

HOUSE JUDICIARY COMMITTEE
COMMONWEALTH OF PENNSYLVANIA

Testimony of Samuel B. Magdovitz
Associate Director
Juvenile Law Center

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Chairman Caltagirone and Members of the Committee:

I am pleased to have the opportunity to discuss with you how we can improve adoption opportunities for abused and neglected children in our Commonwealth, and specifically how House Bill 998 will help in that regard. I state at the outset that I enthusiastically endorse House Bill 998.

As many of you know, the Juvenile Law Center is a private, non-profit, public interest law firm which, during the seventeen years of its existence, has sought to further two primary goals: first, JLC aims to limit state involvement in the lives of children to that which is necessary and permitted by law; and second, when children are entitled to intervention and services, JLC seeks to ensure that systems work for them.

I have represented hundreds of abused and neglected children in the Philadelphia dependency system, have represented statewide and Philadelphia-based classes of abused, neglected and delinquent children in litigation, have conducted statewide training on dependency court issues for judges, lawyers and social workers, and have written a deskbook for Pennsylvania judges addressing abused and neglected children which has been cited by Pennsylvania appellate judges in their decisions. In

addition, I will be managing the legal services component of the new Statewide Adoption Network.

As I mentioned, I believe House Bill 998 will further the needs for permanency of abused and neglected children. Permanency planning provides a framework which I believe can drive a coherent system of protecting children's rights and promoting their needs. Both state and federal laws have clear permanency planning requirements. Those requirements are contained in Pennsylvania's Juvenile Act and its Adoption Act, as well as in the federal Adoption Assistance and Child Welfare Act of 1980, or Public Law 96-272. The central requirements are very straightforward: first, making reasonable efforts to prevent unnecessary placement at the "front end" of the process; second, when placement is necessary, making reasonable efforts to stabilize the family and reunify it; and finally, if those reasonable efforts to reunify have been made and have failed, a ground for termination of parental rights exists, and adoption would best meet the child's needs, moving swiftly toward freeing the child for adoption. Those themes, when taken together, are often called "permanency planning."

I believe the proposed amendments to our Juvenile Act contained in House Bill 998, in permitting the same judge presiding over the dependency proceeding to hear the termination of parental rights matter, will significantly reduce the hesitancy of our children and youth agencies to file termination of parental rights petitions. This current hesitancy to file

petitions often results in children remaining in temporary placements for many years. These delays have two significant consequences: first, the child's right to a permanent home as guaranteed by our child welfare laws is often irreparably foreclosed; and second, the state is spending millions of unnecessary dollars because children are languishing for years in expensive children and youth placements.

In addition, I would like to point out that by implementing the proposed language the Legislature will simply be codifying recent Pennsylvania case law as it has been stated by our Superior Court. Our Superior Court has already approved the procedural change in court practice that House Bill 998 permits: the consolidation of the Juvenile Act dependency proceeding and the termination of parental rights matter before the same judge. I believe that codification is extremely necessary, however, because despite the Superior Court decision approving the practice of designating the same judge hearing the dependency matter to hear the termination of parental rights case, it is occurring very rarely and in very few counties in our Commonwealth. The Superior Court could not have been more clear in stating that not only is the practice of assigning the same judge to hear both the dependency and termination of parental rights portions of the child's case acceptable, but it should be the preferred practice. The Court emphasized that such a practice would further the permanency planning needs of abused and neglected children in our dependency court system.

I will briefly summarize for you that Superior Court case, In Re Quick, __ Pa.Super__, 559 A.2d 42 (1989). In that case the mother appealed an order of the Allegheny County Orphans' Court terminating her parental rights. In Quick, the mother's three children (ages 13, 11 and 10 years old) had been adjudicated dependent because of physical and sexual abuse by her husband and other adults while in the care of both parents, resulting in the children's placement in foster care.

The mother's primary argument was that she was denied her constitutional right to a fair hearing because the judge who presided over the dependency hearings was assigned to the orphans' court division to decide the termination matter, precisely what House Bill 998 seeks to permit. The mother further contended that the Pennsylvania Legislature had mandated that juvenile and termination proceedings be conducted separately.

The Superior Court, in a strongly worded opinion by Judge Tamilia, stated that these arguments were without merit. In fact, in affirming the order for termination of parental rights and approving the lower court's procedure permitting the judge who presided over the dependency proceedings to sit in the termination proceeding, the Superior Court stated that this was "an effective and expeditious way to process these matters."

The Quick Court emphasized the sound policy reasons for such a practice, stating "adoption and termination procedures are logically and traditionally construed to be family matters" and

that "[f]amily problems are complex but intricately intertwined so that the best treatment so far as the parties are concerned, particularly in regard to children, as well as the most consistent and efficient approach from the judicial point of view, is for the same judge to remain involved with the family along the continuum of the particular case." The Superior Court concluded that "it would be self-defeating for the judge assigned to the termination case to be a different judge than the one who heard the dependency case."

It is my view that the addition of this language in House Bill 998 to our Juvenile Act, coupled with the Governor's and your recent commitment to the new Statewide Adoption Network, will do much to help create a system where children will be freed for adoption in a timely manner and permit them the possibility of the permanency our child welfare laws promise them.

I would be happy to discuss this important legislation with you further at your convenience.