

The State court would terminate parental rights and award an adoption decree to the preadoptive parents only upon proper proof and after taking into account the rights of all parties involved, including the infant abandoned at-birth, the natural parent(s), the pre-adoptive parents, and any other interested parties. The bill gives babies abandoned at-birth at least a fighting chance for immediate parental bonding and a permanent home. Currently, they have none.

I would like to review some of the sad findings of a comprehensive study conducted by the Department of Health and Human Services (HHS) on boarder and abandoned babies which was released in 1993. The (HHS) study found nearly 12,000 abandoned babies residing in 573 hospitals throughout 101 counties in the United States which were surveyed across the country in 1991. Tragically, drug exposure could be found in 87 percent of the abandoned infants. Perhaps the most troubling finding of the HHS study addresses the placement of the abandoned infants. The HHS study found that NONE of the abandoned infants were expected to leave the hospital in the care of their biological parent(s) and ONLY six percent were expected to go into adoptive placement.

Today we continue to hear the heart wrenching stories of abandoned infants. Less than a month ago, a suburban Washington, D.C. couple returned to their apartment to find a cardboard box harboring two abandoned infants swaddled in yellow towels and a bedsheet. Within hours the local police department received telephone calls from people hoping to adopt the two babies who were just days old.

Mr. Chairman, numerous studies have shown that if an abandoned infant is placed into a loving home as early as possible, that baby has a better chance of normal development and a happy childhood. The problem here is that our present system - though well intentioned - leaves the most vulnerable of the vulnerable with next to no chance at all of finding the immediate parental bonding which is vital to the healthy development of the child. It is for that reason that I believe we should pass legislation which will expedite the adoption process for babies abandoned at birth and who, without a fast track process, would be condemned to oblivion. My hope is that we can do the same for all children waiting for adoption.

Mr. Chairman, extensive factual research tells us adoption works! It increases the emotional, physical, and cognitive capacities of the children who are adopted. It improves the life chances of the adoptive child while saving vast amounts of taxpayer funds. Perhaps most importantly, it brings love and happiness, both to the adoptive parents and the adoptive child.

I will continue to make myself available to you, Chairman Shaw and the members of the Ways and Means Committee in the hope of passing the At-Birth Abandoned Baby Act and any other measures which will eliminate the barriers and expedite the adoption of those children waiting for our assistance in foster care.

Testimony of Congressman Harris W. Fawell (R-IL) before the House Committee on Ways and Means Subcommittee on Human Resources -- Barriers to children being placed for adoption.

June 27, 1996

First, I would like to thank the Chairman of the Human Resources Subcommittee, Congressman Clay Shaw, for holding this hearing on such a critical issue to the thousands of children languishing in our nation's foster care system. All of us here this afternoon are united in a common bond to assist those children who, through no fault of their own, are victims of an overburdened system which permits them to fall through the cracks.

Mr. Chairman, it is no secret that adoption rates have declined in recent decades. In 1969, over 360,000 babies were born out of wedlock -- almost one in four was adopted. In 1991, over 1.2 million babies were born out of wedlock, yet only one in 25 was adopted. However, public interest has increased -- close to two million couples would like to adopt these children. Because of this vast need for adoption and the large pool of parents willing to adopt, Congress must develop incentives to eliminate as many barriers as possible to a speedy and permanent adoption.

While adoption issues and barriers to adoption encompass a multitude of areas, this afternoon I would like to focus on one group of children: at-birth abandoned babies. For a number of years, I have sponsored legislation which seeks to expedite the adoption process of babies abandoned at birth, or shortly thereafter. Again this Congress I have introduced the At-Birth Abandoned Baby Act (H.R. 1044). I believe we must develop a system which helps these very special babies abandoned at-birth, or shortly thereafter, the right to a fast-track placement and immediate bonding with "pre-adoptive parents" who would, at their own expense, be guaranteed expedited adoption proceedings in the proper State court of jurisdiction.

There is no doubt something must be done about the terrible plight faced by babies abandoned at-birth. Our present system, in effect, leaves these most vulnerable babies -- those abandoned at-birth and often drug addicted and/or HIV-infected -- without any chance of access to immediate bonding with loving parents. In the present welfare system, with lack of staff and service resources and poor coordination among courts, attorneys and crowded calendars, babies abandoned at birth have no one to represent them; no one to hold them and love them, let alone represent their rights in a court of law for the immediate bonding and love they so desperately need.

Mr. Chairman, the At-Birth Abandoned Baby Act of 1995 amends Title IV (E) of the Social Security Act. The bill simply requires State welfare authorities to immediately place "at-birth abandoned babies" with suitable "pre-adoptive parents" who, in turn, will be allowed to immediately file, at their own expense, for an expeditious adoption of the abandoned baby in the State court of proper jurisdiction.

Testimony of Patricia Warena, Fort Lauderdale, Florida

June 27, 1996

before the Committee on Ways and Means,

Subcommittee on Human Resources

Chairman Shaw and other distinguished Members of the Subcommittee on Ways and Means: My name is Patricia Warena, thank you for inviting me to testify before you today on behalf of my granddaughter Skye who on four separate occasions the courts and social workers have placed in our home because of the treatment that she has suffered at the hands of her biological parents. I am the maternal grandmother and on five additional occasions my daughter and her husband have voluntarily surrendered Skye to our care and custody. Our granddaughter is currently 42 months old, during her lifetime we have cared and protected her for 29 months. Seventy percent of her lifetime she has spent in the safe secure environment of our home.

Let me briefly give you a snapshot of Skye's situation which I believe is caused by the federal law persuing "reasonable efforts" provisions to keep families together despite chronic substance abuse, child abuse and neglect, and failure of court ordered family therapy.

Skye was born December 24, 1992 in Sarasota County, Florida. Her biological parents have been unemployed due to drugs essentially since her birth. They have been evicted from their apartment for selling drugs to minors. In May 1994 the Department of Human Resources intervenes into the family and removes Skye and places her with us. The biological parents are ordered to attend family assessment, drug testing and family therapy in July, and in September the court orders Skye returned with the parents awarded temporary

CHRONOLOGICAL ORDER OF EVENTS OF SKYE'S LIFE

- * December 24, 1992 - Skye is born in Sarasota County, Florida
- * August 1993- Skye's biological parents moved from Sarasota to stay in our home in Broward County, Florida because parents were unemployed with no shelter or money for food, maternal grandparent's provided the money needed for food, shelter, and clothing during this period of time
- * December 1993- Both biological parent's fired from their jobs for drug abuse, they were evicted from their apartment for none payment of rent and dealing drugs to minors from the apartment
- * January 1994- biological parent's living in the back of a van
- * January 1994-biological parent's gave Skye over to maternal grandparents while they continued with a lifestyle based on alcohol, drugs, and sexual abuse
- * April 1994- biological parent's took Skye to live with them in an apartment with which they shared with 2 herion addicts, the addicts at that time were also charged with dealing drugs. At the age of 16 months Skye was now frequently left alone by her parent's in the house or in the care of the 2 herion addicts who did drugs in front of her
- * May 1994- due to reports from neighbors H.R.S. investigates for physical abuse, neglect, nutrition, inadequate surroundings for a minor
- * May 1994- as a result of H.R.S. investigation parent's turn Skye over to maternal grandparent's
- * June 1994-biological father arrested for buying crack cocaine with food stamps

