we are,
23 and until such time as the legislature can repeal that
24 section or amend it, then that's the way we're going to
25 have to do it. People simply don't have the financial

1 resources to take these issues up in the appellate
2 court system.

3 So I think to answer your question that I
4 think we are in line with what most
5 intermediary/agencies do, they try and honor religious
6 preferences, but it becomes a pot pourri of other
7 preferences as well. Again, whether it's a working or
8 stay-at-home mom; whether it's a family with siblings,
9 other children; whether they live in the country or the
10 city. It's just one element that a birth mother takes
11 into consideration when she chooses a couple she wishes
12 to place her child with.

13 Q. In your two scenarios where the current
14 state of the law was troublesome, would this language,
15 if it was in effect, eradicate that trouble?

16 A. Yeah, I believe so because the change
17 from "shall" to "may"--

18 Q. Big difference.

19 A. --in my opinion is discretionary. It
20 takes it out of the courts. We don't want these issues
21 before the court. We prefer those to remain issues
22 with regard to how an agency conducts itself, and again
23 the language "may" as opposed to "shall" I think
24 remedies that.

25 Q. You feel there's no further need for any

1 additional remediation to obviate any potential
2 problems that this issue could have on a national
3 scale?

4 A. No. In my opinion, it leaves it at the
5 discretion of the intermediary. I think the worst
6 scenario is the court may say to an agency, did you,
7 you know, did you inquire with the birth mother if she
8 had any religious preference? And I think the agency
9 would simply respond as part and parcel of their
10 practice that's what they did, period, and I think the
11 inquiry would close. But to have a birth mother submit
12 to further questioning by the court or to sign an
13 affidavit, particularly an out-of-State birth mother
14 where the issue never came out, they were committed to
15 her and that's all she cared about, and suddenly three
16 months later are you aware that this couple is of a
17 particular religion and by the way, do you care about
18 that? You're opening up old wounds and there is
19 absolutely no necessity for that in the scope of
20 adoption.

21 Q. Finally, and a very quick answer I hope,
22 religious belief or religious preference as a statutory
23 section or reference in another State, how many States
24 have such, if you know?

25 A. I can't answer that.

1 Q. Do you have any idea as to a ballpark
2 figure or a percentage?

3 A. It would purely be a guess that we've
4 researched the laws of almost 50 States on about eight
5 or nine issues, and while we specifically don't inquire
6 about that particular issue, we ask if there is
7 anything unusual or particularly significant in the
8 scope of adoptions, and none of our research indicates
9 that there is a sticking point or thorn that I would
10 call this with regard to adoption laws in other States.
11 So I have nothing in my legal research in the office,
12 but we don't specifically ask whether that would be an
13 issue or not because it rarely comes up in the context
14 of dealing with agencies all over the country. Nobody
15 has ever approached us saying, this is the way it's
16 going to have to be done, we need this religious
17 affidavit. So I can't tell you precisely, but I can
18 tell you that it would be insignificant based on the
19 interaction I have with attorneys all over the country.
20 But that's about the best answer I can give you, so.

21 Q. Thank you.

22 REPRESENTATIVE REBER: Thank you, Mr.
23 Chairman.

24 CHAIRMAN CALTAGIRONE: Chief Counsel
25 Andring.

1 BY MR. ANDRING: (Of Mr. Pierce)

2 Q. I just have a couple of questions. I'd
3 like to go back to paragraph 6 and 7 of Section 2511,
4 the new grounds for involuntary termination, just to
5 kind of clear up the context in which these occur.
6 Now, you've indicated that before an involuntary
7 termination occurs there would have to be extensive
8 notifications either to the father whose rights are
9 going to be terminated, I guess, but it's my
10 understanding that after the notice has occurred there
11 still has to be a hearing before the court at which
12 time the person seeking to terminate the rights of the
13 parent has to prove every single element alleged and
14 necessary to meet the requirements of the statute by a
15 clear and convincing evidence standard. Is that
16 essentially correct?

17 A. Yeah. Again, I was addressing myself to
18 this voluntary scenario where we have a putative father
19 in suggesting that one might not necessarily have to
20 use subsection 6, one could flip-flop, if you will,
21 over to 2503 or 2504, in which case there is notice and
22 these issues really don't come into play. But if one
23 wanted them to come into play, my reading would be that
24 there would have to be some type of evidentiary
25 hearing, as you suggested, to make sure that these

1 elements did exist.

2 Again, let me just back up for a second.
3 We, in an agency context, particularly in the private
4 sector, are dealing with people that want to place
5 their children up for adoption as opposed to people
6 that don't want to. So perhaps in an involuntary
7 context if it was one percent of the time it would be a
8 lot that we are involved in this situation. Our
9 practice as an agency and my practice as an attorney is
10 that once the birth father has come forth and said, I
11 want this baby, I don't want the adoption to proceed,
12 it's our recommendation to the adopting couple that
13 they do not continue to further involve themselves with
14 that placement because, again, absent, you know, very
15 extreme circumstances, the birth father generally is
16 going to prevail.

17 Now, subsection 6 may set up an
18 evidentiary type of hearing. Our concern is placing a
19 child in a home and then worrying that that child may
20 be taken out of the home because of a particular
21 contest, and therefore if the birth father clearly came
22 forward and indicated that, you know, it was his
23 preference, and again, we're putting the six-month
24 abandonment thing on the back burner, it would be my
25 recommendation to our agency clients that they not

1 follow through with the placement until the birth
2 father clearly would agree to voluntarily relinquish
3 his parental rights.

4 We don't have contest -- it's very, very
5 rare that you would see them in an agency context,
6 where it's a nonadversarial process almost all the
7 time, and where it appears to be getting into the area
8 of adversarial it's not our recommendation that we
9 place a child until it's particularly clear what the
10 position of a birth father is. And again, unless it
11 were a very extreme circumstance, we'd want some
12 clarification from the birth parents whether they were
13 willing to proceed with the adoption before we would
14 recommend that it continue. People simply don't have
15 the financial resources to become involved in adoption
16 litigation, taking cases to the appellate courts and
17 leaving a child in the balance of whether he's going to
18 remain with adopting people, whether he's going to be
19 in foster care, whether he's going to have to be
20 returned to the birth parents.

21 So to try and answer your question, in
22 the context of a private adoption wherein the private
23 sector this rarely, rarely, rarely happens, and it
24 would be my preference that I wouldn't have to use
25 subsection 6 or subsection 1, that we could in fact use

1 2503 and 2504 in terms of termination.

2 Q. Thank you.

3 CHAIRMAN CALTAGIRONE: Ken.

4 BY MR. SUTER: (Of Mr. Pierce)

5 Q. I have just a couple questions regarding
6 subsection 6 as well. Isn't there current case law
7 which provides that a parent's rights cannot be
8 terminated solely because they have failed to establish
9 physical contact with the child? For example, if the
10 father is in jail?

11 A. Yes, that would not be a basis. I mean,
12 that would not be a basis. Obviously, if one were in
13 jail it would be very difficult to make a convincing
14 argument that one could terminate him under subsection
15 6. I would agree with you there, Mr. Suter, that I
16 don't think that would be the type of situation that
17 it's addressing.

18 Q. So it's reasonable efforts under the
19 circumstances?

20 A. Yes.

21 Q. Thank you.

22 CHAIRMAN CALTAGIRONE: Any other
23 questions?

24 (No response.)

25 CHAIRMAN CALTAGIRONE: Thank you. I

1 certainly appreciate your testimony.

2 MR. PIERCE: Thank you very much.

3 CHAIRMAN CALTAGIRONE: If you'd like to
4 introduce yourself?

5 MR. FASTIGGI: Yes, I intend to.

6 Mr. Chairman, my name is Michael
7 Fastiggi, and I'm an Associate Director of the
8 Pennsylvania Catholic Conference. We of the Catholic
9 Conference are grateful for this opportunity to testify
10 today in support of House Bill 79, and we're also
11 prepared to offer some comments on the technical
12 provisions of the bill.

13 Before I get into the testimony, may I
14 introduce, please, we have some agency representatives,
15 to my left, your right, Cheryl Giesey of the Diocese of
16 Greensburg; Kay Eisenhour of the Diocese of Harrisburg;
17 and to my far right, your far left, Marge Powers of the
18 Archdiocese of Philadelphia. And I believe everybody
19 on your distinguished panel is probably familiar with
20 Phil Murren, of the law firm of Ball, Skelly, Murren
21 and Connell, and he's worked with this committee in the
22 past.

23 The Pennsylvania Catholic Conference is
24 the civil affairs agency of the Catholic church in
25 Pennsylvania and it represents ten Catholic diocese

1 throughout the Commonwealth. Whereas the Conference
2 addresses a broad range of issues of concern to the
3 church's various institutions, in this particular
4 legislation, House Bill 79, the Conference represents
5 the interests of Catholic Social Service agencies and
6 attorneys who are associated with those agencies.
7 There are eight diocesan Catholic Social Service
8 agencies providing services to all 67 counties of the
9 Commonwealth. They provide various professional
10 services to clients, however, adoption service is a
11 significant component of service in those agencies.
12 Catholic Social Service agencies have provided adoption
13 services in Pennsylvania for many years, and they are
14 guided by the highest of ethical and professional
15 standards.

16 In 1983, the Catholic Conference began
17 gathering annual statewide service statistics from our
18 Catholic agencies. In the seven-year stand between
19 1983 and 1989, those agencies provided adoption
20 services to more than 8,500 individuals. During the
21 same period, agency adoption personnel placed 2,632
22 children with adoptive parents. It is quite possible
23 that Catholic agencies have made more adoption
24 placements than any other service entity in
25 Pennsylvania over those years.

1 Consequently, Catholic Social Service
2 personnel have a great deal of experience and knowledge
3 about adoption matters and about problems in the
4 adoption system which this legislation is designed to
5 correct.

6 Quoting from a 1983 statement by Nick
7 Lippincott, who was formally associated with your
8 committee, "Adoptions in Pennsylvania are of two
9 types--agency directed and private. Agency adoptions
10 receive specific statutory recognition and are
11 regulated by the Pennsylvania Department of Public
12 Welfare (DPW). Private adoptions, on the other hand,
13 are not currently regulated by the DPW and are usually
14 arranged through the efforts of unlicensed adoption
15 intermediaries--usually either attorneys or
16 physicians," and that's the end of the quote. For the
17 sake of this testimony, I will refer to private
18 adoptions as nonagency adoptions.

19 House Bill 79 proposes to establish
20 standards for those who act as intermediaries in
21 arranging nonagency adoptions, standards akin to those
22 which exist for social service agencies and are
23 currently implemented through certification and
24 regulation. Just as agencies must follow certain
25 practices in the adoption process, so should those

1 intermediaries for nonagency adoptions be required to
2 meet prescribed adoption practices.

