

ORIGINAL

**HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
JUDICIARY COMMITTEE HEARING**

**IN RE: HOUSE BILL 1533 AND 1838, TASK FORCE ON ADOPTIONS,
GUARDIANS AD LITEM, AND COURT APPOINTED SPECIAL
ADVOCATES**

**COMMUNITY COLLEGE OF PHILADELPHIA
1700 SPRING GARDEN STREET
PHILADELPHIA, PENNSYLVANIA**

FRIDAY, AUGUST 25, 2000, 10:03 A.M.

BEFORE:

**HON. CRAIG DALLY, CHAIRMAN
HON. DON WALKO
HON. LeANNA WASHINGTON
HON. JOSEPH PETRARCA
HON. BABBETTE JOSEPHS**

ALSO PRESENT:

**DAVID BLOOMER
JANE MENDLOW**

**TAMMY L. BOCK
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I N D E X

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8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

PAGE

Honorable Paul P. Panepinto

35

Barbara Ash

2719

Maxine Chalker

2528

Tara Gutterman

3436

Mary Tomlinson

5154

Margaret Zukoski

5962

Bernard D. Faigenbaum

6266

1 CHAIRMAN DALLY: I guess we're ready to get
2 started. I would like to first thank those who are here
3 today. If we could introduce the Members and the staff,
4 please.

5 REPRESENTATIVE WALKO: I am Don Walko from
6 Allegheny County.

7 REPRESENTATIVE WASHINGTON: I'm LeAnna
8 Washington, Philadelphia County.

9 CHAIRMAN DALLY: And I'm Craig Dally, Chairman
10 of the Task Force. I'm from Northampton and Monroe
11 Counties.

12 MR. BLOOMER: I'm David Bloomer. I'm a
13 research analyst for the House Judiciary Committee.

14 MS. MENDLOW: I'm Jane Mendlow. I'm a research
15 analyst for the House Judiciary Committee.

16 CHAIRMAN DALLY: Thank you. I appreciate
17 everyone's interest in the very important issues before us
18 today.

19 And we're here to talk about Pennsylvania's
20 adoption laws and some problems that adoption parents as
21 well as the judicial system have encountered through this
22 process and the potential solutions that we in the General
23 Assembly can enact.

24 We will be discussing two Bills this morning;
25 those of Representative Kevin Blaum dealing with consent

1 to adoption, adoption counseling, and some other issues.

2 We will also be hearing from people who are on
3 the front lines of the issue, adoptive parents, Members of
4 the Judiciary, and those who would adopt a child.

5 I think it's important that we as legislators
6 and policymakers hear from people who are in the process
7 of dealing with an adoption. They can shed light on what
8 parts of the system are working and what area's we need to
9 improve.

10 It's the job of the Task Force to ask the
11 questions that have to be asked to find out what possible
12 solutions there are for improving the existing law so it
13 can better serve our children, our families, and our
14 Commonwealth.

15 The testimony that you are about to hear today
16 will certainly be an important part in developing and
17 continuing to refine this legislation as we go forward.
18 So I would like to thank everyone for their participation
19 this morning.

20 First on our list today is the Honorable Paul
21 Panepinto. He's the Administrative Judge from the
22 Philadelphia Family Court.

23 Your honor, before you get started, I'd just
24 like to thank you once again for the most enlightening
25 meeting yesterday and the tour of the Family Court.

1 I think that the Members truly got a feel for
2 the problems that you're dealing and the success that
3 you're having in changing the system.

4 JUDGE PANEPINTO: Thank you very much. I
5 appreciate those remarks and the opportunity to be here.
6 I'm just so sorry I couldn't offer lunch to everyone
7 yesterday.

8 The 1:00 meeting went on -- and if I had known
9 how long it was going to go -- and I didn't know what your
10 schedules were like, we could have had it a little earlier
11 and maybe had lunch brought around at the office.

12 But Members of this Committee, thanks again for
13 the opportunity. I guess it is important to tour the
14 building and see firsthand some of the things and some of
15 the programs we have going.

16 And I think that was enlightening, I hope, for
17 all of you. I think that that's what's difficult because
18 a lot of the proceedings in Family Court are closed
19 adoptions. But it's a happy court.

20 And it's a court I feel that is working. And
21 the process of adoption is working pretty well in
22 Philadelphia. There have been a number of things and
23 improvements and ideas we've brought to the table.

24 I want to say that I'm proud of the work there
25 and the initiatives that have been implemented, as I

1 mentioned to you this morning.

2 But as you know, the Adoptions and Safe
3 Families Act seeks to provide children with permanent and
4 safe homes in the earliest stages of their development.
5 And we have implemented an Accelerated Adoption Review
6 Court.

7 It's called AARC. That's one of the things
8 that we brought forth to help the process. But we've used
9 cases where the parents' rights have been terminated and
10 adoption has not as yet been finalized.

11 Agency representatives, attorneys, child
12 advocates, and foster parents appear at these hearings so
13 that a determination may be made with regard to the
14 obstacles that are delaying the finalization of adoption.

15 And each party is ordered by the Presiding
16 Master to complete their individual responsibilities by a
17 certain date and the case is given a new 60 day date.
18 Now, in most of our cases, the matters have been given a
19 finalization date prior to the 60 day review.

20 Now, the first step in insuring permanency is
21 the freeing of a child for adoption. We all know that.
22 But all of the literature we read advises how important
23 early stability in one's life leads to healthy adolescence
24 and a secure childhood.

25 Hence, by restricting the amount of time that a

1 consent to adoption may be revoked, we expedite the
2 process of implementing a permanent plan for a child and
3 comply with the mantra of the Adoption and Safe Families
4 Act of 1997, and provide meaningful counseling for birth
5 parents so they may feel comfortable in the decision they
6 make regarding relinquishment and adoption are of utmost
7 importance.

8 And counseling that is specifically related to
9 adoption and the emotional issues surrounding
10 relinquishment and adoption not only provides a comfort
11 level at the time a parent makes their decision but serves
12 as a foundation for how their decision and loss affects
13 their lives forever.

14 Also, the parent now has been linked to a
15 valuable resource that may be accessed in the event other
16 issues arise surrounding this decision at a later date.
17 And our adoption branch receives numerous inquiries from
18 adoptees seeking to locate their biological parents.
19 Sometimes they contact us desperately seeking to ascertain
20 clarity regarding various genetic illnesses.

21 In response to this need, we have developed and
22 implemented our own Birth Parent Medical Information
23 Packet which is provided to attorneys and agency
24 providers.

25 The Court requests that this packet be

1 completed and submitted prior to the finalization of
2 adoption. Accordingly, we believe that any initiative
3 directed at securing medical information is a worthwhile
4 endeavor.

5 In conclusion, as to my former remarks, I would
6 like to state that the happiest day in Family Court is a
7 Friday. And I guess that it's fitting that we're here on
8 a Friday.

9 This is a day when children come to court with
10 their parents and finalize their adoption. We have them
11 every Friday in Philadelphia. And these children now have
12 permanency and stability, something they so rightly
13 deserve.

14 In the Family Court Division, we have always
15 worked hard to finalize and give permanency in the lives
16 of children. So I think that is a long-standing goal and
17 something that we think very important. Kids deserve no
18 less.

19 And I know that's part of the mission of this
20 Committee and the intent of the Legislature in passing
21 laws. One of things that's so important is the fact that
22 we have an opportunity to talk and dialog with the other
23 agencies of government and specifically the Legislature.

24 And I think it's important that before laws are
25 passed that you do look and consider all of the persons

1 involved in the system and hear what they have to say.
2 And that's why I looked at the list of those that are
3 speaking.

4 And I think all of them have a stake in the
5 system, have worked hard to make the system and improve
6 the system. So I think that their remarks are very
7 important.

8 As a judge, it's kind of difficult because I am
9 not allowed to give my opinions specifically on a lot of
10 issues. But I could tell you, as the Administrator of the
11 Family Court, that we have 900 employees. We have 22
12 judges. We have a system that's quite large, the largest
13 in the State of Pennsylvania.

14 And we are processing adoptions at a quicker
15 rate. We're cutting down the barriers that impede getting
16 permanency in a child's life.

17 And even in cases where there are no adoptions
18 in the foreseeable future, we are moving along to work
19 toward getting the kid, the child, the children in a more
20 permanent place so they can be secure.

21 And they have the right to go on and get the
22 kind of education and other benefits that go along with
23 that. So I think that our court initiative is really
24 moving along. And we're working in a model court which
25 handles cases in a very different way.

1 Dependency is an area where kids are deprived
2 and abused. The kids come into our system with all kinds
3 of problems. Parents may even just want to dump their
4 kids.

5 It's getting -- it's happening at an alarming
6 rate. But you may be causing neuroses, too, about
7 problems in the community where parents are so upset.

8 They don't know where to place their children,
9 what kind of help to get for their kids. So what happens
10 is they're finding an increase in numbers that, Oh, you
11 can just come to the Court and we're going to solve all
12 their problems. Well, the judges can't do that. The
13 Court system can't handle the overload that easily.