- * June 12, 1994- Skye placed in the emergency shelter of her maternal grandparents
- * June 15, 1994- Skye was placed with her maternal grandparents by H.R.S. court order, the court found at this time Skye lived in an environment of documented and admitted open drug use at her parent's home
- * July 12, 1994- parents court ordered to attend family assessment, drug testing, and therapy
- * September 8, 1994- Skye was returned by the courts to her biological parents under a temporary custody order with the stipulation parents and child were to reside in Broward County to attend the mandated programs recommended by the Child Protection Team report
- * September 8, 1994- maternal grandparents are granted liberal, regular unsupervised visitation with Skye by the court
- * September 9, 1994- biological father violates court order and returns to Sarasota County
- * December 1994- biological mother violates court order and returns to Sarasota County
- * February 1995- biological parents receive full custody of Skye via the court, although NONE of the prior stated court requirements such as drug testing, counseling, and therapy were fulfilled by the parents
- * February 1995- maternal grandparents granted liberal, regular, unsupervised visitation by the courts
- * February through August 1995- Skye resides almost exclusively with her maternal grandparents with occasional visits to her parents, this was due to a variety of reasons in her parents life including:
 - * parents had no money for food
 - * physical and verbal encounters between parents
 - * admitted drug problems of parents
 - * unemployment both parents
 - * no shelter due to eviction of parents
- * August 26, 1995- a neighbor of biological parents in Sarasota County notifies maternal grandparents Skye had been abandoned by her parents 1 week prior with the statement "they were going to the store", maternal grandparents pickup Skye in Sarasota County
- * August 28, 1995- doctor appointment for Skye reveals she has head lice, thrush, and a throat infection

custody.

This return was based on the belief that children always do better with their biological parents. This return was based on someone's interpretation of a family reunification plan. This return was not based on evidence that the biological family had given up drugs or been successful in family therapy. After all the removal and return all in place in less than two months - hardly enough time for a miracle.

Nine months later the courts awarded the biological parents full custody despite the fact that none of the prior stated court requirements such as drug testing, counseling or therapy proved successful.

Six months later Skye is left with neighbors for one week abandoned by her parents with the excuse that "they were going to the store".

So now you see the pattern of abuse that Skye has endured both from her parents and from the social workers who insist on reunification plans. Currently the federal law has been interpreted as family rights over children's safety and protection and whenever that interpretation is made----- children lose. Currently our laws protect the rights of the parents allowing them unlimited attempts at reunification without regard to the lack of stability that this creates for the children.

In conclusion, let me say that my case is not an isolated one but one that represents thousands of children across the country raised by relatives - grandparents, some raised by foster parents what is important here is that when children and caretakers have formed bonds those bonds should not be disrupted. Clear time frames need to be established to clarify the definition of the reasonable effort statute.

Thank you for hearing my testimony and please draft legislation that places children first. Help make Skye the limit of the children trapped in the legal system.

enclosures

chronological order of events of Skye's life enclosed

- * August 27, 1995- maternal grandparents via a phone conversation with biological mother confirmed she had been "drinking heavily, using crack cocaine, pot, and various pills"
- * August 27, 1995- biological mother flown to Fort Lauderdale by her parents in an continuing effort to assist in starting over a new life, when mother states she has confirmed proof biological father has been sexually abusing his 15 year old daughter from a prior marriage
- * * During this period of time it is discovered by maternal grandparents additional events surrounding Skye while in the presence of her parents these include:
 - * Skye fell in the swimming pool twice with no adult supervision
 - * biological father and 1/2 brother hung Skye by her ankles over the toilet dunking her in and out of the bowl for punishment
 - * Skye was left alone often when she was asleep, while her parents went out
 - * Skye ate cocaine that had been left out by her parents
 - * Skye's mother shoplifts in her presence
 - * parents beat Skye when she gets in their way while their doing drugs
 - * parents argued with Skye in the car and mother kicked in the windows spraving glass all over Skye
 - * father threw an alcoholic drink on Skye during an argument with mother
 - * Skye was asleep in the room during a multi-partner sexual situation of the fathers
 - * Skye refers to her daddy's "weiner" and her half brothers (age 15) "weiner"
- * September 18, 1995- biological mother returns to Sarasota
- * October 31, 1995 biological mother has a restraining order and divorce injunction processed against biological father citing domestic violence (maternal grandparents pay for attorney)

- * November 14, 1995- H.R.S. caseworker phones to see if Skye was in the custody of maternal grandparents, two visits to maternal grandparents home to visit with Skye reveal in the custody of grandparents Skye is "healthy, happy, safe, and well cared for"
- * December 1995- biological mother attempts suicide in Sarasota by slashing her wrists with a razor
- * January 13, 1996- biological mother arrives at grandparents home without notice to claim her "bambino" following a scene during which the mother appeared to be under the influence of drugs she removed Skye from the grandparents home, mother stressed grandparents could keep Skye if they gave her a "few thousand dollars"- Skye was removed by biological mother from the care of the maternal grandparents regardless of the fact Skye was sick with an allergic reaction
- * January 13, 1996 - January 15, 1996 (Holiday Weekend)- grandparents phone over a dozen agencies (repeatedly) to assist in the safe return of child who was in imminent danger
- * January 17, 1996- grandparents request emergency hearing for the custodial status of Skye
- * January 19, 1996- emergency court hearing in Broward County judge orders H.R.S. to immediately pickup Skye in Sarasota County 250 miles away, due to the fact "the child was in danger, take it to the media if necessary"
- * January 19, 1996 through January 22, 1996- H.R.S. in Sarasota County refuses to honor the Broward County judges pickup order
- * January 18, 1996- biological mother leaves Skye with biological father to return to her boyfriend
- * January 19, 1996-biological mother's boyfriend arrested for attempted suicide
- * January 19, 1996- biological mother arrested for stealing keys to handcuffs, off a police officer in the mental ward, while trying to free boyfriend
- * January 20, 1996 -biological father breaks into mother's boyfriends apartment and physically beats her at 4:00 a.m. in front of Skye, whom he had brought with him, while at the apartment uses a construction drill on personal items in the apartment stating "if the boyfriend was hear I would have drilled his brain full of holes, father left with Skye