3 Over several years of adoption service,
4 the personnel of our agencies have either learned about
5 or directly experienced problems from abuses in the
6 system by intermediaries in nonagency adoptions. These
7 problems differ in terms of type and level of
8 seriousness. There are unfortunate situations
9 involving adoptees placed with adoptive parents as
10 infants by intermediaries who later are nowhere to be
11 found. There are no linkages whatsoever to the persons
12 who arranged their adoptions. On many occasions, these
13 adoptees have called at our agencies requesting
14 assistance in obtaining information about their
15 adoptions. In most instances, those adoptees ended up
16 disappointed and discouraged because there is no
17 information about the intermediaries who might have
18 assisted them with their adoption services.

19 Another problem is that the parties in
20 nonagency placements may not have received appropriate
21 counseling and education in the issues involved with
22 adoption, as well as in coming to grips with the
23 relinquishment decision, and perhaps unwisely, the
24 present system allows placements to be made by
25 intermediaries before an investigation of the adoptive

1 parents and adoptive home is completed. These are just
2 a couple of examples of the concerns from our agency
3 experiences which had given rise to the interest in
4 pursuing legislative remedies.

5 A more glaring example of a serious abuse
6 in the system for adoptions came to light in New York
7 City in 1987 when an attorney acting as an intermediary
8 in an adoption assumed responsibility for finding an
9 adoptive family with whom to place a female child. The
10 attorney actually kept the child and raised her as his
11 own for a few years, while subjecting her to abuse and
12 ultimately beating her to death. While such extreme
13 cases of abuses of the system are rare, nevertheless,
14 they do happen. The fact that an intermediary could
15 keep the child as his own for so long without affecting
16 a formal adoption raises the question of whether
17 appropriate safeguards were in place, and if so, how
18 they could easily have been circumvented. Perhaps we
19 can prevent such abuses with tragic circumstances from
20 occurring in Pennsylvania by enacting appropriate
21 adoption standards for all to meet.

22 Initially, in developing this legislative
23 proposal, five items were considered essential for
24 improving the quality of adoption practice. These
25 were: Counseling, pre-placement screening,

1 post-placement evaluation, accurate recordkeeping, and
2 confidential handling of birth and adoption
3 information. A study was made of the laws of several
4 States where standards for nonagency adoptions were in
5 place to determine how each of these items were
6 handled. Insuring the opportunity for counseling of
7 the birth parents was a necessary ingredient to make it
8 possible for birth parents to consider the options open
9 to them. It is important that the birth parents be
10 apprised of their rights to receive counseling. The
11 court should be responsible for enforcing the
12 counseling requirement prior to terminating parental
13 rights. A pre-placement investigation and a report of
14 that investigation to the court was also considered
15 essential because frequently in nonagency adoptions
16 there was not much known about the adoptive parents
17 until after the petition to adopt had been filed and
18 the baby was already in their custody. Once a baby has
19 been placed in a home, the court is not usually
20 inclined to remove the baby from that home. The
21 situation needed to be changed to assure that there is
22 a study of the prospective adoptive couple prior to
23 placement. The object is to make certain that the
24 adoptive home would provide a good environment for the
25 child.

1 Post-placement evaluations were also
2 considered important for intermediaries and nonagency
3 adoptions. There needed to be an evaluation of the
4 interactions between the adoptive parents and the child
5 and to ascertain how things were going in the adoptive
6 home. Recordkeeping and the confidential handling of
7 case information in nonagency adoptions were also
8 viewed as important elements. Intermediaries should be
9 required to include in their report pertinent social
10 information that is often lacking in private cases.
11 The intermediary should be held to the same
12 recordkeeping requirements as adoption agencies and the
13 intermediary should complete and file with the court
14 pertinent documentation revealing that the rights of
15 all the parties involved were considered.

16 In the matter of confidentiality, the
17 intermediary should be required to handle in the
18 strictest confidence all information pertaining to
19 birth and adoption. The information should become part
20 of the court record and be made available only as
21 deemed necessary by the court. The confidential
22 handling of birth and adoption information is important
23 for adoption agencies and should be the same for
24 intermediaries in nonagency adoptions.

25 Later, in drafting the legislative

1 proposal, our concerns shifted to relinquishment
2 hearings and to troublesome delays in the adoption
3 process because of uninvolved and uninterested putative
4 fathers who often could not be located or were not
5 available because they were in prison. Pennsylvania
6 law requires that the rights of the putative father be
7 considered in the legal process for relinquishment.
8 Notification of the child's birth and the plan for the
9 child's adoption must be given to the natural father.
10 The natural father has the right to contest the plan
11 for adoption. Our deliberations centered around ways
12 to provide restrictions on the number of instances in
13 which notices of hearings must be given to uninvolved
14 or uninterested putative fathers. And finally,
15 consideration was also given to the existing grounds
16 for involuntary termination and how that section of the
17 existing law should be changed to make it more
18 effective.

19 Our testimony today in support of House
20 Bill 79 includes information which our representative,
21 Mr. Murren, provided to this committee last year when
22 it considered House Bill 2133. Appended to the written
23 testimony is a brief memorandum also prepared by Mr.
24 Murren which contains background information on some
25 important points of Pennsylvania's adoption law, and I

1 would make this aside, it's an available reference
2 document made available as a bonus through Phil's legal
3 research.

4 The legislative proposal which you are
5 considering today is the product of extensive study by
6 the Conference's Adoption Committee and consultations
7 with legislators and their aides, as well as with the
8 Pennsylvania Council of Children's Services and
9 practicing attorneys. In its formative stages, the
10 legislation was also reviewed for technical conformity
11 to the present adoption law by attorneys of the Joint
12 State Government Commission.

13 The following is a summary of each of the
14 amendments proposed in this bill. and the explanation
15 follows the numbering of this section of the Adoption
16 Act being added or modified. On page 1, Section 2102,
17 definition of "newborn child" is added as an adjunct to
18 a new ground for involuntary termination of parental
19 rights under Section 2511. Newborn child would be
20 defined as any child who is six months or less of age
21 at the time of the filing of any petition which would
22 lead to termination of parental rights.

23 On page 2, Section 2313, a provision is
24 added which would require the court to appoint legal
25 counsel for a parent whose rights may be involuntarily

1 terminated and that parent cannot afford counsel.

2 On pages 3 and 4, Section 2503 pertaining
3 to hearings. The amendment to subsection (b) would
4 correct a defect in existing law which had failed to
5 require that a person seeking to voluntarily relinquish
6 parental rights be notified of the requirement that he
7 or she be present at the termination hearing. It
8 provides for a 10-day notice of hearings to the natural
9 parents with specific language for the notice including
10 the date, time and place of the hearing, information
11 about obtaining legal assistance, and the right to file
12 personal information for later access by adoptees.

13 On page 4, subsection (d) of Section
14 2503, modifies an existing provision relating to
15 termination of the parental rights of a putative
16 father, which in its present form is believed to be
17 unconstitutional. The present ground permits
18 termination of rights for a mere failure to relinquish
19 rights or file certain forms. This ground for
20 termination is amended so as to afford additional due
21 process safeguards for the parent.

22 On page 5, new subsection (e) under
23 Section 2503, would require a court to advise anyone
24 voluntarily relinquishing his or her parental rights of
25 his or her right to place personal information on file

1 with the court or with the Department of Health which
2 would assist the adoptee in either obtaining that
3 information or locating the natural parent at some time
4 in the future. This particular amendment is designed
5 to address the concerns of adoptee search groups
6 without eroding the protections afforded under Act 195
7 of 1984.

8 On pages 5 and 6, Section 2504,
9 alternative procedure for relinquishment, the amendment
10 to subsection (c) of this section again modifies the
11 current provision for termination of parental rights of
12 the putative father which we do not believe satisfies
13 constitutional requirements in its present form.
14 Similar to the amendment to Section 2503, new language
15 would be added to require a court to advise a parent
16 whose rights are being terminated through a petition to
17 confirm consent of his or her right to place personal
18 information on file with the court or with the
19 Department of Health.

20 Page 7, Section 2504, confidentiality. A
21 new section is added to the Adoption Act requiring the
22 court to take such steps as are reasonably necessary to
23 assure that the identity of the adoptive parent or
24 parents is not disclosed without their consent in any
25 voluntary or involuntary termination proceeding. This

1 amendment was occasioned by a situation which arose in
2 Cumberland County in which a natural parent upset an
3 adoption after learning the identity of the adoptive
4 parents.

5 Pages 7 and 9, Section 2505, counseling.
6 Extensive amendments are made to the current counseling
7 provision of the Adoption Act. Subsection A would be
8 amended to require maternity patients who are known to
9 be considering relinquishment or termination of
10 parental rights to sign an acknowledgement of receipt
11 of a list of counselors and counseling services prior
12 to discharge from the maternity care facility.
13 Subsection (b) of this section would be amended to
14 require the court to include all adoption agencies on
15 its list of qualified counselors and counseling
16 services and to distribute that list to every adoption
17 agency and maternity care facility within the county.
18 The list would also be available on request to any
19 adoption intermediary or licensed health care
20 professional.

21 Now subsections (c), (d), and (e) would
22 be added to require a court to ascertain whether a
23 parent whose rights are about to be terminated through
24 voluntary relinquishment or confirmation of a consent
25 has received counseling. If the court believes

1 counseling has not been provided, it may, with the
2 parent's consent, refer that parent to an agency or
3 qualified counselor at county expense. In addition,
4 whenever a parent has filed a petition to relinquish
5 parental rights and believes himself or herself to be
6 in need of counseling concerning that relinquishment,
7 he or she may apply to the court for a referral for
8 counseling at county expense. Any counseling provided
9 under these subsections would be paid for out of a fund
10 created by levying an assessment of \$75 to accompany
11 the filing of each report of intention to adopt. This
12 fee would be waived in cases of financial hardship and
13 would not apply in cases involving adoptions by
14 relatives, since no report of intention to adopt is
15 required in such cases. Nor would the filing fee apply
16 in the case of adoption of a special needs child.

17 Pages 9 to 11, grounds for involuntary
18 termination. There are presently five separate grounds
19 for involuntary termination of parental rights. The
20 first of these grounds is the six-month abandonment
21 ground, and the bill proposes an amendment to that
22 ground in response to the In Re: Adoption of Hamilton
23 case, which would focus the court solely on the six
24 months prior to the filing of the petition for
25 involuntary termination. The amendment would thus

1 exclude consideration of any efforts to cure the
2 abandonment undertaken after the filing of that
3 petition. In the Hamilton case, the Superior Court of
4 Pennsylvania held that a termination petition could be
5 defeated by the subsequent remedial steps initiated by
6 a parent who awakens to the fact that his parental
7 rights are in jeopardy. We see in that decision the
8 seeds for disruption of a great number of adoption
9 proceedings.