14 But working with other agencies in a
15 collaborative and cooperative effort, we have been able at
16 least to guide those families in the right direction. And
17 I just think it's kind of difficult because of the
18 overwhelming caseload. We have a large number of cases
19 each day, maybe 30 to 40 in a courtroom, 5 judges, 5
20 courtrooms per day.

21 You need attorneys for fathers, mothers, for
22 the child, child advocates, everybody has to be present in
23 order for the case to move forward.

24 So you can see what happens if someone doesn't
25 show up and there has to be a continuance. That's a delay

1 in that child's life. That's a delay in getting that
2 family a final decision.

3 But we've been working in an effort to create
4 the model court. I want to mention to this Committee,
5 because we think it is really -- that's why it's called a
6 model court, because it's something different in
7 Pennsylvania.

8 And the true aspect of the model court is
9 really to achieve what is everybody's goal and what this
10 community is looking at is permanency for a child.

11 And we want to emphasize our strategy. Being
12 one judge, one family where we have cases assigned to one
13 judge to complete from beginning to end. And we're
14 working in that area, and we want other agencies to work
15 along with us.

16 That's one of the difficult things, the
17 problem, because we need everyone on board in this
18 program. We have a time specific and accelerated court
19 calendar. Our cases are dealt with every 20 to 30
20 minutes.

21 And they're time specific. We have trained all
22 parties prior so that they understand they're rights and
23 responsibilities.

24 We have a collaborative effort with the various
25 departments. That has been unprecedented before in

1 Philadelphia.

2 And we have data collection and tracking which
3 is always important to emphasize about where we're going,
4 to show how we've done things, and what direction we
5 should be taking. We've had to analyze it.

6 So we have that available to the Committee. We
7 have that available to the public. We make this available
8 to the City and to the Department of Human Services.

9 And in looking at this House Bill and in other
10 ones to come through the legislature, my request, and
11 something that I feel personally is very important, is
12 that each and every time a tough -- when I say tough, I
13 mean a difficult decision has to be made in changing the
14 law or in accommodating someone because of a problem that
15 exists that we, the Court, should also be consulted and
16 advised.

17 And I'm not saying that what we say you must
18 accept. But I think that if you can listen as you are
19 doing today and make us a full partner in sharing with you
20 our problems, I think we could come up with better laws
21 and better solutions.

22 So it's in that spirit that I come here
23 personally, not with all the answers and certainly not all
24 the solutions to some of the things that you have to bring
25 forward through this Committee, but certainly to assist

1 and to let you know what we are doing and we are
2 accountable for our actions. So I will address any
3 questions that I can. Thank you for the opportunity to be
4 here.

5 CHAIRMAN DALLY: Thank you, Judge Panepinto.
6 One of the concerns that had been expressed at previous
7 hearings by perspective adoptive parents is the revocation
8 of consent just prior to the Adoption Decree being signed.
9 And one of the things that the proposed legislation does
10 is it establishes a deadline of 30 days during which a
11 natural parent can revoke the consent. And I would like
12 your thoughts on that.

13 JUDGE PANEPINTO: You know, I personally feel
14 that it's a sensitive matter from wherever you are coming
15 from. If I'm going to adopt, and I want to adopt a child,
16 I certainly want that child with me.

17 And once a parent allows and consents to that,
18 to have that revoked, I guess, almost at any time is going
19 to be heart-wrenching and very difficult.

20 So I understand the need for timelines. And
21 whether it really is 30 or 60 days, there is no right
22 answer I don't think.

23 But I think the sooner that the child is in his
24 or her adoptive parents' home and they're knowing that's
25 where he or she is going to be I think the better it is

1 for the child. I think the better it is for the family.

2 It's difficult for the person giving up the
3 child to make that decision. But the circumstances under
4 which they make it is more important, that they freely,
5 honestly know that they are giving up a child and they
6 know that they cannot any longer take care of that child.

7 The fact that the child is with someone else
8 and is going to receive the important things in life that
9 it deserves is what's important.

10 So I guess I haven't thought a whole lot of 30
11 days verses 45 days verses 60 days. But I'm in favor of
12 certainty and some timeline where we can get moving with
13 that child's life. So there's no in between.

14 CHAIRMAN DALLY: Okay. Thank you. I'd like to
15 recognize the Representative from Westmoreland County.

16 REPRESENTATIVE PETRARCA: Good morning. How
17 are you?

18 CHAIRMAN DALLY: Questions?

19 REPRESENTATIVE WALKO: First of all, Judge
20 Panepinto, I'd just like to commend you and thank you for
21 the thorough discussion yesterday which the testimony
22 today was only just touching on the real substance behind
23 what you're doing. And I also want to thank you for the
24 tour and for allowing us to talk with Judge Ransom.

25 And, of course, I thank her for permitting us

1 into her courtroom. It seems that you're touching a lot
2 of lives. And I just wanted to make that comment to you.

3 JUDGE PANEPINTO: Thank you very much,
4 Representative.

5 CHAIRMAN DALLY: Jane.

6 MS. MENDLOW: Judge, maybe you could help us
7 with some particulars. Back in 1992, the Legislature
8 adopted the amendment that became part of the adoption law
9 provisions regarding funding for counseling for birth
10 parents with the idea that there was a need for some
11 protection to make sure that people understood when they
12 were giving up their rights.

13 However, it looks like over the years, the past
14 8 years, that counseling fund that was connected to
15 reporting intention to adopt, it really hasn't been
16 working.

17 One of the things that Representative Blaum
18 wanted to do in House Bill 1838 in particular was to try
19 to make some changes to make sure that the \$75 fee that is
20 made out that -- their intention to adopt.

21 That's supposed to go to the counseling fund to
22 make sure that the counseling funds are available so that
23 it would be connected to the issue of the revocation of
24 consent so they would understand the choices.

25 And as you said, the circumstances would be

1 such that they would not be making decisions under duress
2 and be confused about what the choices really are.

3 I was just wondering if you had any thoughts in
4 respect to the suggested improvements in House Bill
5 1838 -- if you've had a chance to look at that because
6 some of the points that we're trying to make, I guess, are
7 that the Department of Public Welfare needs to kind of
8 help the Courts a little bit and focus a little bit more
9 on adoption-related counseling in particular to try to
10 make sure that we somehow define what it is that people
11 are supposed to be getting.

12 And the other thing is to make sure that the
13 counseling is made available early on in the process, not
14 way down the road when they're in court already, but to
15 kind of help the Court.

16 If the money is connected to that intention to
17 adopt, the Court's kind of involved and yet it's really
18 more of a counseling function. So we're trying to make
19 some improvements. So I was just wondering --

20 JUDGE PANEPINTO: One of the things that I
21 think is real important is that the sooner we identify the
22 problem and get to it, we'll get to a solution.

23 So if we have up-front services, and the sooner
24 the better for those services, the more results and the
25 better impact we're going to have.

1 So if you have any kind of counseling -- you're
2 right. It's a way to get to see the Judge. And the Judge
3 can make some kind of referral. And I'm sure he or she
4 will be understanding of the issue. But the problems can
5 be solved if we have the counseling and the referrals up
6 front.

7 Now, I don't know how the money is distributed
8 or where it goes. I guess I could look into it. But I
9 can tell you that if it's through the Department of Public
10 Welfare and if it comes to our division, I haven't seen
11 it.

12 Unless we're collecting it as a fee when they
13 file, if that's what you're saying, then we do collect it.
14 But we don't have a system that I know of in Philadelphia
15 other than a referral system.

16 So we don't handle it directly as the Court. I
17 guess other counties, they have County Commissioners and
18 through them the money comes through.

19 I really don't know how the Courts handle that.
20 So probably somewhere this is an area where there's no
21 cooperation or collaboration. Not that we can't
22 cooperate, but I kind of think it's slipping through the
23 cracks somewhere.

24 I wouldn't be able to give you guidance on it.
25 But I can look into it and give you suggestions on how to

1 solve it, yes. And I would be glad to do that.

2 I think that our court, for instance, that's
3 the purpose of that. That's like an intermediary stage.
4 That master sitting there, he has no power to finalize
5 that adoption.

6 What he's doing is saying, What were the
7 problems here that are holding it up? And if there's a
8 situation where there's counseling or there's something
9 that is needed up front before we get to the final stages
10 and the finalization itself, then that's where we could
11 probably help.

12 And that's why we instituted that one step
13 because it's a process and we have every agency there
14 that's involved. Now, with the counseling related to
15 House Bill 1838, I read the Bill.

16 And I think that those services that the agency
17 has need to be certified. We have to be familiar with
18 what they're teaching, what they're counseling about.
19 Those are the timelines.

20 And when a law is passed, and it's an unfunded
21 mandate, that's very difficult for us, as a court system,
22 to handle because we can't just adapt to it overnight. So
23 that's where the cooperation and the discussion point
24 comes in on, how it should be done.

25 I think it's important, as other agencies

1 should. And you'll probably hear from other speakers
2 their ideas. I didn't get a chance to look at their
3 testimony or to hear their remarks. So I will be very
4 interested, and I'll stay for a while to hear some of
5 that.