- * January 21, 1996- father left a message on the machine of grandparents informing them he intended to kill the mother and the boyfriend
- * January 21, 1996 p.m.- biological mother phoned grandparents requesting their assistance to come to Sarasota County and help her get Skye back because the father had Skye in a crack house
- * January 21, 1996- grandparents arrive in Sarasota County
- * January 22, 1996- grandparents have difficulty finding Skye contacted the police department to enlist their assistance, the police department could not help without the H.R.S. in Sarasota
- * January 22, 1996- mother places restraining order on father in Sarasota County, contacts father's probation officer regarding the illegal actions of the father in this matter
- * January 22, 1996- parents arranged a meeting with each other and Skye, the police were notified of the scheduled arrival time of the father, when the father showed up 2 hours earlier than agreed upon, the police were not there to assist, following a hostile verbal exchange between the parents the father drove down the street with the mother and Skye hanging off the side of his truck door, during this situation he attempted to run down the maternal grandmother knocking her to the ground with his truck, mother and Skye fell to the ground and he left
- * January 22, 1996- grandparents return to Broward County with Skye bringing the mother and boyfriend with them
- * January 23, 1996- while preparing to go to court before the judge, H.R.S. and the police arrived at the grandparents home with a pickup order to place Skye in foster care, this order was based upon the original court order dated January 19, 1996, if the grandparents did not comply with the order regardless of the fact it was an error now that the child was safe, they would be arrested and placed in jail, following a phone call by the grandparents to the judge's secretary the court permitted Skye to be brought directly to court with the grandparents and the H.R.S.
- * January 23, 1996- upon arrival in court we were created before the judge with 6 H.R.S. attorney's from out of the county, 4 H.R.S. caseworkers, and a guardian ad-litem, at that time it was determined that an error had been made by the H.R.S. and a child's life had been in danger for at least the past 5 days, and that "H.R.S. would take full responsibility for their actions without pointing fingers at anyone in their office, and they would take action so that it would not happen to another child again"

- * January 23, 1996- temporary custody of Skye was granted to the maternal grandparents by the court
- * January 24, 1996- a doctor's appointment for Skye on this date revealed she had a rash, thrush, 2 ear infections, and a fever of 102
- * January 30, 1996- biological father was arrested in Sarasota County for violation of probation, spousal abuse, and usage of crack cocaine
- * February 8, 1996- biological father has a court hearing regarding the custodial custody of Skye in Broward County. maternal grandparents were granted temporary, legal, and physical custody of Skye
- * February 12, 1996- biological father sentenced with 6 months jail time in Broward County
- * February 14, 1996- biological mother is cited for domestic abuse when she beats up her boyfriend in Broward County
- * February 22, 1996- following a domestic fight regarding lack of fidelity with the boyfriend the biological mother receives staples in her head wound, the boyfriend is in jail
- * March 7, 1996- mother involved in domestic dispute with her brother in law resulting in police involvement and her removal from the premises
- * May 10, 1996- biological father released from jail in Broward County early due to over crowding
- * June 1996- biological mother is pregnant again, although the biological father had a vasectomy over a year ago
- * June 14, 1996 through current- biological father makes harrassing phone calls to the home of grandparents
- * June 20, 1996- maternal grandparents are granted a temporary restraining order in Broward County due to harrassing phone calls from biological father- biological father served with restraining order in Sarasota County reflecting he may not call, write, visit, or have any manner of contact with maternal grandparents, Skye, or any of the immediate family
- * June 27, 1996- maternal grandmother testifies before the Committee on Ways and Means, Subcommittee on Human Resources, in Washington D.C. regarding the Reasonable Efforts of the Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980

- * July 3, 1996-court hearing in Broward County scheduled to grant the temporary restraining order as permanent for one year
- * July 18, 1996 - parents granted scheduled court date, due to letter from biological parents to the judge in the case, dated May 22, 1996 asking for custody of Skye, letter states parents are residing together with jobs, in truth parents were together for less than 2 weeks, both are unemployed, mother is back with boyfriend

In conclusion, our granddaughter Skye, is currently 42 months old, out of that period of time we have had the pleasure of having her reside in our care for 29 months. During these months she has thrived, grown, and experienced love. The remaining 13 months have been spent with one or both of her biological parents. Those months have been marked with tremendous episodes of fear, violence, personal jeopardy, risk, and mistrust. On 4 occasions the court has placed her well being with us. On an additional 5 occasions her biological parents have entrusted her well being in our care. Her family background reflects residing with her parents puts her in an atmosphere marked with domestic violence, theft, narcotics, harrassment, sexual abuse, incest, neglect, abandonment, physical abuse, psychological abuse, and aggravated assault charges as part of the family's background. Currently our laws protect the rights of the parents allowing them unlimited amount of attempts of reunification without regard to the lack of stability these children caught in these situations experience. What constitutes reasonable efforts? We can't legislate love but why aren't children specifically given the right to a safe, permanent, loving, healthy homes?

Please help make our granddaughter SKYE. THE LIMIT! Draft legislation that places children first.

Children First,



Patricia Warena



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**TESTIMONY PRESENTED TO THE
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS**

**FOR THE HEARING ON
BARRIERS TO ADOPTION**

BY

DAVID S. LIEDERMAN

EXECUTIVE DIRECTOR

CHILD WELFARE LEAGUE OF AMERICA

JUNE 27, 1996

Mr. Chairman and members of the Subcommittee, I am David Liederman, Executive Director of the Child Welfare League of America (CWLA). Our 900-member agencies across the United States and Canada work to improve conditions for children and families in crisis and at risk. Nearly 400 of our agencies provide adoption services that enable children to secure loving families. I appreciate the invitation to testify at this hearing and commend your interest in strengthening the federal commitment to help more children find homes through adoption.

Adoption is a vital service in the array of efforts needed to protect and care for abused and neglected children. "Reasonable efforts," as embodied in P.L. 96-272, The Adoption Assistance and Child Welfare Act of 1980, do not impede good child welfare practice. "Reasonable efforts" on the part of agencies and the courts can promote and sustain appropriate and timely adoptions of children in need of wonderful families.

"Reasonable efforts": What they are; what they are not

The Adoption Assistance and Child Welfare Act of 1980 requires that "reasonable efforts" be made to prevent the unnecessary removal of children from their families. If children's safety is jeopardized and they have to be separated from their families, efforts must be made to secure permanence for children either by reunifying them safely with their families or finding them another home that is safe, loving and stable.

CWLA continues to support the principles contained in P.L. 96-272. The law's emphasis on making reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is central to providing real assistance to troubled families and their children. "Reasonable efforts" are essential to good practice and a tool for achieving success for children and for improving the child welfare system.

"Reasonable efforts" became part of P.L. 96-272 because at that time, foster care was virtually the only option available and there was recognition that alternatives were needed. Placing children in an overwhelmed, under-serviced foster care system was not then and is not now conducive to positive outcomes for children. In fact, there were many instances then, as now, of children being removed unnecessarily from families. It is important to recognize that children almost always are traumatized by removal from their own family.