10 House Bill 79 proposes a new sixth ground
11 for involuntary termination in cases involving newborn
12 children where the following conditions are met: One,
13 the parent has actual or constructive knowledge of the
14 child's birth. Two, the parent does not reside with
15 the child. Three, the parent has not married the
16 child's other parent. Four, the parent has failed for
17 a period of four months immediately preceding the
18 filing of the petition to maintain substantial and
19 continuing contact with the child. Five, the parent
20 has failed during the same four-month period to provide
21 substantial financial support for the child. This new
22 ground is intended to provide additional authority to
23 terminate the rights of a putative father who takes no
24 interest in the child until he becomes aware that the
25 child may be given up for adoption. It is intended to

1 expand the options for dealing with a putative father
2 but within the limits of constitutional tolerance.
3 Many of our agency professionals further believe,
4 however, that the period of excusable neglect should be
5 lowered even further, from four months to three months.

6 The bill also proposes the addition of a
7 new seventh ground for involuntary termination where
8 the parent is the father of a child who was conceived
9 as a result of rape. This provision does not include
10 any requirement that the rape be reported or that a
11 conviction had been secured prior to the filing of this
12 petition since, as with all other grounds for
13 involuntary termination, the court must find, by clear
14 and convincing evidence, that the child was conceived
15 as a result of rape.

16 An amendment is also proposed to Section
17 2511 prohibiting the court from considering any efforts
18 undertaken by a parent to remedy any of the grounds for
19 involuntary termination subsequent to the filing of the
20 petition. Also added is a provision which requires the
21 court to advise the parent whose rights are
22 involuntarily terminated of his or her right to place
23 personal information on file with the Department of
24 Health.

25 Pages 11 to 12, Section 2513, dealing

1 with hearing, these are technical amendments made to
2 this section.

3 Pages 12 to 14, Section 2530,
4 pre-placement investigation and report. A new section
5 would be added to the Adoption Act forbidding the
6 placement of any child in the physical care or custody
7 of a prospective adoptive parent unless a pre-placement
8 investigation containing a favorable recommendation for
9 placement has been completed within three years prior
10 thereto. The pre-placement investigation can only be
11 conducted by a local public child care agency, an
12 adoption agency, or a licensed social worker designated
13 by the court. Contents of the report are also
14 specified in this new provision. This provision is
15 intended to forefend against some of the unfortunate
16 situations which have arisen in the context of
17 nonagency adoptions.

18 Pages 14 and 15, Section 2513, report of
19 intention to adopt. The report of intention to adopt
20 would be required to include the date on which a
21 pre-placement investigation was concluded. Also
22 required would be a statement as to whether or not
23 parents whose parental rights are to be terminated have
24 received counseling. A copy of the pre-placement
25 report would be required to accompany the report of

1 intention to adopt.

2 Pages 15 and 16, Section 2701, contents
3 of petition for adoption. The petition for adoption
4 would be required to set forth that a pre-placement
5 report had been completed.

6 Pages 16 and 17, Section 2711, consent
7 necessary to adoption. Subsection (c) is amended to
8 allow a putative father to execute a valid consent to
9 adoption at any time he learns of the expected or
10 actual birth of the child. Subsection (d) is amended
11 so as to notify a parent that a consent to adoption may
12 be revoked if done so in writing.

13 Pages 17 and 18, Section 2725, religious
14 belief. That section was thoroughly dealt with by the
15 preceding the testifant.

16 Page 18 and 19, Section 2905, impounding
17 of proceedings and access to records. Pre-placement
18 reports would be confidential under this amendment. A
19 natural parent whose parental rights are terminated
20 either voluntarily or involuntarily would be authorized
21 to place personal information on file with the
22 Department of Health. Current law limits that right
23 only to those who voluntarily relinquish their rights.

24 House Bill 79 aims to bring about changes
25 in the adoption law to promote a higher level of

1 quality in adoption service and to assure that the best
2 interest of the children who are adopted are being
3 served. We support the bill and we urge your committee
4 to approve the proposal and hopefully to soon put it on
5 the floor for House vote.

6 Thank you very much.

7 CHAIRMAN CALTAGIRONE: Lois.

8 REPRESENTATIVE HAGARTY: No questions.

9 Thank you for that very thorough, careful explanation.
10 Thank you.

11 REPRESENTATIVE JOSEPHS: I have a
12 question.

13 CHAIRMAN CALTAGIRONE: Representative
14 Josephs.

15 REPRESENTATIVE JOSEPHS: Under our
16 present statute and on the bill in which you were very
17 active, your organization was lobbying for, a woman who
18 has been raped and wishes to terminate her pregnancy
19 must prove, must show, must have reported that rape to
20 a law enforcement agency or to juvenile authorities of
21 some type, as I remember it; however, if the same woman
22 having presumably been denied her abortion because she
23 did not report it now wishes to give up her child, she
24 merely has to say so that she's been raped, and the
25 court must find that what she says is true. Can you

1 please reconcile any of this? It makes no sense at all
2 to me.

3 MR. MURREN: I think I can answer that
4 question for you, Representative Josephs.

5 In the abortion law context you were
6 dealing with obtaining a surgical procedure from a
7 private agency. As I understand it, the requirement
8 for reporting there was to involve some type of
9 official check on possible abuses. Here in an adoption
10 context, adoption can only take place through an
11 official agency, i.e. the court. So I see the two as
12 perfectly consistent.

13 REPRESENTATIVE JOSEPHS: Okay, thank you.

14 BY REPRESENTATIVE JOSEPHS: (Of Mr. Murren)

15 Q. Second, I understand, I haven't read the
16 Hamilton case and I can see the problem of disrupting
17 an adoption where a baby has been placed and some sort
18 of bonding has started to take place, but it disturbs
19 me in a situation where perhaps that has not happened,
20 the filing or the notice to, and I guess it would
21 probably again be the father, that his rights are about
22 to be terminated, reminds him or energizes him, makes
23 him realize in some serious new context that he may
24 actually lose forever rights to his child, and it
25 appears the way this bill is set up that that

1 hypothetical could happen, and I'm concerned that a
2 parent have a great deal of possibility of asserting
3 his right, even if that impulse was prompted by some
4 official action. Do the new amendments, in your
5 opinion, prevent that kind of situation, prevent a
6 father from asserting his right after he's been
7 notified that there's some sort of procedure going to
8 take place to deprive him of that?

9 A. There are a number of things that come
10 into play here in these situations, and you're trying
11 to legislate here to cover a great variety of
12 circumstances that can arise. The Hamilton case opened
13 up new tactical vistas for individuals who were trying
14 to frustrate child placements. There had been, in the
15 agency's experience, a lot of instances where the
16 putative father really didn't have an interest in the
17 child, per se, but rather an interest in causing
18 disruption in the life of the mother or disruption in
19 the life of the child. There was revenge involved.
20 The motivation was seldom, if ever, directed toward
21 preserving linkages with the child. The six-month
22 period has been one that has been traditional in the
23 law and had -- and until Hamilton had really not been
24 understood to be extendible after the six-month period
25 had elapsed. And also, it was any six-month period.

1 It wasn't just that six-month period preceding the
2 filing of the petition. You could take any six-month
3 period within the life of the child and focus on that
4 and terminate the parental rights.

5 What the amendment to the Section 2511
6 and the six-month ground is intended to do is to bring
7 some certainty to the process. There is a six-month
8 period, it's certain when it starts and when it ends,
9 and that, we think, protects everybody's rights. It's
10 very difficult sometimes to balance the rights of
11 everybody that's involved here, but we do have to give,
12 and the legislature, for as long as the adoption law
13 has been in effect, has given preeminent concern for
14 the interests of the child, and we think that it is a
15 difficult balance to strike, we acknowledge that, but
16 we think that by creating a period of certainty that we
17 can best strike that balance.

18 Q. I understand the balance problem is very
19 difficult and I don't know if we can ever actually do
20 it, but it seems to me that, I don't know, there's a
21 lot we take, of course it is before a court, but
22 there's a lot of the word of the mother that we seem to
23 be taking in these amendments as the truth and as very
24 seriously and somehow unbalancing the rights of the
25 father. That's just an observation I think is

1 accurate. I'm not sure it's a question.

2 A. I understand your concern, and I think a
3 previous witness had said Pennsylvania really does go
4 further in protecting the rights of the putative parent
5 or the father than any other State around, and well
6 beyond what we think is required by the due process
7 clause of the United States Constitution, 14th
8 Amendment to the United States Constitution.

9 But one protection that we have to keep
10 in mind in all of these proceedings is one that Bill
11 Andring pointed out, and that is that the court has to
12 find not just that there is some evidence but there is
13 clear and convincing evidence, which attorneys can tell
14 you is an extremely high standard to meet. It's
15 exceeded only by the standard you have to meet in a
16 criminal prosecution.

17 Q. I am an attorney. Not to prolong this, I
18 am not concerned about what the good agencies do. They
19 probably don't need a statute. I'm concerned about,
20 you know, people who aren't that careful. I'm
21 absolutely not saying to anybody who's testifying here
22 that you would be guilty of any of the kinds of things
23 that I'm suggesting might happen.

24 REPRESENTATIVE JOSEPHS: Thank you, Mr.
25 Chairman.

1 CHAIRMAN CALTAGIRONE: Representative
2 Dermody.

3 BY REPRESENTATIVE DERMODY: (Of Mr. Murren)

4 Q. I just have one question, I guess it has
5 to do with the Hamilton case. Are there problems with
6 having a judge just consider evidence that a parent has
7 decided or attempted to perform his duties? I mean,
8 this statute prohibits even the judge considering that.
9 I don't think the Hamilton case mandates a result, does
10 it?

11 A. The Hamilton case would require the
12 consideration of it, yes.

13 Q. Well, what is the problem with the judges
14 having the ability to consider that a parent has taken
15 interest? Because you could present evidence of the
16 other side that he's doing it just to jam up the
17 system, just to harass, just for those type of things
18 that you mentioned. You're still giving the court the
19 opportunity to consider his acts.

20 A. Well, Hamilton doesn't require the court
21 to consider why he's doing it. Under the six-month
22 abandonment ground, the courts have developed some
23 tests and some standards that are applied, I won't say
24 purely mechanically, but in many instances it takes on
25 that form. There's a list of certain things that you

1 look at. And if someone is interested in disrupting
2 the adoption process, they can be advised merely to
3 send Christmas cards, do this, do this, do this, and
4 the court doesn't inquire into the motivation, and
5 Hamilton doesn't require the inquiry into the
6 motivation either.

7 Q. Well, if there's going to be a hearing, I
8 would think there would be testimony. What about the
9 parent who isn't doing it for those bad reasons, who's
10 doing it for all the good reasons, has actually got his
11 wake-up call or her wake-up call and wants to be
12 interested and be a parent, and if it happens within
13 that six months, this statute precludes that evidence,
14 doesn't it? Isn't that what it says?