6 But I would like to look into that problem and
7 try to offer some concrete solutions. And I don't know
8 how long you're going to be working on this or how many
9 more -- how much time I need, but I won't need that much
10 time myself if it's not going to be finalized in 30 days.
11 I think I can help you out in making some meaningful
12 suggestions. I will do that.

13 CHAIRMAN DALLY: And we look forward to that
14 input. Any other questions for the Judge? Thank you very
15 much.

16 JUDGE PANEPINTO: Okay. Thank you.

17 CHAIRMAN DALLY: The next individual to testify
18 is Barbara Ash who is the Deputy City Solicitor for the
19 City of Philadelphia. Welcome, Attorney Ash.

20 MS. ASH: Thank you. I would like to start out
21 by saying that I'm very nervous. I know you don't expect
22 an attorney to admit that to you, but you have an attorney
23 that's admitting to you that I've never testified for
24 anything such as this.

25 I am proud that my name was given and that I

1 was asked to be involved. I would like to say that I am
2 Solicitor of Health and Human Services for the City of
3 Philadelphia Law Department.

4 CHAIRMAN DALLY: Very good. Thank you.

5 MS. ASH: In regards to House Bill No. 1533
6 relating to consent, House Bill No. 1533, an act amending
7 Title 23 of Domestic Relations of the Pennsylvania
8 Consolidated Statutes to provide consent to an adoption
9 under section (a)(3) of 2711 will likely have little or no
10 impact on the practice of the Philadelphia Department of
11 Human Services.

12 Such is the case because of DHS's adoption
13 matters; parental rights have been terminated before
14 adoption proceedings are initiated.

15 Section 2714 of the Act provides that the
16 consent of a parent to adoption shall not be required if a
17 Decree of Termination of that parent's rights has been
18 entered.

19 In cases where a parent wishes to revoke his or
20 her consent prior to termination of parental rights, then
21 counsel for DHS will determine if there are grounds to
22 proceed to terminate parental rights involuntarily under
23 Title 23, Section 2511 (a) 1-8.

24 In most cases, there are sufficient grounds to
25 terminate parental rights involuntarily. Therefore, the

1 revocation of consent has not presented a substantial
2 issue for the Philadelphia Department of Human Services.

3 In regards to House Bill No. 1838 relating to a
4 putative father, the inclusion of a definition for
5 putative father will not have a great impact on the
6 Philadelphia Department of Human Services cases because,
7 in practice, we have been using the proposed definition.

8 When DHS proceeds with termination of parental
9 rights, petitions are filed and notice given to the father
10 named on the birth certificate, the father named by the
11 mother, and any person who claims to be the father.

12 If a mother is unable to name a father, then a
13 petition will be filed to terminate the parental rights of
14 the unknown putative father.

15 This practice ensures that once a child is
16 freed for adoption, there are no outstanding claims to
17 paternity and, therefore, no one can mount a legitimate
18 claim to the validity of the termination and/or adoption
19 based on a lack of appropriate notice.

20 Similarly, the other proposed amendments
21 relating to the putative father and voluntary
22 relinquishment of parental rights will have no great
23 impact on our agency cases because when a child's goal is
24 changed to adoption, we have determined grounds to
25 involuntarily terminate parental rights that also exist.

1 Additionally, it is standard practice for our
2 termination petitions to include information as to whether
3 the parents have planned for, visited, or provided
4 financial support and care for the child.

5 In regards to House Bill No. 1838 relating to
6 adoption-related counseling services as to House Bill No.
7 1838 amending Title 23 of Domestic Relations of the
8 Pennsylvania Consolidated Statutes relating to
9 adoption-related counseling services, we do not perceive
10 any great impact on the Philadelphia Department of Human
11 Services cases. DHS currently has a policy provision
12 which is consistent with the proposed requirements.

13 In regards to House Bill No. 1838 amending
14 Title 23, the Philadelphia Department of Human Services
15 worked with the Philadelphia County Family Court Division
16 to ensure that a birth parent's medical information packet
17 is provided to the Court prior to the finalization of the
18 adoption.

19 In fact, if no medical information regarding
20 birth parents is available, then DHS must submit an
21 affidavit to the Court stating why such information is not
22 available.

23 Birth parent medical information may also be
24 found in the child's profile which is completed by DHS for
25 every child whose parental rights have been terminated.

1 Therefore, DHS social workers and contracted
2 agencies are aware of the importance of obtaining birth
3 parents' medical histories.

4 CHAIRMAN DALLY: Thank you. Any questions for
5 Attorney Ash?

6 MS. MENDLOW: Ms. Ash, I was wondering if you
7 could comment on something. At the hearing that was held
8 in Pittsburgh, one issue that did come up with the
9 requirement under the Adoption Safe Families Act was that
10 if a parent's rights to one child had been involuntarily
11 terminated, then that would put the other children into a
12 category under the Juvenile Act that is now part of the
13 aggravated circumstances for a dependant child and would
14 put it in a fast track for termination of the parents'
15 rights in respect to the other children.

16 And one of the suggestions that was made at the
17 hearing was that the parents should be advised of the
18 opportunity if circumstances were such that the parent
19 could no longer really parent the child in question, that
20 they look at a consent to an adoption or voluntary
21 relinquishment. And I was just wondering if that ever
22 came up in Philadelphia at all?

23 MS. ASH: That has come up in Philadelphia. In
24 fact, we've had approximately -- I do not have the exact
25 figures for the Committee -- but approximately a 25

1 percent increase in voluntary relinquishments by the
2 parents.

3 Now, we presume this is because a lot of our
4 parents have children who have been through the system and
5 continue to have a lot of the same problems.

6 Unfortunately, as we all know, drug problems
7 and housing problems perpetuate, continue, and go on and
8 on and on. I don't believe that there is -- we can agree
9 that there is no effective way for drug treatment for most
10 people in America today.

11 I believe that we are failing very, very much
12 on our drug treatment policies and programs. So,
13 therefore, we have a lot of our parents who have children
14 who have more than one, two, three -- we have had cases
15 where the parents can have anywhere from 10 to 12
16 children. And they still cannot get their drug problem
17 under control.

18 There is still substance abuse, or they are
19 still having housing problems, or they're still living on
20 a property where they're still having whatever issues that
21 caused their first children to come into care.

22 And what we're finding is that a lot of times
23 parents in Philadelphia County -- I don't know how other
24 counties do it.

25 But the one good thing about Philadelphia

1 County is that parents when their child is first brought
2 into Court, when we first bring the case into court,
3 counsel is appointed for the parents.

4 And at that point, the counsel that's appointed
5 for the parents explains to them what it is the Department
6 wants the parent to do so that we can effectively reunify
7 the family.

8 The attorney advises the parents that the
9 Department must seek to terminate parental rights if you
10 don't get your act together within a year. And we start
11 looking at our cases at about 12 months that a child has
12 been in care.

13 And a lot of times if a child -- if a parent
14 has not been able to address their issues which cause the
15 child to come into care, then the attorney will suggest to
16 them, Well if they involuntary terminate your parental
17 rights, then that can be used against you at a later date
18 if you have subsequent children.

19 And parents are starting to more freely
20 relinquish their parental rights. The problem, however,
21 is that there is nothing in the Adoption Act that assists
22 us if we -- if the judge grants our request for aggravated
23 circumstances, there is nothing that says we do not have
24 to further have any efforts to reunify the family.
25 There's nothing we can do with the Adoption Act really

1 until the time limits.

2 REPRESENTATIVE WASHINGTON: Thank you, Ms. Ash.
3 First, I just want to say you didn't do bad. You did
4 really well being nervous. So that lawyer part of you
5 came out as you went on.

6 Now, I also want to say that I agree with you
7 when you talked about the need for some drug and alcohol
8 services for dysfunctional families because everybody on
9 drugs doesn't want to stay on drugs forever.

10 People do get to a point in their lives where
11 they want to reunify their family, restructure their
12 family. And we need to look at how we change that.

13 MS. ASH: And I'm proud to say to this panel,
14 that in Philadelphia County, and with Judge Panepinto and
15 our model court, we are now front-loading services and
16 those cases. We are seeing successes.

17 We're seeing more successes in those cases than
18 we are in the cases that we see down in the courtrooms
19 that do not follow the model court's model.

20 And it's very unfortunate. I really wish that
21 we had the money for every courtroom so that they could
22 have that. We could have 20 model courts. That court is
23 fantastic. It has made a difference in our children's
24 lives and our families lives because I think it's
25 important that we try keep our families together.

1 I really think that that is the backbone of the
2 American society. And that is what is really wrong with
3 some of problems with American society, that we're losing
4 our families. And that really hurts me. I come from a
5 family of three sisters.

6 And my parents were married for 46 years. And
7 I do not know what it's like to be abused or neglected.
8 But I do see it every day. And as an attorney, I cannot
9 tell you that -- I cry every day that I see it.

10 REPRESENTATIVE WASHINGTON: Just in response to
11 your comment is that women have been the backbone of the
12 family structure forever.

13 And with this new addiction for women, most
14 importantly, moms who have the opportunity to be -- to
15 have their children back in a structured environment, they
16 should be given a different or special opportunity to go
17 to treatment, as I see it. So those kinds of things we
18 just need to look at.