P.L. 96-272 contains procedures and fiscal incentives, albeit inadequate, to meet the goals of protection, permanence for children and family support:

- Provision of preplacement and postplacement services to keep children safely in their own homes or reunite them with their families as soon as it can be done safely.
- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.

- Increased support for adoption, including the establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs.

"Reasonable efforts" affirmed the importance of family for children. In many jurisdictions across the country, progress has been made in introducing family-focused, child centered services in response to abuse and neglect; thousands of children have been able to remain safely at home or safely returned to their homes after being placed in out-of-home care.

The reasonable efforts principle has had a positive impact overall and has contributed to a number of improvements in the child welfare system (Reasonable Efforts Advisory Panel, 1995):

- a reduction in the amount of time children spend in out-of-home care
- an overall decrease in the number of placements each child experiences
- more goal-oriented planning for children and families
- expansion of needed services
- better family preservation practices, and
- greater emphasis on decision-making that takes into consideration the unique circumstances of every child and family.

Despite improvements and progress, the nation's collective response to abused, neglected and abandoned children is failing to provide both protection and appropriate living arrangements for many children. There are many reasons for this, not the least of which is the tripling in the number of children reported abused and neglected since 1980 and the failure of state, federal and local budgets to keep pace with this rise.

Many are removed from their families prematurely without reasonable efforts having been made. Some are not removed quickly enough. Many unnecessarily remain in foster care because of inadequate reunification efforts. Other children are reunified but without adequate follow-up services to their families, resulting in re-abuse and removal once more. Some children and youth are placed in facilities appropriate to their needs, others are placed in programs that are too restrictive or not restrictive enough. For some children, known to be living in dangerous or threatening conditions, little or nothing is being done. High staff turnover rates, low pay, inadequate training, inadequate supervision, etc., lead to poor casework practice in many cases, despite good intentions.

This is not to say that one form of intervention is necessarily better than another; placement should be based solely on the child's needs with some requiring more intensive intervention than others. All of these services are valuable. The issue is which ones are appropriate to the child's needs and family circumstances. In the first instance, the state must examine in good faith whether a child can, with proper support, safely remain at home.

In San Diego, a mother with a substance abuse problem had her three children removed and placed in three different homes, each far from the other. Mom was told she could get her kids back if she got drug treatment and ended her drug use, got training and a job, and visited the children on a regularly scheduled basis. Mom ended drug use, got a full-time job, but couldn't visit her children because one foster home was at least three hours from the other and she had to keep her job. This was not a prescription for possible success, but a catch-22, a setup for failure.

A great deal of confusion and lack of clarity have occurred because the U.S. Department of Health and Human Services has never issued formal regulations and guidance. Without that guidance, states have had a lot of room to interpret the provision and to flounder.

The "reasonable efforts" clause does not, however, mandate unreasonable efforts. Nor does it support family preservation or family reunification at all costs. All decisions need to be guided by sound practice and good judgment of all involved on a case by case basis.

As Jean Price, the chairman of CWLA's National Advisory Committee on Adoption, described in a hearing before this subcommittee last year, there are certain factors that are fundamental to all effective social services for children:

- The first responsibility is to attend to a child's safety and protection. For some children and families, family preservation services and family reunification services are not indicated and should not, in fact, be pursued. Other families, perhaps as many as 80 percent of those who come to the attention of the child protection system, can be helped to gain the skills they need to live together safely or to come to another resolution that benefits the child, including placement with another family or in another setting.
- Whenever it can be done safely, it is important to strengthen family ties, keeping children connected to their family of origin. It is vital for all people, but especially for children, to be part of a family. Roots are important to children. "Where do I come from?" "Where do I belong?" are questions that all children and youth ask. As a matter of fact, many troubled adults are still struggling with this question.
- Children need permanent living arrangements. They do not do well when they are moved from place to place with no sense of the past or the future. Children need legal protection as part of their own families, or through adoption.

Reasonable efforts remain key to permanency planning. There is consensus that "these efforts, however, are to be pursued *only* when consistent with a child's health and safety. The biological family is to be the placement of choice, *provided the family responds to help and will be able to provide proper care within a reasonable time after state intervention.*" (Reasonable Efforts Advisory Panel, 1995)

The Family Work Involved in Reasonable Efforts Can Improve Outcomes

Research in child welfare, children's mental health, and child development all point to more positive outcomes for children when parents are involved (Dartington Social Research Group, 1995; Lunghofer, 1995; Pine, Warsh and Malluccio, 1993; Wittaker, 1981).

- When a child can remain safely at home, supportive and crisis services can help to stabilize the family and improve skills and resources so that the child can be spared the trauma of having to leave home and community.

Glenda and John, young, first-time parents, were afraid that they would permanently lose custody of their infant son after he was hurt falling from his father's arms in the shower. When John was charged with child abuse, the court ordered the couple to take part in a home visiting program, participate in counseling and parenting classes. The home visitor scheduled twice-weekly visits so John could learn to bathe, feed, clothe, and play with his son safely. The couple gained confidence and skill in parenting, and were helped to form a positive and supportive relationship with Glenda's parents, with whom they were living and who had temporary custody of young Johnny. The couple have since regained custody of their young son and they stay in touch with the home visitor to report the latest milestones in Johnny's development.

- In-home social services, by their very nature, are "up-close and personal." By engaging the family and spending time in the home, there is increased opportunity for observing abuse and neglect than with standard child protective services. Thus, when families, who on the surface appear to be "low risk," present more serious problems, there are professionals already involved who can respond in an appropriate and timely manner and ensure child safety.

Family support and family preservation workers frequently report that, by spending "real time" with families in their homes and communities, they are able to learn about and observe more serious problems that may be present, including sexual abuse and domestic violence. Because they know more about the family, and have formed a relationship with at least one caretaking adult, they are able to mobilize the family to develop a protective plan for the child which may include moving the nonoffending adult and children to a safe place, removing the adult responsible for the abuse, or removing the child temporarily or permanently.

- When a child cannot remain safely at home, parental and family involvement are key to either a successful reunification or another permanent resolution for the child. For example, according to one of our providers of services to abused children and their families,

David, an 11-year old boy who had been in residential treatment for several years because of his destructive behavior suddenly began to make dramatic progress when it was learned that his birth father—with whom he had had little contact—was eager to build a father-son relationship. Over a period of months, with much support and assistance from the worker, David and his father learned to know one another and live together. David's dad received coaching and guidance on parenting. David learned, through many home visits, how to get along in a family and with peers in the community. Now David is at home with his dad.

- When reunification is not possible, working with the family often can lead to an optimal resolution for the child, through adoption, guardianship, or long-term care with relatives. By working with the parents and other family members, the agency can help them to find a caring and permanent solution for the child.