15 A. No. Remember that for this six months
16 now the child has been without contact.

17 Q. I understand.

18 A. And what's happening is the child is --
19 now has some hope of being placed for adoption. Six
20 months is a substantial amount of time in that child's
21 life. And really, the contact that would have been
22 required for that six-month period is fairly minimal
23 under the court decisions and someone really has to
24 have completely forgotten that he or she was a parent
25 during that six months in order to be subject to

1 involuntary termination.

2 Q. Thank you.

3 CHAIRMAN CALTAGIRONE: Bill.

4 BY MR. ANDRING: (Of Mr. Murren)

5 Q. I was just going to ask Mr. Murren, and
6 he did this partly already, if he would expand a little
7 bit on the standards necessary to establish abandonment
8 for six months, because I don't think a lot of people
9 understand the absolute degree of abandonment necessary
10 before you can proceed under this section.

11 A. Well, the statute itself talks about
12 evidencing a settled purpose of relinquishing parental
13 claim. The courts have taken that language pretty
14 seriously and they examine all the facts and
15 circumstances of the situation, the amount of contact
16 that's been maintained with the child, and there are a
17 number of cases that talk about there being lack of
18 convincing evidence of settled purpose to relinquish
19 where the parent sent a Christmas card or a birthday
20 card or sent support money to the parent on one
21 occasion during that six-month period. So the courts
22 have been, I think, very solicitous of the rights of
23 the parents, because they're looking for clear and
24 convincing evidence of a settled purpose to relinquish
25 parental rights during that six-month period.

1 Q. Another point I think perhaps you should
2 make about this proposed amendment to the law is the
3 requirement that there be counsel provided if it would
4 work a financial hardship on the parent whose rights
5 possibly might be terminated.

6 A. Right, and that provision in this law
7 goes beyond the requirements of the Federal due process
8 clause.

9 Q. Thank you.

10 MS. EISENHOUR: I wonder if I could give
11 an example of how this affected a recent case of mine.

12 We had a mother who lived in one of our
13 maternity homes. The putative father visited her in
14 the home, harassed her, was placed off the premises, he
15 was notified shortly after the birth of the child who
16 was placed directly into our foster care system from
17 the hospital, we sent him certified letters, regular
18 mail, I left messages on his answering machine, and we
19 finally were able to come to court when the child was
20 eight months old to terminate parental rights. The
21 mother appeared and wished to do voluntary
22 relinquishment, the father was served by personal
23 service notice of the hearing. He had, to this point,
24 for over a period of eight months, had no contact with
25 our agency, had not responded to us in any way. He

1 walked into the middle of the hearing, I had never seen
2 or heard from the person before, the baby was eight
3 months old, the mother was extremely distressed because
4 she was also present in the courthouse. He did it
5 supposedly for the sole purpose of continuing his
6 harassment of her. She was unable to -- the judge
7 would not allow her to proceed on her voluntary
8 relinquishment. He stopped the hearing when the father
9 walked in, after we had been testifying for 10 minutes
10 on our evidence that we had notified him, he ordered
11 our agency to meet with the father and see if something
12 could be rectified.

13 We did do that, the father was allowed to
14 come in and see the child for the first time when the
15 child was eight months old. He had stated when he
16 walked into the court he was interested in parenting
17 this child. He visited the child one time, he never
18 contacted us again, the court would not give us a court
19 date until the child was then a year old. So the child
20 remained in foster care, and this is a bi-racial child
21 with developmental delays, remained in foster care
22 until parental rights could be terminated when he was
23 over a year old. By that time, the child had become
24 extremely bonded with the foster parent and the
25 transition to the adoptive home was very difficult on

1 the child, and I have never heard from the father since
2 the one time that he walked into the hearing and then
3 the follow-up visit with the child in our agency.

4 So I think that would be a really good
5 example of how this law could have helped that child in
6 the situation.

7 CHAIRMAN CALTAGIRONE: Thank you.

8 MR. FASTIGGI: Mr. Chairman, I had
9 neglected to introduce a student intern who is here
10 seeing how government works. Her name is Lisa
11 Spofford, and she's from Elizabethtown College.

12 CHAIRMAN CALTAGIRONE: Welcome.

13 MR. FASTIGGI: I'm sure she has enjoyed
14 this opportunity.

15 Thank you very much.

16 CHAIRMAN CALTAGIRONE: Thank you.

17 MS. HUGHES: My name is Mary Beth Hughes.
18 This is my first time testifying at a public hearing,
19 and if I've learned nothing else it's to go first
20 because much of what I'd like to say and will highlight
21 rather than reading my testimony has been amply said by
22 the others before me.

23 I am the Director of Adoption Services at
24 CONCERN. Our main office is located in Berks County,
25 Fleetwood, Pennsylvania, however we do have regional

1 offices in other parts of the State. I have worked in
2 the private sector of child welfare for almost 17 years
3 and have held different positions in the child welfare
4 field. I initially began my work with foster children.
5 I have provided counseling to birth parents who are
6 considering their options. I have also worked with
7 adoptive families as well as adoptive children. The
8 positions that I have held as caseworker, pregnancy
9 counselor, supervisor, and now director of a large
10 adoption program have offered me different perspectives
11 in terms of working with children and the people who
12 are involved in their lives.

13 Our adoption program at CONCERN involves
14 infant adoptions, special needs adoptions to a large
15 degree, international adoptions, and also independent
16 adoptions, which I'd like to just speak to briefly in
17 that we do in fact work with families who have entered
18 into a private adoption arrangement, either through an
19 attorney or a physician or an interstate/international
20 type situation. In these cases, either the families
21 themselves or the attorneys or the court involved, for
22 a variety of reasons, are encouraging the families to
23 participate in the preparation process, that being the
24 adoption study process, as well as offering birth
25 parents some opportunity to receive counseling.

1 I thought it would be most helpful to
2 talk with you about my direct experiences in our
3 practice as we know it in CONCERN, but I would first
4 like to offer that our primary purpose in providing
5 adoption services as one of many services that we
6 provide through CONCERN is to help children become
7 members of a family, and our primary objective is to
8 attend to the child's well-being. We do not do that at
9 the expense of the birth parents' or the adoptive
10 parents' interests or needs. We fully recognize that
11 there are needs and interests there as well, but again,
12 to quote what someone else had said, we constantly deal
13 with striking a balance between all of the needs
14 involved.

15 As I mentioned before, I have counseled
16 birth parents and I fully support this piece of the
17 proposed amendment. I have found through my own
18 experience that it's extremely helpful not only to the
19 birth parents but ultimately to the adoptive parents
20 and the child to invite the birth parents to fully
21 participate in the decisionmaking, problem-solving
22 process. In our particular agency there are separate
23 programs. We have an unplanned pregnancy counseling
24 program that is staffed by three women who work
25 exclusively with birth parents as part of their

1 responsibility at CONCERN, and we also have adoption
2 workers who work exclusively with adoptive parents. So
3 when a birth parent comes to CONCERN seeking
4 counseling, and very often we are able to enter into a
5 counseling relationship prior to the baby's birth, that
6 is obviously advantageous to them and us in terms of
7 gaining as much knowledge and understanding of their
8 situation as we can: however, there are cases, of
9 course, in which we don't enter into the situation
10 until after the baby's birth.

11 During the course of counseling if a
12 birth parents or parent choose to parent the child, we
13 assist them in identifying formal and informal
14 resources, if you will, that will help them to fulfill
15 their parental responsibilities. We see this as a very
16 important component of our pregnancy counseling program
17 because quite honestly, many of the youth who we
18 counsel are in socially disadvantaged situations where
19 they have little or no resources to bring to the
20 parenting relationship. So we support them in their
21 decision but also support them in getting the necessary
22 help that we need.

23 And if we feel that it is a situation
24 that is at risk, we continue our involvement but also
25 employ the protective services of the county Children

1 and Youth agency as well. So again, ultimately I feel
2 that this type of ongoing support is the greatest
3 benefit derived by the child.

4 If the birth parent or birth parents, and
5 we do make every effort to involve both in all cases
6 and have made extensive efforts to respond to some of
7 the questions with regard to putative fathers to locate
8 putative fathers, and I could share many stories about
9 going to one of our unplanned pregnancy counselor's
10 clients who said to her that she remembered the birth
11 father lived on the same street as McDonald's in
12 Philadelphia, and that pregnancy counselor went about
13 the business of locating all the McDonald's in
14 Philadelphia and through a course of reading through
15 street addresses she was able to recognize the street
16 address and in fact did locate the putative father in
17 that case. So we leave no stone unturned, and that's
18 an exaggerated example of the efforts that we make to
19 locate the father and involve him in the counseling as
20 well.

21 I'd like to add also that in many cases
22 the child that we're speaking about is the first
23 grandchild to the extended family, and we offer our
24 services to the extended family as well in that they
25 certainly have thoughts and feelings about placing the

1 child for adoption or assuming some support or
2 responsibility for the child as well. We do, of
3 course, help the birth parents through the legal
4 process, the process of separating from the child and
5 dealing with the impending grief following the
6 termination of parental rights. We also employ the
7 birth parents as valuable people in sharing medical
8 information, genetic information, psychosocial
9 information, that again is passed along to the adoptive
10 family and will be there for the adoptive child if at
11 some point in their life they need to have that
12 information.

13 We have also worked with birth parents
14 after the termination process in terms of providing
15 support, but we've heard from them at different times.
16 For example, in a number of cases a birth mother and
17 birth father have contacted us about new medical
18 information that was discovered perhaps 5, or we've
19 only been in existence about 11 years, 5 or 10 years
20 later, and we've been able to pass that information
21 along to the adoptive family. Or it's not unusual for
22 me to hear from a birth mother or a birth father around
23 the time of the child's birthday, and it may just be a
24 phone call to chat for awhile about the situation and
25 so forth. It's that kind of ongoing support that they

1 are able to re-enlist from our program.

2 The other part of the proposed amendments
3 that I'd like to talk about is the termination of
4 parental rights. I support reducing the time line to
5 -- actually, I'd prefer it be three months also, but
6 for this particular bill, support the four months. I
7 have worked with CONCERN for about 11 years and when I
8 first started working through the unplanned pregnancy
9 program, we did not place children in a legal risk
10 situation. Rather, we placed children in temporary
11 foster care situations until the birth parents received
12 counseling and actually made a decision to terminate
13 their parental rights and went through the legal
14 process of doing that and either appearing or not
15 appearing in court and having a final termination
16 decree drawn up. In my experience, oftentimes this
17 meant a lengthy foster care placement for the infant,
18 and I think some of the others have spoke about how
19 lengthy that can be and how critical it is in the time
20 of a child's young life.