19 MS. ASH: Well, I would just hope that we
20 continue in ours and in other counties to see our model
21 court as the model. Because I think it is fantastic.
22 Thank you.

23 CHAIRMAN DALLY: I will just add something.
24 Judge Panepinto, you will have those 20 courtrooms.

25 MS. ASH: Thank you so much for inviting me.

1 CHAIRMAN DALLY: Thank you. Okay. Our next
2 person to testify is Maxine Chalker. She is the Executive
3 Director of Adoptions from the Heart. Welcome, Maxine.

4 MS. CHALKER: Good morning. Thank you for
5 allowing me to testify today. I'm Maxine Chalker, the
6 founder and current Executive Director of Adoptions from
7 the Heart. The agency is a nonprofit corporation licensed
8 in 7 states. We have 4 offices in Pennsylvania.

9 The agency was founded on the belief that open
10 adoption placement benefits all parties involved in
11 adoption.

12 Birth parents select the family for their baby.
13 They meet as often as they choose to, and they can either
14 exchange letters and pictures through the agency or
15 exchange names and addresses and have personal meetings
16 after the placement.

17 We have been practicing this way since 1984.
18 In 1999, the agency placed 291 infants from the U.S. and
19 international countries, with 94 of the infant placements
20 being from the United States. This year through June
21 2000, there were 44 infants placed domestically

22 I am also an adoptee that was placed at birth
23 by a private attorney. I never knew much about my birth
24 family. And, in fact, I received my pre-adoptive birth
25 certificate before the law eliminated this option. And

1 the information had been falsified.

2 However, I was fortunate to find a very
3 compassionate judge in Philadelphia who assisted me with
4 information that allowed me to find my birth family 17
5 years ago, immediately before I began the agency.

6 Prior to this, I worked for Delaware County
7 Children and Youth Services, a public agency, for 9 years
8 in the Adoption Department.

9 In regard to House Bill 1838, this Bill should
10 be commended with addressing the issue of how to access
11 the funds that have been established for counseling and
12 have been accumulating.

13 There was nothing in the law that clearly
14 stated how to access these funds prior to this Bill. And
15 women should be able to have their counseling paid for.
16 However, the Bill states that DPW will compile a list of
17 counselors, but does not state the criteria for this
18 selection.

19 I recommend that it should stipulate that only
20 licensed adoption agencies, social workers with a minimum
21 of a MSW degree, or psychologists, or psychiatrists with
22 prior adoption counseling experience be on this list, and
23 that they show proof of education before they are placed
24 on it. Otherwise, there will be no assurance that
25 nonprofessionals will not be added.

1 Every piece of legislation must be viewed with
2 the idea of protecting the children who cannot speak for
3 themselves. They are an anonymous party to this adoption
4 agreement and must be protected.

5 In regard to House Bill 1553, this Bill focuses
6 on allowing a birth parent only 30 days to change their
7 mind after signing a consent to adopt.

8 However, many times, birth parents do not sign
9 their consent in 72 hours. They may sign it 5 days after
10 birth rather than 3. 30 days is too long a period of
11 time. This should be shortened to no more than 7 days.

12 In New Jersey, as you all may already know, the
13 72 hour surrender is binding, if it is done by a licensed
14 agency. This is because they can be assured that there
15 has been mandated counseling.

16 In addition, there are several other things
17 that should be changed in the adoption law. One major one
18 is who may place a child for adoption. Several times in
19 1533, it states that a revocation must be served upon the
20 agency or adult.

21 This is a serious problem because just recently
22 there was an article in the paper about a woman in
23 Lansdowne, PA, who was letting pregnant women stay in her
24 home and then finding adoptive parents for their babies.

25 A woman in Southwest Philadelphia was arrested

1 for taking money from prospective adoptive families for
2 babies that didn't exist. This bill should state clearly
3 that only a licensed agency or attorney can place a child
4 for adoption.

5 There is currently no statute of limitations on
6 birth parents. A birth father, who claims he did not know
7 about the birth, can come forward at any time, even after
8 the adoption is finalized, and reclaim the child.

9 Once again, in New Jersey, they passed a law
10 setting up a birth father registry so that birth fathers
11 have to come forward and register with the Bureau of Vital
12 Statistics and state that they are the father of baby X so
13 that they can maintain their parental rights.

14 I believe that they should have no more than 90
15 days to do this. This is a very important issue for the
16 permanency of children. The final adoption decree should
17 be just that, final, with no chance of disruption. Thank
18 you for your kind attention.

19 CHAIRMAN DALLY: Thank you very much. Any
20 questions for Ms. Chalker?

21 MS. MENDLOW: Maxine, thank you very much for
22 your very helpful testimony. I was wondering if you could
23 clarify something. In the New Jersey law, and I'm
24 thinking in terms of Pennsylvania law as well in contrast,
25 but in New Jersey law, the registration of paternity does

1 not automatically guarantee the father, the putative
2 father, retains his rights.

3 Are there not other tests that he has to meet
4 to show that he's had a substantial relationship or has
5 provided some support for the child? Could you give us
6 some information about that?

7 MS. CHALKER: Well, I'm not an attorney first
8 of all. And I don't believe that he does. I think,
9 obviously, if there was a question about his ability to
10 parent, then an agency or an attorney would file for
11 involuntary termination of parental rights.

12 But I think if he came forward and the birth
13 mother said he wasn't the father, or if there was a
14 question, there may be a paternity test required. But
15 other than that, he would have -- at least it would give
16 him standing whereas he would have no standing.

17 I think the obligation that is on the man is to
18 make -- find out if he has relations with a woman whether
19 she gets pregnant and not to all of the sudden want to be
20 a father a year later or two years later and disrupt the
21 plan of the birth mother and the child that are now in
22 that situation.

23 MS. MENDLOW: Thank you.

24 CHAIRMAN DALLY: Thank you.

25 MR. BLOOMER: I just have a quick question.

1 I'm just a little bit unclear. I'm sorry if this question
2 was already asked.

3 But it deals with the New Jersey provisions
4 where the father has to -- where the putative father has
5 to register with the Bureau of Vital Statistics.

6 Do you know exactly how that happens? Are
7 there notices put in newspapers in New Jersey? Or is this
8 purely the responsibility of the father to -- if he thinks
9 he may, in fact, be a father of somebody that he would
10 have to register? Do you know any specifics on how that
11 actually works in New Jersey?

12 MS. CHALKER: I'm not positive. But I do know
13 that it's his responsibility --

14 MR. BLOOMER: Okay.

15 MS. CHALKER: -- to find out if the person that
16 he was with became pregnant and had a child and what
17 happened to that child.

18 MR. BLOOMER: Okay. Thank you, Mr. Chairman.

19 CHAIRMAN DALLY: Any other questions?

20 REPRESENTATIVE PETRARCA: Yes, I have one. Ms.
21 Chalker, you're comfortable with the 7 day period like
22 they have in New Jersey?

23 MS. CHALKER: They don't have it actually in
24 New Jersey. It's when they sign in 72 hours. If they
25 sign with an agency, it's binding. There's no court

1 hearing.

2 And the reason for that in New Jersey is in the
3 state regulations, not the law, but the agency
4 regulations, there's a mandated three session counseling
5 before a birth mother can sign her rights away.

6 REPRESENTATIVE PETRARCA: And that is where you
7 get your comfort with the short-time period with a
8 licensed agency with training, obviously?

9 MS. CHALKER: I really would prefer to see an
10 agency being able to take a binding surrender and take
11 that time away from the Court so that the Court doesn't
12 have to go through a hearing, so that the family
13 doesn't -- no offense to attorneys here -- pay an attorney
14 to file a petition to terminate parental rights.

15 When the birth mother is consenting and
16 voluntarily signing and she has counseling and it can be
17 proven that she had counseling, that should be sufficient.

18 REPRESENTATIVE PETRARCA: Thank you.

19 CHAIRMAN DALLY: Did you say that there are
20 three counseling sessions within that three day period?

21 MS. CHALKER: No. Before she gives birth.

22 CHAIRMAN DALLY: Oh, okay.

23 MS. CHALKER: The three counseling sessions are
24 mandated whether she comes -- hopefully there would be
25 more if she came in when she was 7 months pregnant.

1 CHAIRMAN DALLY: I see.

2 MS. CHALKER: But if she gave birth and then
3 immediately called an agency, she wouldn't necessarily
4 sign in 72 hours.

5 CHAIRMAN DALLY: Right.

6 MS. CHALKER: It might be 5 days. It might be
7 a week. It depends on how she's feeling. She might say
8 she's not ready to make that decision right now. It might
9 be a week, or two weeks, or a month, or whatever.

10 REPRESENTATIVE WALKO: Perhaps this is a dumb
11 question. I'm sorry. And Jane sort of sparked my
12 question. The 72 hours, is that only after the baby is
13 born?

14 MS. CHALKER: Right.

15 REPRESENTATIVE WALKO: Only after the baby is
16 born?

17 MS. CHALKER: Yes, absolutely.

18 REPRESENTATIVE WALKO: Okay.

19 CHAIRMAN DALLY: Thank you very much.

20 REPRESENTATIVE WALKO: I'm sorry.

21 CHAIRMAN DALLY: Go ahead.

22 REPRESENTATIVE WALKO: One more question. So
23 the counseling, though, can occur during the pregnancy?

24 MS. CHALKER: Yes.

25 REPRESENTATIVE WALKO: Maybe that would add

1 some comfort to it if it was after the birth, the
2 counseling after the birth, when the mother sees the baby
3 and feels the baby.