Debbie, a 7-year-old, came to live with the Hart foster family because she had been abused and neglected, and as a result of her serious acting out behaviors in school. Debbie's mother, Jeanine, was concerned about her daughter but unable to break away from a live-in boyfriend who was physically abusive with Debbie. Through supportive counseling and a positive and supportive relationship with Debbie's foster parents, Jeanine was able to come to terms with the situation. She agreed to voluntarily release Debbie for adoption, and worked with the counselor to arrive at a visitation and contact agreement with the Harts, who subsequently adopted Debbie. Now Debbie is at home with her adoptive family, June and Ray Hart, and she is able to have contact with her birth mother. Her acting out behavior has disappeared and she is performing at grade level for the first time.

When, in the process of working intensively with the family, it is determined that staying together or reunifying the family is not in the child's best interest, the agency is far more prepared to demonstrate to the court that the parents are unable or unwilling to care for their children and to develop and implement a permanent plan for the child.

When it is determined that a child cannot be reared by the birth parents, steps toward adoption should proceed without delay. In still too many instances, that, unfortunately, is easier said than done.

Children in Need of Homes

In most states in the U.S., adoptions are done by licensed voluntary or public agencies, or by independent practitioners. Independent practitioners may include attorneys, physicians, social workers, and others with few qualifications.

- An estimated 20,000 abused, neglected, abandoned, or orphaned children with special needs are currently legally free and awaiting permanent and loving adoptive homes, with another 69,000 children likely to need adoption in the near future. As parents with AIDS die, there will be even more children needing permanent families through adoption.

States are the legal parents of these children, many of whom have been abused, neglected or abandoned by their families. These children need permanent families and it is our duty to help find them appropriate families that can best care for them.

Seventy-two percent of the children awaiting adoptive placement in 1990 had one or more special needs: medical, developmental, behavioral or psychological.

Addressing Barriers to Adoption

While there are thousands of couples waiting to adopt infants, the opposite is true of the thousands of children in foster care who are waiting for adoptive families. Far fewer families than needed have been recruited for the large numbers of children with special needs.

To secure a sufficient number of adoptive parents available for children with special needs who are in the public foster care system, there must be more public recognition of the need that these children have for permanent families and that parents can, with professional help and the necessary resources, effectively parent them.

Legal system barriers to adoption

Currently children wait an average of two years and five months for termination of parental rights to be completed by the courts. This is not responsive to the needs of children. It is essential that courts give priority to children's cases when setting dockets, hearing cases, issuing decisions, scheduling and hearing appeals. The federal government can help by urging state courts to enact time standards that will ensure prompt handling of all children's cases.

Agency barriers to adoption

If child welfare agencies are to eliminate agency barriers to adoption—so that children needing adoption can be adopted without delay—priority needs to be given to:

- identifying those children very likely to need adoption at the time they enter care and

moving promptly toward adoption for these children;

- recruiting a diverse group of foster and adoptive families on an on-going basis to be available for children with special needs;
- ensuring that staff are hired who can respond to children's needs, including a range of cultural and language needs;
- providing that all child welfare staff are trained in the full range of child welfare programs from family preservation to adoption; and
- establishing a service mix and staff caseloads that can meet the needs.

These barriers do not exist in the child welfare agency alone, nor are reasonable efforts the responsibility of only the child welfare agency. Other agencies, including health and education agencies, as well as the courts are key partners in planning for and achieving successful outcomes for children.

Continued national leadership and adequate financial resources are essential if we are to ensure that these barriers are removed and that children who cannot return to their families can be moved to adoption in a timely way.

Financial barriers to adoption

A major barrier to adoption of children with special needs is financial. These children need multiple services in order to adjust to family living and become part of the adoptive family.

In many instances, the most suitable families for these children—ones who are committed to meeting their needs—are families of modest or low income who cannot afford to pay for the daily needs and often extensive medical services for these children without assured help. The title IV-E Adoption Assistance subsidy provides some of that assurance. It is available wherever the child and family reside.

The pending adoption tax credit proposal with the targeted assistance to families adopting children with special needs as provided in the bill as passed by the Senate Finance Committee, offers important additional help to find homes for children who are waiting.

Adoption can be encouraged by confronting these legal, financial, and procedural barriers, and by implementing reasonable efforts well.

Eliminating "reasonable efforts," as some have suggested, is not a solution. Getting rid of those two words will not solve the problems that really impede adoption and other successful outcomes for abused and neglected children or those at risk of abuse or neglect.

Making Reasonable Efforts Work

The following elements must be in place in order for "reasonable efforts" to enhance opportunities for successful child outcomes and to serve as a tool for improved practice and decision making:

Written federal guidance to clarify for states what is meant by "reasonable efforts," including:

- a core list of services and supports that a state must develop as evidence of its capacity to make reasonable efforts;
- when reasonable efforts are appropriate and those instances when they are not required-- i.e., that they are not required when they compromise the safety of the child and that reunification efforts are not necessary, or "reasonable," when the chances of family reunification are remote; and
- standards of performance for state child welfare systems that will provide a meaningful and predictable role for DHHS in its oversight of state agencies receiving federal funds for child welfare services. States vary widely in their performance and capacities. National standards should be adopted to improve practice and outcomes. CWLA for many years has been the principal national agency responsible for developing child welfare standards. Our 11 volumes of standards are recognized by child welfare professionals throughout the world as constituting "best practice" standards. Unfortunately, there remains a wide gap between the excellence contained in these standards and what actually occurs in practice.

Federal monitoring of state reasonable efforts. Federally conducted program audits are an important means of ensuring that states are working conscientiously to both keep children safe, to keep them connected to their families, and to achieve permanence for children. Legal actions have found that more than 20 states have failed in many ways to properly care for children, including making reasonable efforts when appropriate.

Intensive preventive services. Communities providing intensive preventive services have been especially successful with reasonable efforts. Some have had particular success with speedy adoptions and other permanent placements for children unable to return home. Federal encouragement of family preservation and support efforts is important to reinforce these state and community efforts (Reasonable Efforts Advisory Panel). To carry out these efforts, it is imperative to bring to bear adequate resources for staffing, training, and agency coordination to make sure the job can get done.

Interagency collaboration and support. Successful reasonable efforts, like effective child welfare services, cannot be implemented by the public agency alone. All service providers, the courts, and the legal community must work together to ensure that children and their

families are receiving appropriate services and to enable timely and sound decision making in their behalf. Court assessment and improvement is not only vital, but unlikely to occur in any widespread manner, without federal funding and encouragement. (Reasonable Efforts Advisory Panel, 1995)

Informed and consistent court involvement. Courts should continue to make determinations about agency reasonable efforts to preserve and reunify families. (Reasonable Efforts Advisory Panel, 1995). Court effectiveness depends upon proper judicial training, reasonable court caseloads, and a genuine interest and commitment to child and family work. It also is imperative that judges be assigned to regular child welfare caseloads as opposed to having a revolving assignments which prevent following a case over time.