21 A turning point in my thinking about
22 legal risk adoptions was, quite frankly, the birth of
23 my daughter in 1989. At about three months of age it
24 was obvious to me that she had an awareness of me as
25 her primary caretaker over and above her relationships

1 with other people, even in her immediate world, and
2 what happened between three and six months was rather
3 amazing to me in that she could consistently
4 distinguish between family members and strangers, and
5 if you work with children, you understand something
6 about stranger anxiety, and she gave me the opportunity
7 to personally experience what that's like for a child.
8 So it really sent home some very special messages to
9 me, and again, not at the expense of birth parents or
10 adoptive parents, but weighing the factors, making
11 those decisions about is this a situation where maybe
12 we can take some legal risks and place the child before
13 those critical stages of development with the family
14 who ultimately will be the permanent caretaker, whether
15 that be the biological family or adoptive family in
16 this particular case.

17 For this reason, I was again disappointed
18 about the change from the previous bill's three months
19 to four months because the termination process can only
20 be initiated at that four-month period. My concern is
21 for the time that it takes to actually do the
22 termination process, given court schedules and the
23 necessary notices and so forth that must be given. I
24 felt that at three months there was more assurances
25 that if a termination were to occur that it could occur

1 prior to that six-month period.

2 The other area that I'd like to address
3 is with regard to the pre-placement investigation and
4 report. In our agency, while we certainly understand
5 and support the need to investigate a family or to
6 study a family prior to placement with the child for
7 reasons which I believe have already been stated and
8 are obvious. our focus in my practice is not only on
9 the investigative part but more on the preparation
10 part. There are special issues with adoption, there
11 are special issues with parenting as well, and through
12 our programs at CONCERN we offer a preparation process.

13 It's difficult for adopting parents or
14 prospective adoptive applicants to come to an agency
15 and to open themselves up to what initially they
16 perceive as an acceptance/rejection kind of
17 relationship. We are either going to decide that you
18 can be parents or we're going to decide that you can't.
19 That's the illusion, if you will, that's been created
20 by past practices. We actually enter into a
21 partnership with adoptive parents in saying that our
22 reason for wanting to learn as much as we can about
23 your family and our reason for wanting to impart as
24 much knowledge as we can about our experience with
25 adoption, not only from a professional perspective but

1 also from another adoptive parent's perspective, is
2 ultimately to benefit you in parenting the child who
3 you have chosen to adopt, and that takes on different
4 meanings when you're talking about special needs
5 children, when you're talking about children from other
6 countries, when you're talking about children who may
7 have some special issues in their family background.
8 It's a mutual decisionmaking process. We try to
9 involve adoptive parents in preparing and knowing as
10 much as they can so that they can go into adoptive
11 parenthood in a very knowledgeable kind of way.

12 So I think the emphasis is more on the
13 preparation, the education, the support of families
14 through our agency and adoptive parent support groups
15 and while not ignoring the fact that certainly families
16 need to meet certain criteria in order to adopt, as per
17 the regulations that we're bound to meet.

18 We work very closely with birth parents
19 in stating their preferences as part of the counseling
20 process. We feel that it's real important for birth
21 parents to feel that they are participating in the
22 process of adopting or selecting an adoptive family.
23 So the part about religious belief for my practice is
24 very consistent with what we're already doing. We,
25 too, have had situations where religious belief has

1 been very important to a birth parent and other
2 situations where they did not have a good experience
3 practicing their religious belief and have in fact
4 requested another religious belief. We study a wide
5 variety of families, so almost in 100 percent of the
6 cases it really doesn't become an issue in terms of
7 looking at a number of families for a particular child
8 and involving the birth parents in that process
9 whenever we can.

10 Thank you.

11 CHAIRMAN CALTAGIRONE: Questions?

12 (No response.)

13 CHAIRMAN CALTAGIRONE: No questions.

14 Thank you, Mary Beth.

15 MS. HUGHES: Sure.

16 CHAIRMAN CALTAGIRONE: Larry Beaser is
17 not going to make it, and what I would like to do then
18 in that case is the testimony that he would be
19 presenting, once we get it we will disseminate it
20 amongst the members and the staff.

21 Okay, how about Anne Vaughn and Carolyn
22 Saunders? If you'd introduce yourself for the record.

23 MS. VAUGHN: Surely. Yes.

24 Chairman Caltagirone and the committee,
25 we'd like to thank you for the opportunity to be here

1 today. My name is Anne Vaughn. I am going to be
2 presenting Josephine Parks' testimony today. She is
3 here with me on my left. She is the Chairperson of the
4 Parents' Rights Organization as well as the Co-chair of
5 the Family Law Task Force of the Pennsylvania Legal
6 Services Center. I will be presenting her testimony
7 because she is ill today.

8 On my right is Carolyn Saunders, who is a
9 welfare activist, well-known statewide as well as
10 locally in her community. She is here presenting
11 testimony on behalf of, I believe, the Delaware County
12 Welfare Rights Organization. She is going to be
13 submitting her testimony in writing later, 50 copies to
14 the committee, if that meets with your approval

15 CHAIRMAN CALTAGIRONE: Sure.

16 MS. VAUGHN: Thank you.

17 Ms. Saunders.

18 MS. SAUNDERS: Hello.

19 As Ms. Vaughn said, my name is Carolyn
20 Saunders. I am the Chairperson of Delaware County
21 Welfare Rights Organization. I am a life-long advocate
22 for the poor in this State, County of Delaware, and the
23 city of Chester. I thank you for allowing us the
24 opportunity to address the concerns in House Bill 79.

25 We find the bill to be very harmful in

1 the lives of the poor in Pennsylvania. We have spent
2 months testifying opposing House Bill 2133, the mother
3 bill of House Bill 79. We would never support or ask
4 you, and we ask you to not support any legislation that
5 would tear families apart for the sake of legalizing
6 baby snatching. We will do whatever it takes to stop
7 legislation that takes us back to the days of slavery
8 when black mothers were forced to have babies for the
9 master to produce more slaves. Poor mothers and
10 fathers will not produce babies so that the adoption
11 agencies and CYS can warehouse babies in this State and
12 this country to some rich couple looking to buy a baby
13 for the right price.

14 For the right price, these agencies will
15 willingly sell happiness to the rich at the price of
16 grief to the poor. We approached the writer and
17 sponsor of this bill, we left our names, we left our
18 addresses, and we left our phone numbers, in hopes of
19 arranging a meeting. We wanted her to hear from the
20 other side of this legislation, the side she intends
21 that will produce the babies these agencies are asking
22 to legally steal.

23 We're here today ready to begin round
24 three with this terrible piece of legislation. What we
25 want to say to the creator of this bill is if the

1 legislative body is truly concerned about the
2 well-being of certain birth right babies, they should
3 create legislation searching within the baby's birth
4 right family roots and allow the families to care for
5 the children. Legislation of this type will allow the
6 babies to remain in the natural roots knowing who and
7 what they are and who they belong to.

8 On October 11, 1990, testimony 181 pages
9 long was given in Philadelphia to the Health and
10 Welfare Committee of this House of Representatives. We
11 urge you to read and to put yourself and your families
12 in the place of those young mothers who testified
13 before that committee. Their only crime was being
14 rebellious against their mothers and refusing to mend
15 the gap until it was too late. They found themselves
16 18 and expecting to live their lives with their
17 children and found that the agencies found them unfit,
18 removed the children from one young mother and changed
19 the goal to adoption. One grandmother fought trying to
20 keep her daughter and grandchild, and she won.

21 I am a mother of four. I birthed five
22 children. My oldest son lived a few hours after his
23 birth. Today, 31 years later, I still wonder how he
24 looked, what he'd be doing, what type of things he'd be
25 like. Would he be married? Would I have

1 grandchildren? I miss my son, because the four can't
2 replace him in my life. I died a little 31 years ago,
3 but when I took these young mothers and look into their
4 unhappy faces and hear their heart break, they die
5 daily. The only thing keeping them alive is that maybe
6 one day they'll get their babies back.

7 They speak of when they last saw the
8 babies, two years ago, dimpled smiles, babies asking
9 them when she'll come to get them and to take them
10 home. I know that this heartache has to be worse than
11 death. Animals won't let you touch their newborns, and
12 human beings won't act any differently. We have
13 welfare rights, we have parents' rights, we have
14 consumer rights, we have people's rights, We got
15 women's rights. We have every kind of protection group
16 in this State, in this country. We will surface a baby
17 rights organization of mothers, fathers, grandmothers,
18 grandfathers, aunts, uncles, nieces, nephews, cousins
19 and friends to protect poor families, poor parents,
20 from a bad piece of legislation. We battle laws daily
21 that takes away our dignity, limits our privileges,
22 keeps us living in unsafe, indecent, and unsanitary
23 conditions.

24 Before us today we are testifying against
25 a law that will take away our only God-given gift of

1 life - our babies, our children. Some babies, the
2 cream of the crop, will be adopted, while unattractive,
3 unwanted, black, Spanish, crippled babies will be
4 placed in newly created legislated orphanages spread
5 throughout the State. The taxpayers will foot the bill
6 at a far greater rate than the foster care payments in
7 the State.

8 This country at one time prided itself at
9 keeping families together. Nowadays it seems we create
10 more legislation to assure family destruction. House
11 Bill 79 is another one of these bills.

12 I want to say to you that I have, in the
13 past, when we created the Parents' Rights Group, I had
14 two persons that I want to bring to mind. We have a
15 mother who had six children that was placed in child
16 care, and I heard some of the testimony and they were
17 saying that the parent, you know, will leave the baby,
18 have no contact with their children. When we ran into
19 this mother, this mother wandered into a shelter in the
20 city of Chester that we had created, and when she
21 wandered into the shelter she had not seen her children
22 for approximately four months because she was putting
23 in her mind that she was never going to be able to see
24 her children again, because no matter what she did did
25 not satisfy the child care agency, and they were moving

1 to terminate some of her rights for the baby twins for
2 adoption. We fought long and hard and we got her her
3 children back, and she has given birth to four more
4 other children.

5 We have another person who has a retarded
6 birth defect. She had four children. The agency
7 removed three children. They moved the two oldest
8 children and they removed the baby. They placed the
9 baby into adoptive care in the State of Delaware. When
10 they placed the baby in adoptive care, they let her
11 keep one of her children, and she kept those children
12 for years. We thought we were doing something great by
13 saying if she can mother this one child, she should be
14 able to mother all three of her children. What
15 happened at that point was they took the children, put
16 her into CYS care, and we have never been able to get
17 those children out of care. This mother, we finally
18 got payments for her through the SSI, took every dime
19 that she had and purchased a house just to get
20 overnight visits, and those overnight visits were never
21 allotted to her. The first excuse was that she was
22 living in public housing, that it was unsuitable for
23 her to have these other three children to come back and
24 visit overnight, even though she had one child staying
25 with her. We moved her into her own home and then they

1 told us that the neighborhood was too black and they
2 were not going to permit those children to come into
3 the village.