4 MS. CHALKER: Well, I would think that most
5 agencies that are planning on placing a baby -- a woman
6 comes to them and says she's considering this plan that
7 when she gives birth, they go and see her.

8 And they do ask her, Is this still your plan or
9 do you still want to do through with this? We've
10 discussed the options, things like that.

11 So it's not like she wouldn't get any
12 counseling afterward. And, in fact, most agencies will do
13 counseling long after she surrenders her parental rights.
14 Because even though she doesn't have parental rights, she
15 still needs support and counseling with her decision and
16 with the kind of comments she might get, or any kind of
17 problems she has with her family or the father of the
18 baby.

19 REPRESENTATIVE WALKO: Thank you. Thank you,
20 Mr. Chairman.

21 CHAIRMAN DALLY: Thank you very much. We're
22 going to take a quick break for our stenographer.

23 (Break.)

24 CHAIRMAN DALLY: Okay. Our next person to
25 testify is Tara Gutterman.

1 MS. GUTTERMAN: Thank you. Good morning, Mr.
2 Chairman, and the House Committee Members.

3 My name is Tara Gutterman. And I am an
4 attorney and Executive Director of the Adoption Resource
5 Center, a Pennsylvania and New Jersey licensed nonprofit
6 adoption agency.

7 I am honored to have this opportunity to come
8 before you today to speak about the proposed adoption
9 reform legislation. I have been a practicing attorney for
10 nine years and involved in reform adoption issues for
11 eight of those nine years.

12 For the past six years, I have acted as founder
13 and executive director of the Adoption Resource Center.
14 We have placed close to 300 children into safe and
15 permanent homes.

16 We have also worked with close to 1,000 birth
17 families in the area. Most of the children that we place
18 are considered special-needs children. Special-needs
19 children are those children who are defined by Federal and
20 State Statute as difficult to place.

21 In a very general definition, special needs
22 children can be defined as children who are born or who
23 develop a handicapping condition. Or they may be children
24 who are simply healthy members of a minority group.

25 In any event, we believe all children have the

1 right to a stable, safe, and permanent home. First, let
2 me start out by saying that I commend this honorable
3 Committee for recognizing the timeliness and importance of
4 these new proposed Bills.

5 These new laws will effect all parties involved
6 in an adoption. As an adoption professional, I am blessed
7 to see all sides to the adoption triangle. I am lucky to
8 meet the birth parents who put their own interests aside
9 to make the best plan for their children.

10 Most of these families are hard-working, caring
11 individuals who cannot be parents to their infants at this
12 time in their lives when they may be struggling
13 financially, emotionally, or both.

14 I have held back my own tears on many occasions
15 as I watched a heart broken birth mother kissing her
16 infant goodbye for the last time.

17 On the other side, I have also had the joy of
18 watching people become parents for the first time, a dream
19 that they never thought would come true.

20 Yet, even when their dreams do come true, they
21 still cannot relax for 4 to 6 months during the legal risk
22 period of time in which the birth parents can change their
23 mind according to Pennsylvania law.

24 At each and every placement, an adoptive parent
25 takes a leap of faith that this child that they hold will

1 be theirs forever.

2 At each and every placement, they ask me to
3 take off my lawyer's cap and tell them that I know that
4 the birth parent will not change their mind about the
5 adoption and that this baby will be theirs forever.
6 Unfortunately, I cannot give them that kind of comfort.

7 I have always told my adoptive parents that so
8 much of what happens is out of our control due to
9 Pennsylvania's long legal risk adoption period.

10 I can never describe to you the pain that I
11 have seen when I have had to ask adoptive parents to
12 return a baby to the agency because a birth parent had
13 revoked his or her consent. Therefore, I feel that the
14 proposed 30 day revocation period is a vast improvement
15 over the current law.

16 I am unsure from my reading of the statute
17 whether or not the proposed statute will make this period
18 automatic or whether it will be necessary to have a court
19 hearing to terminate the rights.

20 I wish to address the issue under the
21 assumption that the consent is binding after 30 days and
22 that there is no need for a hearing. In the event that
23 this will be an automatic termination at the end of 30
24 days, I have a few suggestions.

25 In many of my suggestions, I will compare and

1 contrast New Jersey statute since it is right over the
2 bridge and because Adoption Resource Center is licensed
3 there as well.

4 One of my suggestions deals with the actual
5 signing of the consent. Currently, and even under the
6 proposed law, anyone may take a consent and anyone may
7 witness this legal document. Also, you need not produce
8 any identification to sign this legal document or consent.

9 It is my suggestion that Pennsylvania implement
10 the requirement that this consent be taken in front of a
11 Pennsylvania notary. My rationale for this is two-fold.
12 First of all, a notary will ascertain the identity of the
13 person signing the consent.

14 Secondly, if at a later date, a birth parent
15 challenges the validity of the consent, the notary can act
16 as an independent witness to the parent's affect at the
17 time of the consent's execution.

18 I feel that if we are going to automatically
19 have someone's rights terminated after 30 days based upon
20 one document, this document should be as official as
21 possible.

22 As a point of comparison, New Jersey law
23 requires that the surrender, which is taken as early as 72
24 hours after birth, must be executed in front of a New
25 Jersey state notary.

1 This surrender in the state of New Jersey is
2 final, irrevocable, and binding. In essence, it
3 terminates the birth parents' rights.

4 Getting back to the proposed Pennsylvania
5 statute, since this document is going to be binding after
6 30 days, I would respectfully suggest that the statute
7 mandate who may take this surrender.

8 For example, must a licensed agency be present
9 when the consent is signed, or a social worker with a
10 masters in social work, or an attorney?

11 I feel that this birth parent should have
12 certain safeguards to protect their rights when they sign
13 a final document.

14 If we take a quick drive to New Jersey, their
15 law states that the final surrender, which is the
16 equivalent of the consent to adoption, must be signed in
17 front of a licensed agency representative or else it is
18 not binding.

19 While this is a lot of responsibility to give
20 to an agency, they leave it to their Department of Welfare
21 to regulate these agencies strictly to ensure that proper
22 staff and procedures are practiced.

23 It is in this way that they protect the rights
24 of birth and adoptive families. Clearly, I am an advocate
25 of this procedure and feel that our families in

1 Pennsylvania would benefit from such a statute.

2 As an agency that specializes in birth parent
3 counseling, I was thrilled to see its proposed statutory
4 inclusion in the petition for voluntary and confirm
5 consent petitions.

6 All too often, we have had birth families tell
7 us that when they did a private adoption, they were never
8 given any options for their unplanned pregnancy other than
9 adoption. Moreover, they tell us that no one ever
10 explained the Pennsylvania law to them or their right to
11 revocation.

12 One young lady that comes to mind is named
13 Melody. She was working with an adoption facilitator. An
14 adoption facilitator, as you may know, is not necessarily
15 an attorney or social worker, but someone who can still
16 make adoption matches in our state.

17 Melody received money from this woman for
18 living expenses throughout her pregnancy, which is illegal
19 in our state.

20 After she had the baby, she was matched with a
21 family that she did not feel was stable enough. They had
22 each been through two divorces, and the wife had not
23 completed high school.

24 Melody expressed her discomfort to the
25 facilitator who turned a deaf ear and went forward with

1 the placement.

2 When Melody changed her mind one day after the
3 placement and before the consent to the adoption was
4 signed, the facilitator told her that she could not have
5 her baby returned to her and that she would have to pay
6 back all of the money.

7 Melody knew enough to call a licensed agency
8 and after ARC instructed her as to her rights, Melody
9 called the facilitator and demanded the return of her
10 child. The child was returned to her.

11 At this point, Melody was distraught because
12 although she still felt that adoption was the best plan
13 for her child, she needed counseling. And she wanted to
14 select a good family for her child.

15 Melody needed to feel good about where her
16 daughter was going in order to assist her through the
17 grief and loss period which she surely would have
18 experienced.

19 Because Melody still wished to place her child
20 for adoption, ARC provided counseling to her over the next
21 several weeks and ongoing grief and loss counseling after
22 the placement.

23 Melody was given several profiles of different
24 families which showed their photos, the house, and a
25 letter they wrote about why they wanted to become parents

1 through adoption.

2 After several days of looking through profiles,
3 Melody finally selected a young, childless couple who had
4 been married several years.

5 They were educated and intended to provide the
6 same for their new baby. When Melody put down their
7 profile, she smiled and cried, These are the ones. She
8 now had a sense of peace.

9 Melody had the opportunity to meet the couple,
10 and they still send photos and letters back and forth even
11 three years later.

12 Had it not been for the counseling that Melody
13 received and the ability for her to make her own plan,
14 this birth mother would never have felt good about the
15 difficult decision that she made.

16 I have seen that the counseling component is
17 crucial to the success of the entire process. I commend
18 the Committee on realizing its value.