Training, protocols, and supervision of agency workers to

- conduct accurate assessments regarding child safety, family capacity and motivation, and family strengths and resources;
- intervene effectively when safety is a concern;
- develop an appropriate service plan that meets the needs of the child and family;
- engage the family in making the needed changes;
- obtain or develop needed resources;
- document progress and problems;
- work effectively with legal counsel, the courts, and with other service agencies to move the case to an optimal resolution for the child.

Reduced caseloads so that workers have the opportunity to make reasonable efforts and do best practice in their work with children and families.

These are the basics of good casework practice and without them there will never be sufficient protection for children at risk of harm. These elements are essential for increased safety and success for children. With more than three million children reported abused or neglected, "reasonable efforts" are an essential tool if children are to remain safely with their families. The alternative is to bring many more thousands of children unnecessarily into care with all the associated trauma and costs that this option generates.

In the last decade we have learned in specific detail what good and effective "reasonable efforts" look like. There is a great need for HHS to catalog those experiences and transmit them to all jurisdictions so they can be implemented properly. It is equally important that benchmarks of performance be set in each state so that all parties have clear and appropriate

expectations and responsibilities and make the necessary investments to keep children safe. That will enhance the appropriate and timely adoption of children in need of homes as well as help children who can remain or be reunified safely with their families.

With current and increasing demands, we need a system with all the options and we need them to work well. I look forward to working with the Subcommittee to make sure that happens.



The Annie E. Casey Foundation

For The Record

For Immediate Release
March 22, 1996

Contact: Bill Rust, 410/223-2948
Annie E. Casey Foundation

Judith Goodhand, 216/432-3390
Cuyahoga County Department
of Children and Family Services

LESS DISRUPTION, MORE STABILITY FOR 'FAMILY TO FAMILY' CHILDREN IN CLEVELAND

Baltimore -- Within three years of its inception, an innovative family foster care program has brought more stability and less trauma to the lives of Cleveland-area children who have to be removed from their homes for their own protection.

Children in crisis are more likely to be placed with families than institutions, more likely to remain in their own neighborhoods and school districts, less likely to be "bounced" from one temporary facility to another, and more likely to be reunited with their birth families than they were in 1992, according to a recent report to the Annie E. Casey Foundation, which made a multi-year, \$2.5 million grant to the Ohio Family To Family Program in 1993.

"When a child is placed in public care because of abuse or neglect, the most effective, least traumatic alternative is a supportive, caring foster family that lives in the child's neighborhood," said Douglas W. Nelson, executive director of the Casey Foundation. "Although institutional and other group facilities may provide physical safety, they rarely provide the nurturing environment that families offer to children. Cleveland has been tremendously successful not only in recruiting and training foster families, but also in making better decisions about which children should come into care, and which families can be safely helped."

The report to the Casey Foundation was delivered by Judith Goodhand, executive director of the Cuyahoga County (Cleveland) Department of Children and Family Services. Goodhand, whose department monitors and regularly reports on the status and well-being of the approximately 4,000 alleged victims of child abuse and neglect in its care, reported that:

- The pool of licensed foster homes in Cuyahoga County increased 31 percent from late 1992, when the county began reassessing its procedures and priorities, to the end of 1995.

- The percentage of children placed far from their birth homes (outside Cuyahoga and its contiguous counties) has decreased by more than 20 percent (from 728 in 1992 to 628 in 1995).
- The length of time it takes the county to investigate charges of child abuse or neglect has been cut by 58 percent – from an average of 51 days per investigation to an average of 22.
- The percentage of children who remained with one family throughout their substitute care rose from 61 percent of those leaving custody in 1992 to 74 percent of those exiting the system by the end of 1994 (the last year for which those statistics were available).
- The percentage of children who had to be moved four or more times while in state custody decreased from 5 percent in 1992, to 1 percent in 1994.
- The number of children in congregate care (institutions or group homes, as opposed to families) decreased by 43 percent from 1992 through 1995.
- Children and families have more access to social workers. Caseloads have been reduced from an average of 38 families per case worker to an average of 19 – a reduction of 50 percent.

Goodhand, who assumed leadership of the department in June of 1992, said most of these changes were attributable to Ohio's participation in the Family To Family Program, which strives to make child-serving systems more family-centered, neighborhood-based and committed to better outcomes for children and families. Cleveland's Cuyahoga County shared in the state grant along with Hamilton County, (Cincinnati), which enabled it to hire additional caseworkers, recruit foster families locally, and provide extensive training to both groups.

"Most important, we began sharing ideas about what foster parents needed to do their jobs better," Goodhand said, "which in turn helped us to get a better focus on what our own goals were going to be."

For example, she said, "We used to recruit and license homes all over the state. We had 50 Cuyahoga County kids placed outside the state. We had Cuyahoga kids in Cincinnati, which is five hours away by car, though we have always known that moves hurt kids."

"What made the difference was incorporating what we knew into public policy: that kids who live close to their birth homes have more family visits, and are more likely to be reunited in the end," she said. "We did a very rigorous search of our own area for foster homes. Now, it is our official policy to seek foster families in kids' own neighborhoods, to move kids as infrequently as possible, and to give families the support they need to stay together when we can safely do so."

The department also overhauled its system of responding to complaints about children in foster care. Instead of sending a caseworker over to pick up a child, "we set up a process where we sat down with that foster parent and case worker or resource manager to ask, 'What would it take to keep the child here?'" Goodhand said. "What kind of services could we put in? What kind of support do you need?" Often, it was a question of respite; one weekend a month when the foster parents could take off, leaving the child in someone else's care. The department also set up "clusters" of foster parents with same-age or same-needs children to share ideas about coping.

Kathleen Feely, associate director for Child and Family Systems Reforms at the Foundation said she is convinced that participation in Family To Family had produced not only better outcomes for Cleveland's families and children, but also "tools, models and new technologies" that can be replicated elsewhere. The Foundation funds Family To Family programs in Alabama, Maryland, New Mexico and Pennsylvania, as well as Ohio.

The objectives of Family To Family are:

1. To develop a network of family foster care that is located primarily in the communities in which the children live, causing as little disruption to their lives as possible.
2. To assure that scarce family foster home resources are provided to all those children (but only to those children) who in fact must be removed from their homes.
3. To reduce reliance on institutions by meeting the needs of many more of the children currently in those settings through family foster care.
4. To increase the number and quality of foster families to meet projected needs.
5. To reunify children with their families as soon as that can safely be accomplished, based on the family's and children's needs and not the timeframes of overworked agencies.

6. To place those children who cannot safely return home in a timely manner with another permanent family through adoption.

The Annie E. Casey Foundation is a national philanthropic institution devoted exclusively to improving outcomes for disadvantaged children and families. The Foundation was established in 1948 by Jim Casey, one of the founders of United Parcel Service, and his siblings, who named the Foundation in honor of their mother.