4 This is just two of some stories, you
5 know, that you need to hear. If you're going to do
6 something with this bill, then we would ask you to go
7 across the State of Pennsylvania and talk to the people
8 that this bill will have effect or some of this
9 legislation has already affected in order for you to
10 really create a good understanding of a bill that can
11 help all people.

12 Thank you.

13 CHAIRMAN CALTAGIRONE: Thank you.

14 MS. VAUGHN: Thank you.

15 Again, for the record, my name is Anne
16 Vaughn, and the testimony of Parents' Rights
17 Organization is as follows:

18 We thank the committee for this
19 opportunity to present testimony on the very important
20 area of children's rights to natural parents and
21 parental rights under juvenile and adoption laws.
22 First, we ask that the 181 pages of testimony submitted
23 on this subject at hearings before the House Health and
24 Welfare Committee on October 11, 1990 be incorporated
25 herein. We did request that that testimony be made

1 available to everyone that has not been granted that
2 request. We do ask, however, that you review that,
3 that all members of this House, as well as this
4 committee, review that testimony in its entirety. It
5 contains wonderful testimony on behalf of many, many
6 people who support birth parents, who talk about the
7 pain on severing the parental rights, and on parents
8 who have been pressured to relinquish their rights. I
9 would ask, again, that that be incorporated in its
10 entirety.

11 Like House Bill 2133, House Bill 79 also
12 seriously affects children and parents. We want to
13 address further some of the areas in the legislation we
14 have specific concerns about with proposals for
15 improved legislation.

16 The following particular problems in the
17 proposed legislation should be thought through with
18 great care to avoid summary terminations of parental
19 rights. Preliminarily, we credit the sponsors for
20 correcting in this legislation some glaring problems by
21 adding revocation language to the consent form and
22 provision of counsel for indigent parents, those were
23 two items that we had great concerns about, and we were
24 glad to see those incorporated herein. However, this
25 bill would continue to foist on families and the

1 public-at-large very serious provisions. Questions
2 needing to be answered include:

3 May terminations be done in each newborn
4 case or is it only to apply where a pre-adoptive family
5 petitions the court? Is the result possibly children
6 without any parent? Will this lead to warehousing of
7 children in foster care or institutions?

8 Will a State agency be mandated by this
9 legislation to petition to terminate parental rights in
10 these newborn cases? Do State agencies have the
11 resources to process these terminations?

12 Three, has the cost and process for
13 appointment of guardians ad litem for minor parents
14 been considered, and should it be?

15 Four, has the legislature considered that
16 the facts in the Hamilton case appear to involve a
17 dispute between parents following a divorce? Does the
18 legislature intend that a custody issue in divorce be
19 resolved by such drastic means rather than by
20 conciliation or mediation?

21 Five, will the unattended effect on any
22 addicted parent be to discourage recovery rather than
23 encourage recovery so that he or she can parent and be
24 a productive member of society?

25 Six, is there any evidence that single

1 parents with support and services will not parent and
2 be productive members of society? This is, of course,
3 in connection with the newborn provision which talks
4 solely about single parents.

5 Seven, will the DPW minimum visitation,
6 which is the CYS maximum, CYS is referred to throughout
7 our testimony. That stands for Children and Youth
8 Services for the records. CCYSSA refers to County
9 Children Youth Social Services Agencies. Thank you.

10 Will the minimum visitation, often one
11 hour per two weeks, one hour in agency offices, lead to
12 the conclusion that there is substantial and continuing
13 failure to contact the child?

14 Eight, if there are delays by CYS workers
15 in developing family service plans with a visitation
16 schedule, will this be an exception to the substantial
17 and continuing failure to contact?

18 Nine, was there any evidence available to
19 the legislature or to the sponsors that any addicted
20 parent can be cured within four months, or is a longer
21 treatment period needed?

22 Ten, can paternity be determined within
23 four months and can potential fathers protect their
24 rights under this bill?

25 Eleven, should pre-adoptive parents be

1 permitted interim approval based on the word of
2 intermediary, given the fact of child abuse and
3 neglect, even in DPW regulated foster homes?

4 Twelve, has the legislature considered
5 developing less restrictive alternatives to this
6 measure that protects children's rights to natural
7 mothers and natural fathers and still reduces the cost
8 of foster care? We have, further on in our testimony,
9 just such proposals.

10 Thirteen, does the termination of a child
11 born as the result of rape place a tremendous burden on
12 a woman who has just given birth? Must she press
13 charges or testify as to that?

14 Fourteen, how does this legislation
15 assure the petition and the notice in each case is
16 served promptly on the filing of all petitions on
17 respondents? We question that because we know of
18 circumstances where petitions are filed with the court,
19 stay there in the court not served on the parent until
20 the hearing notice goes to them.

21 Additionally, we have some concerns about
22 the failure to support and the rape provisions. We
23 believe that both of these are poorly thought out in
24 terms of public policy. The remedy in our present law
25 for neither rape nor support is termination of parental

1 rights. Strong public policy supports prosecution of
2 rape and civil action if there is a failure to support.

3 Children without parents are also without
4 support, and they cost the State if there is no
5 adoptive parent there. We're talking exceedingly large
6 costs potentially of children with no parents placed in
7 care without any support. My understanding is that
8 Governor Casey wishes to expand support efforts to get
9 support to reimburse the State for the costs of foster
10 care, which are the costs of payments in placement
11 maintenance under Title 4E of the Social Security Act.
12 Support reimbursement is a provision there. Why are we
13 not looking to support from parents while we let the
14 children remain in foster care looking towards
15 reunification paying the State for its costs rather
16 than terminating parental rights and having no parent
17 there who can pay support?

18 On rape, we want prosecution of rape
19 cases, obviously. Why dissuade a woman from testifying
20 to rape if it may hasten a termination of her child's
21 father's parental rights? Or it may tend to bring
22 forth sometimes false testimony if she did want to
23 terminate, as in the Hamilton case. I don't believe
24 that these matters have been thought through at all,
25 and I think that the legislators need to seriously look

1 at these. Not every woman is necessarily, even if she
2 has been raped, going to want to terminate her child's
3 right to a father. Many women see value in having two
4 parents to parent a child, even if the father was
5 vicious and horrible to her, she may want the child to
6 have the advantages of knowing who his father is, of
7 having some protected contact with that father, and of
8 having support from that father. I don't think that
9 this measure has been thought through.

10 To continue, again, the legislation would
11 create a system of lesser rights for newborns than for
12 older children. In the 181 pages of testimony referred
13 to before, one parent, a teenage parent, Dawn Hill,
14 spoke of the CYS coming to her urging her to give up
15 her child for adoption, although there was no
16 dependency. She was not a foster child. There was no
17 plans to bring her before the court as a foster child.
18 We already may be confronted with a public practice of
19 CYS workers to urge upon clients, often young and
20 inexperienced, family disunity rather than the mandated
21 duty of our present law, the juvenile law, and the
22 regulations implemented pursuant thereto, which is to
23 encourage family unity. We don't want the proposed law
24 to be enacted because it disserves that public purpose
25 and does not foster the bonding of newborns with their

1 natural parents.

2 In that same testimony, Chisita Cruz,
3 another young parent, age 20, testified that she had
4 two children as a teenager, had seen neither for two
5 years, had been allowed by CYS to have one child with
6 her for only one month. This was, she believed, too
7 short a time to develop parenting skills. CYS was
8 unwilling to provide more supportive counseling and
9 education to her. Those children, I believe, have now
10 the goal of termination. There is a grandmother there
11 who is very, very willing and eager to take home those
12 children and raise them. That is not being allowed.

13 JoAnna DeHart testified her six children
14 were in placement for over one year due to housing,
15 clearly a poverty-related problem, and CYS wanted to
16 adopt out her children.

17 Ann Torregrossa, Executive Director of
18 Delaware County Legal Assistance talked at length of
19 the Sarah Lynn Davis case and her involvement with that
20 case. I would ask that you seriously review her
21 testimony, the written draft of her testimony, in
22 detail regarding the tragedy of that case, which
23 illustrates again and makes reference to other
24 circumstances where similar matters did occur.

25 CYS has become already adoption brokers

1 and warehouseers of children in foster care, contrary to
2 all our law, public policy purposes, and contrary to
3 our Constitution which protects our family. We urge
4 you to review that testimony.

5 This bill, like its predecessor, would
6 create law from CYS practice, which already exists.
7 Present agency practice needs legislative attention.
8 Now juvenile courts empowered to make only temporary
9 custody orders end dependencies and order children
10 placed with non-parents. Now courts terminate parental
11 rights without any measuring of minimum reunification
12 services and without any real review of the amount of
13 services in terms of time, dollars, frequency or
14 duration. Meaningful agency services are more than
15 referrals. They must be actually provided or arranged
16 for by the CYS agencies.

17 We urge this body not to look at the
18 problem piecemeal, taking the easiest way out in times
19 of crisis where families are troubled by drug abuse and
20 homelessness. Added to the garden variety dependency
21 factors of poverty, illness and unemployment, shouldn't
22 we look at solving the problem and not at terminating
23 families? The purpose of the Juvenile Act is to
24 provide rehabilitation services to sustain and unite
25 families. As the courts have said, a parent must be

1 able to seek the assistance of a child welfare service,
2 with the expectations that the agency will exert its
3 best efforts in working with the parent and the child
4 to improve the parent's skill and understanding. "The
5 premature filing of termination petitions by an agency
6 thwarts the trust necessary for the advancement of the
7 purpose of this relationship between agency and
8 parents." That was the Superior Court which said that
9 in the Matter of MLW in 1982. The cite is in the
10 written testimony.

11 As to the newborn provision, they can
12 lose their rights to their parents after four months
13 only. They are, however, as deserving of an
14 opportunity to be with their parents as other children.
15 The standard should be at least the same as it is for
16 other children, which is six months for review, but
17 under the Social Security funding law, up to 18 months
18 or beyond before a permanency planning decision is
19 made. That is the legislative history behind the AAA
20 or the Adoption Assistance of the Child Welfare Act of
21 1980, which is the funding provision for Title 4E as
22 well as Title 4B services, which serve to fund foster
23 care placements. Four months' time is significantly
24 contrary to present law and unjust when CYS services at
25 present are just not available.

1 This grounds for termination should not
2 become law. It is vague and we believe
3 unconstitutional as to a parent who knows or has reason
4 to know of the child's birth. It discriminates on the
5 basis of marital status against unmarried parents, and
6 in particular is hurtful policy to apply to poor
7 families who may not have the means to provide
8 substantial financial support or maintain substantial
9 and continuing contact with the child. We'd like to
10 cite in this reference the case Valentine, which does
11 excuse parents who are on welfare from providing
12 support. We believe that this creates a harsher
13 standard than already exists in our law.