19 Unfortunately, some clients do not want to deal
20 with their pain at the time of adoption and will refuse
21 all counseling efforts. They close up so that they do not
22 feel the pain, and they can get through the process.

23 It is for this reason that I feel it is
24 important for the counseling statute to implement a waiver
25 document which all agencies can have the birth parent sign

1 stating that they have been offered counseling but that
2 they refuse it.

3 As I stated before, licensed agencies usually
4 only do placements with one in four or one in three of the
5 birth parents whom they counsel prior to delivery.

6 As such, we are fortunate to help most of our
7 birth families stay together by connecting them up with
8 services. One of our caseworkers, Lisa, had a birth
9 mother named Kelly. She had a six-year-old, severely
10 retarded son and an older stepson.

11 She was a single mother and had placed a child
12 for adoption through our agency two years prior to this
13 pregnancy.

14 When Lisa met with Kelly for the first time,
15 she was unemployed, had not gone to a prenatal visit, did
16 not have any services for her son, and was behind with her
17 bill payments.

18 Over the next three months, Lisa met with Kelly
19 on a weekly basis. She aided her with a medical
20 assistance application, accompanied her to prenatal
21 appointments, assisted her in making a household budget,
22 and helped her son reconnect with Ken Crest who has
23 programs for special needs children.

24 When Kelly delivered her baby girl, she decided
25 that she did have the skills and means to be a good parent

1 to her, thanks to Lisa's intervention. Kelly still keeps
2 the agency abreast on how she is doing and sent us a
3 wonderful note of thanks.

4 These counseling programs by our nonprofit
5 agency, Adoption Resource Center, are unfunded at this
6 time and free of charge to all birth families.

7 In the future, it is our hope to partner with
8 the State to receive funding for our counseling services
9 and to keep them available forever.

10 I would like to express my enthusiasm at the
11 proposed law for terminating the rights of the putative
12 fathers. I feel that in order to be a parent, you must
13 act like a parent, and this statute makes it clear as to
14 how a birth father must assert his rights.

15 It is not enough to simply object to an
16 adoption. You must now file a claim to paternity,
17 contribute financial support, and make a plan for your
18 child.

19 I know that all too often we have had young
20 birth mothers forced into parenting a child because the
21 father objected to the adoption plan, only to find out
22 months later that this father never contributed a dime to
23 the care of his baby.

24 I feel that this statute will alleviate these
25 problems and ultimately assist in better care of the

1 children either through adoption or through making the
2 father more responsible.

3 What do we do with putative birth fathers when
4 we don't have an address? In Pennsylvania, each court has
5 its own mandate as to what constitutes an acceptable
6 search.

7 I respectfully suggest that it is time for a
8 Pennsylvania statute to mandate what comprises an
9 appropriate search since the timeframe for revocation is
10 being shortened.

11 It is my experience as an agency director that
12 over 50 percent of the time the birth mother will not have
13 an address for the putative father. As such, the search
14 for the birth father is a vitally important step in the
15 adoption process.

16 If we denote, by statute, what has to be done,
17 then there is no question. I would suggest that the
18 statute require a letter to the last known address, the
19 Department of Public Welfare, the Department of Voter
20 Registration, the Department of Motor Vehicle, and the
21 Department of Corrections.

22 If no response is received by the agency within
23 an allotted amount of time, then it should be deemed as a
24 negative response.

25 Lastly, I wanted to get back to the children

1 who I represent the most, special needs children. Over
2 the past four years, I have been litigating for adoption
3 subsidy for special needs children placed through private
4 agencies in our state.

5 Adoption subsidy is ongoing medical and
6 financial assistance funded through the federal government
7 funneled through the states to promote the adoption of
8 special needs children.

9 In order to be deemed eligible for subsidy, the
10 public county agency where the child lives must deem him
11 or her as such. Yet, Pennsylvania continues to vary
12 county to county as to whether they will deem special
13 needs children placed through private agencies as
14 eligible.

15 For example, a few years ago ARC placed Kevin,
16 a child with Down's Syndrome, for adoption. Kevin was
17 from Luzerne County, my home county.

18 When I requested subsidy on behalf of the
19 adoptive family, the County agreed immediately and sent me
20 the contract.

21 In contrast, ARC placed a child born with
22 Sickle Cell Disease in Philadelphia and had to fight four
23 years through endless briefs and court orders to finally
24 have the contract initiated with back-pay.

25 As such, I would propose a statute which grants

1 subsidy automatically to children who meet the medical
2 criteria as special-needs children and are placed through
3 approved Pennsylvania agencies.

4 The bureaucracy is too tangled and too
5 expensive for most adoptive families to fight. So they
6 give up and the children go without their benefits. That
7 is truly not what the federal law intended. The
8 legislators fought for families in the passing the federal
9 laws.

10 Now, we need your help and tenacity to make
11 sure that the law is being followed to the letter and
12 applied fairly to everyone. I really feel that with these
13 new proposed reforms, you have shown that adoption issues
14 are important to you and to our families.

15 We really appreciate that. Thank you for your
16 time and thank you for forging ahead to make necessary
17 change.

18 CHAIRMAN DALLY: Thank you, Tara. Any
19 questions from the panel? Jane.

20 MS. MENDLOW: I did want to say first off,
21 Tara, you have so many excellent points and some things
22 that I definitely would like to go back as a staff person
23 to look at in more detail and perhaps follow up and talk
24 to you about as far as concrete suggestions.

25 There was a point you made here as well about

1 special-needs children. While this legislation doesn't
2 specifically deal with the subsidized adoption program, I
3 did want to share with you the fact that there has been
4 legislation introduced that would make a change in that
5 law to basically have the State, in conjunction with the
6 federal government, pay for the adoption subsidy
7 eliminating the county's share because of those concerns
8 that have come up with many parents who have found that
9 sometimes the counties have not evenly handled the
10 determination of eligibility of the subsidized adoption
11 program. So I'd be happy to get that Bill and send that
12 to you.

13 MS. GUTTERMAN: Thank you.

14 MS. MENDLOW: And I just wanted to thank you.
15 There was one question I had. And that was in terms of
16 the issue of the adoption facilitators. This has come up
17 before in terms of who is an intermediary.

18 Are you suggesting that basically the law
19 clarify that only certain people can be intermediaries?
20 And it should better clarify what the intermediary's role
21 should be?

22 MS. GUTTERMAN: I do. And I am also suggesting
23 that we're very careful about who is taking these
24 consents, if they're going to be so binding. I really
25 feel that that's important.

1 New Jersey makes it very clear. If you don't
2 do it in front of a notary and in front of a licensed
3 agency, it's not valid.

4 And that's surely the last thing you'd want,
5 because the law is very clear there. Your rights are
6 terminated. So I think we need to do the same thing here.

7 REPRESENTATIVE WALKO: We hope they're tougher
8 on notaries in New Jersey than they are in Pennsylvania.

9 MS. GUTTERMAN: I'm a notary. And I'm pretty
10 tough.

11 CHAIRMAN DALLY: Any other questions? David.

12 MR. BLOOMER: I just had a quick question for
13 you. And I am not sure if you can answer this.

14 In new Jersey you say -- I'm looking at page 3
15 of your testimony about the surrender in the State of New
16 Jersey is final, irrevocable and binding. In essence, it
17 terminates the birth parents' rights.

18 MS. GUTTERMAN: Right.

19 MR. BLOOMER: Are you aware of any major legal
20 challenges to this?

21 MS. GUTTERMAN: There are always legal
22 challenges. I mean people will say they signed under
23 duress. So you can always challenge anything.

24 MR. BLOOMER: Here's a follow-up question. How
25 successful has New Jersey been in weeding out legitimate

1 legal challenges to this or to keep it on -- to keep their
2 intent on an even keel?

3 MS. GUTTERMAN: Well, I think what I heard was
4 that there is litigation going on. And a lot of times the
5 Court will try to find out, is there going to be any harm
6 if you return the child to this birth parent?

7 But I think that the agencies have been firm in
8 their attempts to fight all change because if there's a
9 statute, we want it to be followed. And I think that this
10 is pretty clear that this is the standing law.

11 MR. BLOOMER: Just one more quick follow-up
12 question. Has anything reached the New Jersey Supreme
13 Court? Have they ruled on anything like this? Is there
14 anything?

15 MS. GUTTERMAN: I'm not aware of anything
16 currently.

17 MR. BLOOMER: Okay. Thank you, Mr. Chairman.

18 CHAIRMAN DALLY: Yes, Jane.

19 MS. MENDLOW: Yes, I had another question in
20 respect to the consent to an adoption versus voluntarily
21 relinquishment.

22 If you could explain to the Committee, in your
23 experience, why the parents choose to go with a consent to
24 an adoption versus a voluntary relinquishment. What are
25 the factors? Because those are two processes that are

1 allowed for under the law.

2 MS. GUTTERMAN: That's right. There are two
3 ways to terminate voluntarily a birth parent's rights.
4 That's with the voluntary and the confirmed consent
5 petitions.

6 And a voluntary birth parent must actually come
7 to court and testify. I think that I have had one birth
8 parent ever come to Court and testify. It's an extremely
9 painful experience.

