

"What's Up?"

The Adoption and Safe Families Act: Towards Safety and Permanency for Children

On November 19, 1997, President Clinton signed into law the *Adoption and Safe Families Act* of 1997 (PL. 105-89) (*ASFA*), a multi-faceted federal child welfare enactment that must be implemented by each state. With its emphasis on child safety and permanency, *ASFA* holds promise for child advocates and their clients. In a *Program Instruction* issued January 8, 1998, the Children's Bureau of the Administration for Children and Families, U.S. Department of Health and Human Services, underscored the five key principles embodied in *ASFA*:

- *The safety of children is the paramount concern that must guide all child welfare services.*
- *Foster care is a temporary setting and no ta place for children to grow up.*
- *Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.*
- *The child welfare system must focus on results and accountability.*
- *Innovative approaches are needed to achieve the goals of safety, permanency and well-being.*

The following summary of *ASFA* highlights critical provisions that underscore the Act's requirements for timely services and movement of children into safe, permanent homes.

Section 101 Reasonable Efforts

Although reasonable efforts to provide prevention and/or reunification services to families continue to be required under the law, section 101 clarifies that such efforts are not required in certain situations such as when a parent has committed murder, voluntary manslaughter or felony assault of the child or sibling, or when the parent has subjected the child to "aggravated circumstances" as defined by state law which may include abandonment, torture, chronic abuse, and sexual abuse.

Section 103 Termination of Parental Rights

States must file (or join) a petition for termination of parental rights (TPR) under certain circumstances, e.g., if a child has been in foster care for 15 of the most recent 22 months.

Section 104 Notice of Reviews and Hearings; Opportunity To Be Heard

Foster parents and any preadoptive parent or relative providing care for the child must be provided with notice of, and an opportunity to be heard in any review or hearing regarding the child. (This section provides explicitly, however, that this language is not to be construed to require that the caregiver be made a party to the action solely on this basis.)

Section 107 Documentation of Efforts for Adoption or Permanent Home

States must document the steps taken to find an adoptive family or permanent home, including child-specific recruitment efforts, for every child whose permanency plan is adoption or placement in another permanent home.

Section 302 Permanency Hearings

A permanency planning hearing must be held within 12 months of a child's placement instead of within 18 months as in current law.

Legislative language to amend the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, to comply with *ASFA* is in the process of being drafted. Child advocates are encouraged to become familiar with the provisions of *ASFA*, as well as with Pennsylvania's implementing legislation.

For additional information about ASFA or adoption, please call SCCA Staff Attorney Marguerite Gualtieri at (215) 925-1913.