14 Also, what rational basis is there for
15 making that marital status distinction? What
16 justifiable State purpose is served? There is an equal
17 protection problem caused by the four-month standard
18 for newborns, the six-month standard for others. Some
19 of us have experience of judges asking for more of a
20 track record than 6 months or 12 months in any
21 addiction dependency case. This new section does not
22 comport with the Social Security Act's legislative
23 history, funding States for services to reunite with
24 reviews each 6 months, and speaking of 18 months before
25 a permanency planning decision is made.

1 There should be at least itemized good
2 cause exceptions to define what "reasonable efforts" is
3 as an excuse and must include at minimum the following
4 clarifications. We say this because we have seen such
5 horrible practices in the work that we do for our poor
6 families in trying to keep them together at the local
7 level.

8 We need to have clarity in the standards.
9 We must look to parents' economic and health
10 circumstances, including employment efforts and
11 participation in rehabilitative care. We would also
12 urge that if a person has applied to be admitted into
13 rehabilitative care and is just wait listed, he's done
14 what he can do. He should not be sanctioned, she
15 should not be sanctioned, by termination of parental
16 rights simply because there are not enough in the way
17 of rehabilitative services available.

18 Parent should also be excused if he's a
19 party to a custody or dependency proceeding. He may be
20 enjoined from visitation under those proceedings.
21 There may be delays in the court proceeding there. We
22 should not be able to circumvent that proceeding and
23 having a petitioner to terminate parental rights be
24 able to go into the Orphans' Court to terminate if that
25 is ongoing.

1 If the parent has not been served with a
2 petition, and again, although this has been stressed
3 here in earlier testimony on how many procedural
4 safeguards there are in this bill, we do not believe
5 that that is true. If you take a close look at the
6 bill, there is no service 10 days before the hearing,
7 there is no requirement that the petition itself be
8 served at the time the petition is filed. Under any
9 normal rules of Pennsylvania's Civil Procedure that
10 apply in any proceedings, the filing of any papers with
11 the court requires service on the opposing party. That
12 is standard. Some of us here are lawyers and I know
13 that we understand that why should we create an
14 exception giving lesser procedural due process here to
15 parents in adoption proceedings than we provide in
16 another setting.

17 For financial support, if the parent is
18 disabled, a recipient of public assistance, or would be
19 a recipient but for his transitionally needy status
20 under Act 75, or paternity proceedings are pending.

21 Just to clarify what Act 75 is, that is
22 the provision that gives assistance to persons between
23 the ages of 18 and 45 as a general rule for three
24 months out of nine months at 65 percent of the standard
25 of need. In other words, that person can receive in

1 Delaware County \$205 for three months out of the year.
2 That person clearly is unable to make any payment of
3 substantial financial support to this child. Poverty
4 bars that. We are putting into place a law that
5 penalizes poor people to a far greater extent than it
6 does those who are able to make a contribution but for
7 some reason do not.

8 As alternatives to this legislation, we
9 would propose something that we have called preferred
10 caretaker alternative. The law presently permits but
11 does not encourage in practice alternatives of
12 community and relative caretaker status including
13 foster care levels of payment to relatives, although we
14 seldom, if ever, have seen that paid where children
15 cannot be with their parents. We suggest alternatively
16 payments at a lesser rate than foster care, which would
17 serve to save the State money from Title 4A, that is
18 the AFDC program, supplemented by Title 4B, which is
19 the child welfare program, both Federal funds, to keep
20 a kid, child, with the extended family to provide
21 financial support and to encourage the family member to
22 care for the child, to save the higher court costs of
23 dependency determinations, and the, we believe, higher
24 costs of foster care, although the Department of Public
25 Welfare has told us in response to a Federal lawsuit

1 that they do not know what the foster care standards of
2 payments are. It is our belief that they are higher
3 than what would be paid here.

4 For example, a child is placed with an
5 aunt who has two children and receives an AFDC payment
6 of \$403. In Delaware County that is what she would
7 receive. The placed child would receive \$205 a month
8 rather than the \$94, which would be the difference
9 between a grant for three and a grant for four, or \$497
10 minus the \$403. We believe that this is a potential
11 that could be looked at here that would encourage the
12 CYS agencies to develop case plans carefully focussed
13 on reunification, that would reduce the cost of foster
14 care, would reduce the costs of dependency proceedings
15 which in themselves are costly, which would allow and
16 encourage a family member or relative who already knows
17 this child to take this child into his or her home and
18 to care for that child and to work on reunification, to
19 assist maybe the relative, to go into rehab, to get
20 whatever care, whatever education, whatever skills
21 training, whatever housing she may need so that she
22 herself can be a parent. We think that this makes far
23 better sense as public policy from legislators who care
24 about families. We think that that fulfills our
25 constitutional duties and we think that that fulfills

1 the purpose of the Juvenile Act to a much greater
2 extent than placing children warehoused in foster care
3 and then in an adoption situation without any support,
4 without any parents. We think that that is the worst
5 situation that we could be faced with.

6 We question, yes, there will be misuses
7 of this system, but there are misuses of every system,
8 and I think that that's why we have departments like
9 the Department of Health and Department of Public
10 Welfare who are empowered to work through and develop
11 these systems that will protect our families.

12 As to information and referral, I am
13 referring to Section 2505 on the acknowledgement form
14 which parents are being asked to sign in hospitals
15 acknowledging that they have received a copy of
16 information about services. We think that is just not
17 going to suffice and we can see, knowing how these
18 matters play on the court, we can see the
19 acknowledgement being held up by a petitioner's
20 attorney to the court as Exhibit A. This parent knew
21 that she could go and apply for benefits from a lot of
22 different social agencies and did not. We think that
23 we need a lot more in the way of information given to
24 parents so that they may take advantage, may use those
25 social services that are there intended to be used by

1 parents in times of trouble. For example, if a parent
2 needs help with rehabilitation for a drug addiction,
3 she should be encouraged to go to the Department of
4 Health, she should be encouraged to get herself into
5 rehabilitation, she should be encouraged to have her
6 child screened through the EPSDT, the Early Periodic
7 Screening Diagnosis and Treatment program, which is
8 there for a Medicaid eligible child so that that child
9 is cured of any resultant problems that child might
10 have. We think that all of those systems and that
11 information should be given clearly to each parent. We
12 should not be making it easy for a petitioner to
13 terminate parental rights simply because a parent
14 acknowledged in the hospital that she was told about
15 these services. That is not the way public assistance
16 informational components are supposed to play out, and
17 the Department of Public Welfare does have an
18 informational component right at the beginning of the
19 manual, under 55 Pa.Code 101.1(b) exists that
20 requirement.

21 Among the services the people must be
22 referred to are the county Children and Youth Services,
23 the CYS's. The purpose of the referral is to develop a
24 family service plan to focus on reunification, to
25 fulfill the mandate of that agency; to provide

1 counseling, day care, homemakers/caretakers and
2 parenting skills education, all of which are listed on
3 page 17 of the Title 4B child welfare plan that this
4 State submits to the Federal government in order to
5 pull down the Federal funding for that program. These
6 also are listed at 55 Pa. Code 3130.34 and 35, I
7 believe. Those are the mandated services. We've got
8 to enable our families to get access to those services.

9 We also should, since there is under the
10 child welfare law federally a requirement that there be
11 coordination between the programs, we must have a
12 system that allows for referral to the AFDC and to the
13 General Assistance programs to apply, to the Medicaid
14 program to apply for the benefits there, including the
15 EPSDT and the Healthy Beginnings program so that we
16 have poor families able to raise and care for their
17 poor children, which is what we are all about as a
18 nation after all. Food stamps, WIC, employment and
19 training programs are all developed and a part of what
20 the Public Welfare office is supposed to be doing. We
21 do know that Secretary White has taken strenuous
22 efforts to have the employment and training programs to
23 work well. We understand that they are. We ought to
24 be encouraging our parents, single or not single, to
25 get into these programs, to enable them to parent their

1 children. We should not be severing the parental ties
2 of poor parents to their children by enacting this
3 legislation simply because the State is concerned
4 about, we don't know, saving dollars possibly, a valid
5 concern, but we think there is a far less costly way of
6 going about this.

7 As to the court appointed counseling fund
8 of this provision, we have concerns about it may
9 violate the Social Security funding scheme. There is a
10 requirement there -- well, everyone should have the
11 right to access those services. If you limit or make
12 discretionary the power of the court to make a
13 referral, we think that there is a serious problem
14 here. We think that everyone has the right to apply
15 for the counseling services and have the information
16 about applying for that service and have a fair hearing
17 if there is a denial of that service or if you're
18 refused the right to develop a family service plan so
19 that you can get CYS directly provided services or
20 services arranged for through an agency such as CONCERN
21 or one of the other agencies that are around who
22 provide services.

23 As to the opportunity for
24 re-establishment of the parent/child relationship, this
25 addresses the Hamilton case. We have serious concerns

1 about implementation of this particular provision. Any
2 provision that changes or eliminates the opportunity to
3 cure a relationship once a petition to terminate has
4 been filed we believe must be abandoned. "Filed and
5 not served," I would again note, is the language of the
6 statute, and again there is a procedural due process
7 problem.

8 Somebody here earlier in testifying said
9 that this frustrated adoptions to have the parent go
10 back into court afterwards or to go back into
11 establishing a relationship. It is the parent who
12 still has the constitutional rights to the child up
13 until the time of a final decree. It is his rights
14 that are being frustrated by any effort to terminate
15 those. We are not here to serve the interests of a
16 potential adoptive parent. The frustration at this
17 point does not go against the potential adoptive
18 parent, it goes against the natural parent. We believe
19 that there are circumstances where a child is clearly
20 strongly helped if a father who has been absent
21 returns. We think that's what we ought to be looking
22 at. A child does not necessarily know six months of
23 absence. A child should be able to enjoy the renewed
24 relationship and re-establish that relationship. The
25 court should have the power to consider these factors.

1 The statutory rejection of evidence of change should be
2 deleted. The benefit to the child of post-abandonment
3 effort would allow the Orphans' Court its power to hear
4 evidence of advance up to and at the time of the
5 hearing on termination. And following, I would say, up
6 to the final decree.

7 A termination must be based on clear and
8 convincing evidence of the allegations in the petition.
9 The proposed change would substitute for this
10 evidentiary standard a time barrier that deprives the
11 parent of the opportunity to prove and the court of the
12 power to hear this evidence. The child, through his or
13 her attorney, is also deprived of the opportunity to
14 provide evidence of the importance of the continuing
15 parental relationship to the child. We urge that
16 instead of this cut-off of evidence the court consider
17 any curative change behavior. Aren't we glad that even
18 if it is a filing of petition that re-energizes the
19 parent that that has happened? Isn't that what we
20 should be looking to?

21 Provisions for open adoption should also
22 be included in any law. Testimony at the October 11,
23 1990 hearings clearly shows that parents do not forget
24 their children because of a paper decree of terminating
25 parental rights, and we believe that children, because

1 of a paper decree, do not also forget their parents.
2 We'd like to make reference particularly to the
3 testimony at those hearings of Ann Torregrossa, Alicia
4 Giesa Patterson, and Linda Pfaff. It's important that
5 the court be permitted to hear evidence on the value to
6 the child of the continued visitation. It's important
7 that legislators assess whether this continuity may
8 even be an inducement in some cases to voluntary
9 relinquishment.