10 I can't -- I don't even know how to express to
11 you what it looked like when the birth mother was on the
12 stand testifying. I think that nobody wants to do that.
13 Nobody wants to have a judge. And usually a lot of the
14 judges are men that handle the adoptions.

15 And these are women that are coming in. It's
16 also like a very -- just from that perspective, it's very
17 difficult for them.

18 And they have to answer questions about the
19 birth father. Most of my birth mother's just opt for us
20 to do the confirm consent.

21 And then we notify them of the hearing. And
22 they don't come to court. They just sign that they've
23 received notice. And that's it.

24 And in Philadelphia County, that is fine with
25 our judge. He will do a voluntary. But 9.8 times out of

1 10, the confirm consent is what we process the
2 termination under.

3 CHAIRMAN DALLY: Any other questions? Thank
4 you, Tara.

5 MS. GUTTERMAN: Thank you.

6 CHAIRMAN DALLY: I would also like to recognize
7 the presence of Representative Josephs from Philadelphia
8 County. Welcome.

9 REPRESENTATIVE JOSEPHS: Thank you.

10 CHAIRMAN DALLY: Okay. Next. Mary Tomlinson
11 from the Delaware Valley Adoption Council.

12 MS. TOMLINSON: Good morning.

13 CHAIRMAN DALLY: Good morning, Mary.

14 MS. TOMLINSON: My name is Mary Tomlinson. I'm
15 the Chairman of the Delaware Adoption Council. I'd like
16 to thank you for this opportunity to speak with you today.

17 The Delaware Valley Adoption Council is a
18 consortium of over 50 public and private agencies,
19 individuals, and groups in Delaware, New Jersey, and
20 Pennsylvania who promote permanency for children and
21 advance the cause of adoption in the Tri-State region.

22 We meet monthly in Philadelphia. Our meetings
23 are devoted to continuing education, interagency sharing
24 of practice issues, and the exchange of ideas with the
25 goal of providing information and support to the Delaware

1 Valley Adoption Community. The DVAC is having its 30-year
2 anniversary this year.

3 Because of the diversity of our membership and
4 representation of all the members of the adoption triad,
5 adoptive families, adoptees, and birth families, we have a
6 wide range of opinions on issues of our field. Paramount,
7 however, is the best interests of the child in an
8 adoption.

9 The long-term mental health issues of the
10 adoptee must be carefully considered and decisions about
11 their placement made carefully in order that their
12 existence and destinies are given value.

13 DVAC has been interested in reform of adoption
14 regulations for some time. Earlier this year, we
15 submitted proposed changes developed by our legislative
16 Committee to the Joint State Government Task Force on
17 Adoption.

18 We believe the lack of updated regulation is an
19 underlying issue that negatively affects adoption in
20 Pennsylvania.

21 I would like to give our input on the issues
22 raised in House Bill 1533 and 1838. One is
23 adoption-related counseling.

24 Our members respond positively about
25 adoption-related counseling and the essential nature of

1 support to the birth family in making a profound and
2 life-long decision.

3 Allowing access to counseling and its funding
4 to any parent contemplating adoption is a positive change.
5 Who should be on the Department of Public Welfare's list
6 to provide counseling services?

7 To limit the resources to only agencies
8 eliminates a range of mental health professionals with a
9 great deal of objective experience in adoption who are an
10 important part of our adoption community.

11 Opinions vary as to who should be providing
12 counseling. All agree that counseling should be provided
13 by professionals experienced in adoption.

14 Some felt the adoption agencies would not be
15 able to provide truly objective and unbiased services as
16 they may have financial pressures to complete a placement.

17 Establishing a monitoring system for the
18 funding is appreciated when clarity is needed as to who is
19 responsible for reporting on the flow of funds. Currently
20 the content of adoption-related counseling varies widely
21 from agency to agency and professional to professional.

22 Chester County Children and Youth provides
23 information and referrals on a wide range of options,
24 including foster care, placement with relatives,
25 termination of pregnancy, and adoption. The Catholic

1 Social Agency provides information about parenting and
2 adoptions.

3 The law or regulation should further define
4 options in counseling to include a broad range of
5 information sharing.

6 Adoption-related counseling should be mandatory
7 and defined for all types of adoption, public and private,
8 occurring in the Commonwealth of Pennsylvania.

9 In regard to consent, the provision to require
10 that a birth parent provide a written acknowledgment that
11 counseling services have been offered in the consent is
12 positive. This provision should be required for parents
13 of any age who are making a decision about adoption.

14 Any consent requirements proposed in this Bill,
15 not given before 72 hours and that become irrevocable
16 after 30 days, should be an equal process for both the
17 birth mother and birth father.

18 Allowing the birth father to give consent at
19 any time, even before the birth, dismisses his
20 responsibility and involvement in the experience of making
21 an adoption plan.

22 The long-term impact of ignoring the birth
23 father will most likely be detrimental. Regarding
24 timeframes, a very difficult issue, the pressures of the
25 birth parents from family and perhaps agencies are intense

1 as they are making a decision about their child's future.

2 The medical and postnatal condition of the
3 birth mother does not allow, ordinarily, a calm
4 decision-making process.

5 However, during waiting times, the child's
6 legal status is in limbo. And they are occasionally
7 placed in temporary foster care until the termination of
8 parental rights is complete.

9 Adoptive parents express an inability to fully
10 bond with the child until the legal risk has passed.
11 Adult adoptees and birth parents, however, often respond
12 that a sufficient amount of time is needed to make this
13 decision. And 30 days is not considered sufficient.

14 Most feel that less than 30 days to reconsider
15 the consent would not be fair considering the profound
16 decision being made. Medical history registers have been
17 helpful to all members of the triad who need information
18 that is often a problematic issue for adoptees.

19 Making medical history information forms more
20 readily available and the register more widely accessible,
21 used, and understood will benefit all members of the
22 adoption community.

23 Lastly, we would like to encourage the
24 Committee to hear the voices of all of the adoption triad,
25 birth parents, adoptees, and adoptive parents and give

1 them equal weight. Thank you.

2 CHAIRMAN DALLY: Thank you, Mary. Questions?

3 MS. MENDLOW: Yes, I do have a question, Mary.
4 I guess one would be on page 2 of your testimony. I'm
5 wondering, are you suggesting that maybe it would be
6 helpful to add into the adoption law the changes that
7 we're looking at in House Bill 1838 here in respect to
8 some kind of protection for making sure that there is no
9 duress; that a parent who is undergoing the counseling is
10 not signing a revocation of consent with some duress
11 during that counseling?

12 Is that one of the points that you're trying to
13 make at the top of the page, making sure they're getting
14 objective advice and services?

15 MS. TOMLINSON: Certainly that protection would
16 be needed as well as information about all of their
17 options, not just the option that that particular provider
18 would be providing to them.

19 MS. MENDLOW: The other question I have is in
20 respect to trying to figure out who can actually provide
21 adoption-related counseling.

22 And one of the problems is that the Department
23 of Welfare doesn't really license individuals. It only
24 supervises, and oversees, and approves agencies.

25 Do you have any thoughts on that? How else

1 would you envision this? Because your suggestion at the
2 bottom of page 1 talks about, you know, trying to expand
3 the adoption-related counseling to any individual who
4 could conceivably do it. And who would -- or how would
5 you see that working? Do you see the problems?

6 MS. TOMLINSON: There might not necessarily be
7 a licensing structure from the Department of Public
8 Welfare.

9 But there is a licensing structure for social
10 workers, psychologists, and psychiatrists. The standards
11 are -- there are standards set in some counties.

12 At this point, each county makes up its own
13 list. And they all do it very differently. Some have
14 professionals and agencies fill out an application.

15 And it asks them how much experience they have
16 in adoption and what their field is and what their
17 licensure status is.

18 Other counties don't have any sort of
19 application like that. So if there could be some
20 consistent standards about licensure requirements --

21 MS. MENDLOW: Well, that was, quite frankly,
22 one of the dilemmas that Representative Blaum faced in
23 terms of how do you hone in on this and have some
24 consistency since having an MSW or being a psychologist or
25 even a psychiatrist doesn't necessarily mean that you have

1 understanding as to what is involved with an adoption and
2 the kinds of issues that a parent may have to deal with in
3 that unique situation.

4 MS. TOMLINSON: And that was a theme that
5 everybody felt very strongly about was that there is the
6 need for professionals to have adoption experience. So we
7 would request that that be the case.

8 MS. MENDLOW: Okay. Thanks.

9 CHAIRMAN DALLY: Okay. Dave.

10 MR. BLOOMER: Yes. I just wanted to make a
11 quick comment. It was regarding that last point you made
12 about hoping we would hear from everybody that deals with
13 this process.

14 I just wanted to let you know this is actually
15 the third hearing we've actually had on behalf of the
16 Committee.

17 I can attest that we've spoken, literally, with
18 almost conceivably everybody that's involved in this. Our
19 first hearing was in October.

20 And we talked with a lot of birth parents, a
21 lot of adoptive parents. And that was primarily our focus
22 of our first hearing. And that was in Harrisburg. Our
23 second hearing was in March in Pittsburgh.