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Testimony of Patricia Warendale, Fort Lauderdale, Florida

June 27, 1996

before the Committee on Ways and Means,

Subcommittee on Human Resources

Chairman Shaw and other distinguished Members of the Subcommittee on Ways and Means: My name is Patricia Warendt. thank you for inviting me to testify before you today on behalf of my granddaughter Skye who on four separate occasions the courts and social workers have placed in our home because of the treatment that she has suffered at the hands of her biological parents. I am the maternal grandmother and on five additional occasions my daughter and her husband have voluntarily surrendered Skye to our care and custody. Our granddaughter is currently 42 months old, during her lifetime we have cared and protected her for 29 months. Seventy percent of her lifetime she has spent in the safe secure environment of our home.

Let me briefly give you a snapshot of Skye's situation which I believe is caused by the federal law persuing "reasonable efforts" provisions to keep families together despite chronic substance abuse, child abuse and neglect, and failure of court ordered family therapy.

Skye was born December 24, 1992 in Sarasota County, Florida. Her biological parents have been unemployed due to drugs essentially since her birth. They have been evicted from their apartment for selling drugs to minors. In May 1994 the Department of Human Resources intervenes into the family and removes Skye and places her with us. The biological parents are ordered to attend family assessment, drug testing and family therapy in July, and in September the court orders Skye returned with the parents awarded temporary

custody.

This return was based on the belief that children always do better with their biological parents. This return was based on someone's interpretation of a family reunification plan. This return was not based on evidence that the biological family had given up drugs or been successful in family therapy. After all the removal and return all in place in less than two months - hardly enough time for a miracle.

Nine months later the courts awarded the biological parents full custody despite the fact that none of the prior stated court requirements such as drug testing, counseling or therapy proved successful.

Six months later Skye is left with neighbors for one week abandoned by her parents with the excuse that "they were going to the store".

So now you see the pattern of abuse that Skye has endured both from her parents and from the social workers who insist on reunification plans. Currently the federal law has been interpreted as family rights over children's safety and protection and whenever that interpretation is made----- children lose. Currently our laws protect the rights of the parents allowing them unlimited attempts at reunification without regard to the lack of stability that this creates for the children.

In conclusion, let me say that my case is not an isolated one but one that represents thousands of children across the country raised by relatives - grandparents, some raised by foster parents what is important here is that when children and caretakers have formed bonds those bonds should not be disrupted. Clear time frames need to be established to clarify the definition of the reasonable effort statute.

Thank you for hearing my testimony and please draft legislation that places children first. Help make Skye the limit of the children trapped in the legal system.

enclosures

chronological order of events of Skye's life enclosed

CHRONOLOGICAL ORDER OF EVENTS OF SKYE'S LIFE

- * December 24, 1992 - Skye is born in Sarasota County, Florida
- * August 1993- Skye's biological parents moved from Sarasota to stay in our home in Broward County, Florida because parents were unemployed with no shelter or money for food, maternal grandparent's provided the money needed for food, shelter, and clothing during this period of time
- * December 1993- Both biological parent's fired from their jobs for drug abuse, they were evicted from their apartment for none payment of rent and dealing drugs to minors from the apartment
- * January 1994- biological parent's living in the back of a van
- * January 1994-biological parent's gave Skye over to maternal grandparents while they continued with a lifestyle based on alcohol, drugs, and sexual abuse
- * April 1994- biological parent's took Skye to live with them in an apartment with which they shared with 2 herion addicts, the addicts at that time were also charged with dealing drugs. At the age of 16 months Skye was now frequently left alone by her parent's in the house or in the care of the 2 herion addicts who did drugs in front of her
- * May 1994- due to reports from neighbors H.R.S. investigates for physical abuse, neglect, nutrition, inadequate surroundings for a minor
- * May 1994- as a result of H.R.S. investigation parent's turn Skye over to maternal grandparent's
- * June 1994-biological father arrested for buying crack cocaine with food stamps

- * June 12, 1994- Skye placed in the emergency shelter of her maternal grandparents
- * June 15, 1994- Skye was placed with her maternal grandparents by H.R.S. court order. the court found at this time Skye lived in an environment of documented and admitted open drug use at her parent's home
- * July 12, 1994- parents court ordered to attend family assessment, drug testing, and therapy
- * September 8, 1994- Skye was returned by the courts to her biological parents under a temporary custody order with the stipulation parents and child were to reside in Broward County to attend the mandated programs recommended by the Child Protection Team report
- * September 8, 1994- maternal grandparents are granted liberal, regular unsupervised visitation with Skye by the court
- * September 9, 1994- biological father violates court order and returns to Sarasota County
- * December 1994- biological mother violates court order and returns to Sarasota County
- * February 1995- biological parents receive full custody of Skye via the court, although NONE of the prior stated court requirements such as drug testing, counseling, and therapy were fulfilled by the parents
- * February 1995- maternal grandparents granted liberal, regular, unsupervised visitation by the courts
- * February through August 1995- Skye resides almost exclusively with her maternal grandparents with occasional visits to her parents. this was due to a variety of reasons in her parents life including:
 - * parents had no money for food
 - * physical and verbal encounters between parents
 - * admitted drug problems of parents
 - * unemployment both parents
 - * no shelter due to eviction of parents
- * August 26, 1995- a neighbor of biological parents in Sarasota County notifies maternal grandparents Skye had been abandoned by her parents 1 week prior with the statement "they were going to the store", maternal grandparents pickup Skye in Sarasota County
- * August 28, 1995- doctor appointment for Skye reveals she has head lice, thrush, and a throat infection

- * August 27, 1995- maternal grandparents via a phone conversation with biological mother confirmed she had been "drinking heavily, using crack cocaine, pot, and various pills"
- * August 27, 1995- biological mother flown to Fort Lauderdale by her parents in an continuing effort to assist in starting over a new life. when mother states she has confirmed proof biological father has been sexually abusing his 15 year old daughter from a prior marriage
- * * During this period of time it is discovered by maternal grandparents additional events surrounding Skye while in the presence of her parents these include;
 - * Skye fell in the swimming pool twice with no adult supervision
 - * biological father and 1/2 brother hung Skye by her ankles over the toilet dunking her in and out of the bowl for punishment
 - * Skye was left alone often when she was asleep, while her parents went out
 - * Skye ate cocaine that had been left out by her parents
 - * Skye's mother shoplifts in her presence
 - * parents beat Skye when she gets in their way while their doing drugs
 - * parents argued with Skye in the car and mother kicked in the windows spraying glass all over Skye
 - * father threw an alcoholic drink on Skye during an argument with mother
 - * Skye was asleep in the room during a multi-partner sexual situation of the fathers
 - * Skye refers to her daddy's "weiner" and her half brothers (age 15) "weiner"
- * September 18, 1995- biological mother returns to Sarasota
- * October 31, 1995 biological mother has a restraining order and divorce injunction processed against biological father citing domestic violence (maternal grandparents pay for attorney)