10 We believe that pre-placement
11 investigation by the child welfare agencies is a drain
12 on limited CYS services and we believe that at a time
13 when they're trying to expand their pre-placement
14 services and prevent placement in the first place they
15 are trying to provide services to reunite promptly,
16 that this is just a misuse of their limited staff,
17 their limited funds, to have that sort of system in
18 place. The court should appoint independently outside
19 of CYS's, and there's also potentially, of course, a
20 very conflictual role if the CYS worker is the one who
21 is to focus on reunification and then puts on her
22 adoption hat and starts to do that sort of work. We
23 think that that creates a problem and also maybe
24 mistrust between the parent and the worker where there
25 should be a system of trust.

1 Interim placement provisions place
2 children at risk in unapproved homes without procedural
3 safeguards. Why should we rely on the word of an
4 unregulated system, unlicensed system, that the child
5 is safe in this home at a time when, as we said
6 earlier, even foster care homes result in abuse to our
7 children? We ought to have clear standards there and
8 make sure that the home is approved before a child is
9 placed there.

10 We're also concerned that the child will
11 be moved around without procedural safeguards either to
12 the child or to the parent. Recently, some new
13 regulations were enacted at 55 Pa. Code 3130.68(i)
14 which required that in CYS changes of placement there
15 be a notice and an opportunity for the parent to have
16 that reviewed by the court if there is a change of
17 placement, an opportunity for the child as well to have
18 that reviewed if there is a change of placement. So we
19 question the moving of the child into an interim
20 pre-placement home without these procedures being in
21 place. The section should be eliminated or should be
22 revised.

23 In conclusion, we want to thank you very
24 kindly for listening to our testimony. Again, we urge
25 you not to enact this law, to seriously consider what

1 we have said here and to seriously review what has been
2 said at the prior hearing on October 11, 1990.

3 Thank you so much.

4 CHAIRMAN CALTAGIRONE: Thank you.

5 Lois?

6 REPRESENTATIVE HAGARTY: Just a comment,
7 Mr. Chairman.

8 First, I want to thank you for your input
9 that has resulted in some of the positive changes in
10 this legislation. We view this legislation as
11 providing additional protections in the adoption
12 system. Those changes which you brought forth to our
13 attention which we could incorporate to provide even
14 further additional protections to natural parents we
15 have done so and so I think it makes it a better piece
16 of legislation.

17 As for your, I guess, additional concerns
18 with regard to this legislation, I can only say that
19 all of us who have reviewed it across the State feel
20 very clearly that we have gone further, further as you
21 have heard, than any other State in providing
22 protections to parents and providing procedural
23 safeguards to parents, and that this bill, if anything,
24 enhances those protections, does not take away from
25 them.

1 Where we do disagree, I believe we
2 disagree because this bill places primary emphasis upon
3 the needs of the child, not the needs, while it
4 attempts to balance, and I have worked on adoption
5 legislation since 1980, I have probably worked as hard
6 as anyone to insure a balancing of rights of all those
7 concerned, I believe this legislature believes that the
8 needs of the child must come first.

9 As for your additional comments and
10 concerns, as I believe most of them are focussed on the
11 present system, how the present system functions, I
12 know that Representative Richardson, in holding the
13 hearing, I know that through my comments, discussions
14 with him, he would certainly be committed to working
15 with you on those alternatives you suggest to enhance
16 and improve the present system. I don't think that
17 those comments and concerns focus on alternatives.
18 Many of the concerns and the problems, deprivations
19 that you believe have occurred under the present
20 system, I feel that you will have to work on with the
21 Health and Welfare Committee. They are not the focus
22 of this legislation. While many of those goals may be
23 laudable, we have attempted to narrowly prescribe
24 specific procedural changes which we feel will improve
25 the adoption process and the rights for children.

1 Thank you.

2 CHAIRMAN CALTAGIRONE: Counsel Andring.

3 MR. ANDRING: I just have one area to
4 address. I tried to listen very carefully to each
5 specific example you gave, both witnesses, and as
6 nearly as I could determine, every specific example
7 dealt with a child who was in the custody of the
8 Children and Youth Service agency pursuant to, I think,
9 the grounds contained in the statute under Section
10 2511(2) or 2511(5), which have to do with the
11 incapacity, abuse, neglect, or refusal of the parent to
12 care for the child, or if the child is in the care of
13 the agency by court order or voluntary agreement under
14 certain conditions which lead to removal or
15 replacement, and there are certain standards in these
16 sections which have to do with proceeding with the
17 termination of rights, and as nearly as I can
18 determine, this legislation isn't addressing those
19 sections at all and I wonder, do you have examples that
20 haven't proceeded under those sections?

21 MS. VAUGHN: Yes. Is it Mr. Andring?

22 MR. ANDRING: Yes.

23 MS. VAUGHN: Thank you.

24 We do. The Sarah Lynn Davis case which
25 we talked about and which is in the testimony was a

1 case which was outside the CYS system, and I would ask
2 that you review that testimony of Ann Torregrossa from
3 the October 11, 1990 hearing for further information
4 there. Ann Torregrossa was the attorney of record on
5 that case and there is detail there about that, and
6 about, I believe, similar circumstances.

7 In response to your question about
8 whether the law does affect cases -- whether this law
9 would affect cases within the CYS area, of course it
10 would. You're creating a totally new substantive
11 standard, despite Representative -- and with all due
12 respect to you, Representative Hagarty, there are
13 clearly new substantive areas here that are being
14 established and addressed. The rape area and the
15 newborn area, both of those could come under the CYS,
16 could petition under those grounds. There is nothing
17 preventing them from doing so.

18 As a further matter, I would like to say
19 that we believe an increased reference to an agency, a
20 public agency with a duty to provide reunification,
21 that one of the problems raised by the Sarah Lynn Davis
22 case was the lack of ready access to services to an
23 agency that could provide her with assistance and with
24 counseling, with parenting skills education, with
25 referral to the other agencies which would have enabled

1 her to parent. We believe that there are serious
2 problems if there is relinquishment to an intermediary
3 who then places, in that particular case he placed out
4 of State, without any access to services.

5 So, yes, I thank you for your question
6 because what we are saying is that CYS should be
7 involved. They should be involved by referral, they
8 should be involved by the opportunity of any parent to
9 develop a family service plan and get services.

10 MR. ANDRING: So you're saying CYS should
11 be involved in any adoption?

12 MS. VAUGHN: No, I am not saying -- well,
13 I am saying that CYS, at the request of a parent,
14 should be -- each parent should have the opportunity to
15 contact and apply for Children and Youth Services
16 reunification services, as well as counseling, which
17 would help her decide as to whether she indeed wanted
18 to relinquish the child or not. But that is all part
19 of the planning that goes on through a CYS placement,
20 which takes place over, well, it's reviewed every six
21 months. This review takes place regardless of whether
22 the case is in the dependency system or outside of the
23 dependency system and done as a family service plan
24 case only. The Children and Youth Services provide
25 services, works towards reunification, and ultimately

1 if the parent does not prove to the satisfaction of the
2 court that the placement -- that she is establishing
3 stability so that she can or he can parent the child,
4 then the Children and Youth Services agency may
5 petition the court to change the goal to adoption in
6 the juvenile court and may then go to the termination
7 court. But what we are saying is, yes, that parents
8 should have the right to this sort of assistance and
9 that that makes sense in terms of public policy, that
10 we should have a system that tracks parents, gives
11 parents the opportunity. Now, obviously, we're not
12 talking about there are going to be cases where parents
13 want to voluntarily relinquish--

14 MR. ANDRING: But, in fact, doesn't this
15 bill substantially increase the likelihood of that
16 happening and increase and improve the opportunities
17 for counseling and notification therefore more than
18 what we have in existing law?

19 MS. VAUGHN: No, I don't believe it does.

20 MR. ANDRING: Okay.

21 MS. VAUGHN: I don't believe it does, Mr.
22 Andring, for the reasons addressed in testimony, and I
23 don't want to take more of the committee's time, but I
24 think that there is serious problems with access, lack
25 of access to the services, and I think that the

1 suggestions that we make as far as information and
2 referral should be considered. Every parent should
3 have the right and the opportunity, if they wish, to
4 get into development of a family service plan and
5 services towards reunification, that we wouldn't be
6 seeing these horrible tales of Sarah Lynn Davis where
7 the parents are just, you know, torn apart, did not
8 know those services were available. You know shortly
9 after the birth of a child when things are not going
10 well, give up a child. That's what we want to prevent.

11 We, too, agree, by the way, that the
12 child is the focus, and we believe, however, that the
13 child has the right to be with a natural family or an
14 extended natural family whenever possible, and that is
15 what we are urging here as better, sounder public
16 policy rather than this bill which allows the State to
17 come in, take the newborns, you know, instead of
18 providing the help, terminating their parental rights
19 and maybe warehousing them and creating all sorts of
20 problems in terms of costs to the State down the line.
21 We're suggesting some provisions that would allow the
22 State to go after support while those children stayed
23 in foster care, would allow for payments to an extended
24 family member while the parent works through.

25 I grant you, this is not wanted or

1 desired in all cases. We, though, come from a
2 perspective and see from the community that we come
3 from those cases where the parents are eager to have
4 the child with them and cannot get the child because of
5 limited services basically is the reason because of
6 lack of housing, because of limited income, limited
7 employment opportunities to them, limited
8 rehabilitation potential, and that's what we're saying
9 is much better to protect our families, to not
10 warehouse our babies.

11 Thank you.

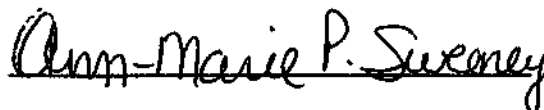
12 CHAIRMAN CALTAGIRONE: Thank you very
13 much for your testimony.

14 We will conclude the hearing for today.
15 Thank you very much.

16 (Whereupon, the proceedings were
17 concluded at 1:06 p.m.)

18
19
20
21
22
23
24
25

1 I hereby certify that the proceedings
2 and evidence are contained fully and accurately in the
3 notes taken by me during the hearing of the within
4 cause, and that this is a true and correct transcript
5 of the same.

6
7 

8 ANN-MARIE P. SWEENEY
9

10
11 THE FOREGOING CERTIFICATION DOES NOT APPLY TO
12 ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER
13 THE DIRECT CONTROL AND/OR SUPERVISION OF THE CERTIFYING
14 REPORTER.

15
16
17 Ann-Marie P. Sweeney
18 536 Orrs Bridge Road
19 Camp Hill, PA 17011
20 717-737-1367
21
22
23
24
25