24 And we had more adoptive and adoptee parents
25 from the Pittsburgh area. But we had more people that

1 dealt with adoption agencies and more people in the legal
2 sector. And this is our third hearing today.

3 I just wanted convey to you and everybody else
4 here that we have been talking to almost, literally,
5 everybody we possibly can on this just to touch on all of
6 these issues.

7 MS. TOMLINSON: I wanted to mention that an
8 adoptee is somebody. They are identified as the anonymous
9 party involved in this process. And often times they
10 aren't heard. They are very much in the background.

11 And I had the opportunity, as I was researching
12 for this testimony, to talk with adoptees and groups that
13 represent them. And usually their opinions are different
14 than other people who are involved. And I think they are
15 equally valuable.

16 MR. BLOOMER: Thank you, Mr. Chairman.

17 CHAIRMAN DALLY: Very good. Thank you.

18 MS. TOMLINSON: You're welcome.

19 CHAIRMAN DALLY: Okay. Margaret Zukoski,
20 Program Specialist for the Pennsylvania Council for
21 Children and Youth and Family Services. Welcome.

22 MS. ZUKOSKI: Good morning. Thank you very
23 much. My name is Margaret Zukoski, and I'm a social
24 worker at the Pennsylvania Council of Children, Youth, and
25 Family Services.

1 The Pennsylvania Council of Children, Youth,
2 and Family Services is an alliance of over 100 private,
3 nonprofit child welfare agencies serving children and
4 families across Pennsylvania.

5 The Council's mission is to enhance the ability
6 of member agencies to improve the quality of children's
7 and families' lives to our communities.

8 Representing our member agencies, the Council
9 would like to thank the Committee for the opportunity to
10 offer testimony on House Bills 1533 and 1838.

11 We commend the House on their work and are
12 pleased this public hearing was scheduled to discuss
13 critical issues affecting the well-being of Pennsylvania's
14 children.

15 On any given day, our member agencies serve
16 thousands of children and families through in-home
17 supports, foster care, residential services, outpatient
18 treatment programs, alternative education programs, and
19 adoption services.

20 The majority of children served by council
21 member agencies are dependent children who were placed in
22 substitute care, foster care, kinship care, or residential
23 care because of findings of abuse and neglect. Most
24 children in the dependency system do return to their
25 parents' homes.

1 However, when reunification does not occur,
2 county children and youth agencies initiate the process of
3 terminating parental rights so children will be able to
4 find permanent homes. Council member agencies work
5 diligently to find these children adoptive families where
6 they will thrive.

7 The primary goal of the child welfare system,
8 as embodied by the 1997 Federal Adoption and Safe Families
9 Act, is to ensure that children are returned to safe and
10 permanent homes in a timely manner.

11 The recognition of the adverse effects of
12 living in a state of impermanence can have on children was
13 the impetus for the federal legislation.

14 House Bills 1533 and 1838 address the barriers
15 to children achieving permanency by limiting to 30 days
16 the time birth parents have to revoke their consent to
17 adoption.

18 This time limit would remedy the current
19 open-ended time period that permits birth parents to
20 revoke their consent to adoption for any reason and any
21 time prior to either the Court's final adoption decree or
22 the Court's termination of parental rights, whichever
23 occurs first.

24 Pennsylvania clearly lags behind many of our
25 neighboring states which have established clear time

1 limits for revocation of consent to adopt. Our General
2 Assembly has recognized the need to take steps to change
3 our current laws.

4 The Joint State Government Commission Advisory
5 Committee on Adoption Law was convened through a
6 concurrent resolution, adopted by both the House and the
7 Senate to establish a task force and advisory committee to
8 study the Commonwealth's adoption law and make
9 recommendations regarding the law to the General Assembly.

10 Since 1998, the Advisory Committee has been
11 reviewing the entire Adoption Act. The Committee is
12 currently preparing suggested legislative amendments that
13 will address many of the issues raised today, including
14 relinquishment of parental rights, rights of putative
15 fathers, and adoption counseling.

16 By analyzing recommended changes in the context
17 of the entire Act, the Advisory Committee hopes to avoid
18 recommendations not having their intended effect. It is
19 our understanding that the Advisory Committee's
20 recommendations are forthcoming.

21 While the Council agrees with the principles
22 underlying House Bills 1533 and 1838 and commends the
23 drafters for their work, we will respectfully reserve
24 support until we have had the opportunity to review the
25 recommendations from the Joint State Government Commission

1 Advisory Committee on Adoption Law to ensure consistent
2 policy changes.

3 Thank you again for this opportunity.

4 CHAIRMAN DALLY: Any questions? I would just
5 say that I think that we, too, are going to be looking at
6 those recommendations. I think that we want to be working
7 on this in a unified manner. Thank you.

8 Our last witness today is Bernard Faigenbaum.
9 He's a practicing attorney here in the City of
10 Philadelphia. Welcome.

11 MR. FAIGENBAUM: Thank you. My name is --
12 thank you for the opportunity to testify. My name is
13 Bernard Faigenbaum.

14 I'm am Co-Chair of the Philadelphia Bar
15 Association's Family Law Section Adoption Committee. And
16 I have been a practicing attorney in Philadelphia for over
17 17 years with a practice specializing in family law.

18 First of all, I commend the authors of these
19 Bills and the Committee. The proposed changes are largely
20 reflective of the needs of the children involved as well
21 as the adoptive parents, the birth parents, and
22 practitioners.

23 The proposed changes are a major improvement.
24 And we hope that these types of provisions can continue in
25 this important area.

1 I would strongly support the proposed
2 amendments to section 2711(c) and (d) regarding the 30 day
3 limit on a parent's right to revoke consent.

4 These changes address this need for permanency
5 at as early a stage as possible as well the need to reduce
6 the period of instability and uncertainty experienced by
7 adoptive parents and children.

8 In conjunction with the 30 day limit, I would
9 also agree with the amendments concerning adoption-related
10 counseling services for the birth parents.

11 And I would also touch on the issues that have
12 been raised by several other witnesses which is the very
13 important need for licensing regulations for agencies,
14 adoption facilitators, and private intermediaries.

15 Unfortunately, the number of the so-called
16 facilitators and intermediaries has been increasing
17 rapidly due to internet searches and web sites.

18 And people are surprised to learn that in
19 Pennsylvania today these types of individuals are totally
20 unregulated.

21 State regulations governing adoption agencies
22 must be updated in order to protect the children, the
23 birth parents, and the adoptive parents in the adoption
24 process.

25 We need regulations regarding the

1 qualifications, the training, the experience, the
2 education, the backgrounds, and the responsibilities of
3 those involved in the adoption process.

4 It is my understanding that House Bill 1840 has
5 been proposed regarding licensing regulations for
6 providing adoption services.

7 And I would respectfully suggest that it be
8 considered that House Bill 1840 be included as an
9 amendment to House Bill 1838 so that this issue of
10 providing licensing regulation for the agencies and
11 determining who can serve in this role as facilitators and
12 intermediaries can be addressed, because the problem, as
13 I've indicated, is increasing rapidly.

14 And if you do an internet search for adoption
15 and adoption-related agencies, virtually anyone can post a
16 web site with no qualifications whatsoever and start
17 collecting funds from innocent victims.

18 And because of the issues involved in the
19 adoption process, the need for these types of regulations
20 is critical. Thank you.

21 CHAIRMAN DALLY: Any questions from the
22 Committee?

23 MS. MENDLOW: Mr. Faigenbaum, thank you very
24 much for your comments and your suggestions. I was
25 wondering if you had already had an opportunity to convey

1 some of your concerns to the Department of Public Welfare,
2 and if you received any reaction or suggestions from that
3 agency, from the state agency that does oversee and
4 promulgate regulations for adoption agencies?

5 MR. FAIGENBAUM: I have, as has the Adoption
6 Committee. And they are in full agreement that these
7 types of regulations are necessary.

8 The number of complaints are increasing on a
9 monthly and daily basis. And everyone from the adoption
10 agencies to the adoptees and the parents seems to be in
11 full agreement on this issue for the need for regulation
12 in this regard.

13 MS. MENDLOW: But has DBW indicated that it has
14 some ideas as to how it could make some revisions or
15 strengthen protection?

16 MR. FAIGENBAUM: My understanding is that it's
17 something that they're working on. And they're in the
18 process of promulgating suggested revisions on this issue.
19 I have not seen anything in writing.

20 MS. MENDLOW: Thank you.

21 MR. FAIGENBAUM: Thank you.

22 REPRESENTATIVE WALKO: Thank you.

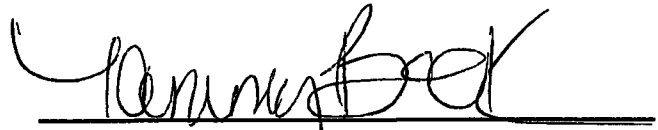
23 CHAIRMAN DALLY: Thank you. Okay. This
24 concludes the hearing. Thank you once again everyone who
25 took the time to come out and testify this morning.

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(The hearing concluded at 11:36 a.m.)

CERTIFICATE

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

A handwritten signature in cursive script, appearing to read "Tammy Bock", is written over a solid horizontal line.

Tammy Bock, Court Reporter

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