- * November 14, 1995- H.R.S. caseworker phones to see if Skye was in the custody of maternal grandparents, two visits to maternal grandparents home to visit with Skye reveal in the custody of grandparents Skye is "healthy, happy, safe, and well cared for"
- * December 1995- biological mother attempts suicide in Sarasota by slashing her wrists with a razor
- * January 13, 1996- biological mother arrives at grandparents home without notice to claim her "bambino" following a scene during which the mother appeared to be under the influence of drugs she removed Skye from the grandparents home, mother stressed grandparents could keep Skye if they gave her a "few thousand dollars"- Skye was removed by biological mother from the care of the maternal grandparents regardless of the fact Skye was sick with an allergic reaction
- * January 13, 1996 - January 15, 1996 (Holiday Weekend)- grandparents phone over a dozen agencies (repeatedly) to assist in the safe return of child who was in imminent danger
- * January 17, 1996- grandparents request emergency hearing for the custodial status of Skye
- * January 19, 1996- emergency court hearing in Broward County judge orders H.R.S. to immediately pickup Skye in Sarasota County 250 miles away, due to the fact "the child was in danger, take it to the media if necessary"
- * January 19, 1996 through January 22, 1996- H.R.S. in Sarasota County refuses to honor the Broward County judges pickup order
- * January 18, 1996- biological mother leaves Skye with biological father to return to her boyfriend
- * January 19, 1996-biological mother's boyfriend arrested for attempted suicide
- * January 19, 1996- biological mother arrested for stealing keys to handcuffs, off a police officer in the mental ward, while trying to free boyfriend
- * January 20, 1996 -biological father breaks into mother's boyfriends apartment and physically beats her at 4:00 a.m. in front of Skye, whom he had brought with him, while at the apartment uses a construction drill on personal items in the apartment stating "if the boyfriend was hear I would have drilled his brain full of holes. father left with Skye

- * January 21, 1996- father left a message on the machine of grandparents informing them he intended to kill the mother and the boyfriend
- * January 21, 1996 p.m.- biological mother phoned grandparents requesting their assistance to come to Sarasota County and help her get Skye back because the father had Skye in a crack house
- * January 21, 1996- grandparents arrive in Sarasota County
- * January 22, 1996- grandparents have difficulty finding Skye contacted the police department to enlist their assistance. the police department could not help without the H.R.S. in Sarasota
- * January 22, 1996- mother places restraining order on father in Sarasota County, contacts father's probation officer regarding the illegal actions of the father in this matter
- * January 22, 1996- parents arranged a meeting with each other and Skye, the police were notified of the scheduled arrival time of the father, when the father showed up 2 hours earlier than agreed upon, the police were not there to assist, following a hostile verbal exchange between the parents the father drove down the street with the mother and Skye hanging off the side of his truck door, during this situation he attempted to run down the maternal grandmother knocking her to the ground with his truck, mother and Skye fell to the ground and he left
- * January 22, 1996- grandparents return to Broward County with Skye bringing the mother and boyfriend with them
- * January 23, 1996- while preparing to go to court before the judge, H.R.S. and the police arrived at the grandparents home with a pickup order to place Skye in foster care, this order was based upon the original court order dated January 19, 1996, if the grandparents did not comply with the order regardless of the fact it was an error now that the child was safe, they would be arrested and placed in jail, following a phone call by the grandparents to the judge's secretary the court permitted Skye to be brought directly to court with the grandparents and the H.R.S.
- * January 23, 1996- upon arrival in court we were greeted before the judge with 6 H.R.S. attorney's from out of the county, 4 H.R.S. caseworkers, and a guardian ad-litem, at that time it was determined that an error had been made by the H.R.S. and a child's life had been in danger for at least the past 5 days, and that "H.R.S. would take full responsibility for their actions without pointing fingers at anyone in their office, and they would take action so that it would not happen to another child again"

- * January 23, 1996- temporary custody of Skye was granted to the maternal grandparents by the court
- * January 24, 1996- a doctor's appointment for Skye on this date revealed she had a rash, thrush, 2 ear infections, and a fever of 102
- * January 30, 1996- biological father was arrested in Sarasota County for violation of probation, spousal abuse, and usage of crack cocaine
- * February 8, 1996- biological father has a court hearing regarding the custodial custody of Skye in Broward County. maternal grandparents were granted temporary, legal, and physical custody of Skye
- * February 12, 1996- biological father sentenced with 6 months jail time in Broward County
- * February 14, 1996- biological mother is cited for domestic abuse when she beats up her boyfriend in Broward County
- * February 22, 1996- following a domestic fight regarding lack of fidelity with the boyfriend the biological mother receives staples in her head wound, the boyfriend is in jail
- * March 7, 1996- mother involved in domestic dispute with her brother in law resulting in police involvement and her removal from the premises
- * May 10, 1996- biological father released from jail in Broward County early due to over crowding
- * June 1996- biological mother is pregnant again, although the biological father had a vasectomy over a year ago
- * June 14, 1996 through current- biological father makes harrassing phone calls to the home of grandparents
- * June 20, 1996- maternal grandparents are granted a temporary restraining order in Broward County due to harrassing phone calls from biological father- biological father served with restraining order in Sarasota County reflecting he may not call, write, visit, or have any manner of contact with maternal grandparents, Skye, or any of the immediate family
- * June 27, 1996- maternal grandmother testifies before the Committee on Ways and Means, Subcommittee on Human Resources, in Washington D.C. regarding the Reasonable Efforts of the Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980

- * July 3, 1996-court hearing in Broward County scheduled to grant the temporary restraining order as permanent for one year
- * July 18, 1996 - parents granted scheduled court date, due to letter from biological parents to the judge in the case, dated May 22, 1996 asking for custody of Skye, letter states parents are residing together with jobs, in truth parents were together for less than 2 weeks, both are unemployed, mother is back with boyfriend

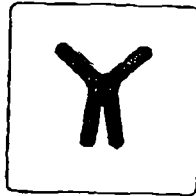
In conclusion, our granddaughter Skye, is currently 42 months old, out of that period of time we have had the pleasure of having her reside in our care for 29 months. During these months she has thrived, grown, and experienced love. The remaining 13 months have been spent with one or both of her biological parents. Those months have been marked with tremendous episodes of fear, violence, personal jeopardy, risk, and mistrust. On 4 occasions the court has placed her well being with us. On an additional 5 occasions her biological parents have entrusted her well being in our care. Her family background reflects residing with her parents puts her in an atmosphere marked with domestic violence, theft, narcotics, harrassment, sexual abuse, incest, neglect, abandonment, physical abuse, psychological abuse, and aggravated assault charges as part of the family's background. Currently our laws protect the rights of the parents allowing them unlimited amount of attempts of reunification without regard to the lack of stability these children caught in these situations experience. What constitutes reasonable efforts? We can't legislate love but why aren't children specifically given the right to a safe, permanent, loving, healthy homes?

Please help make our granddaughter SKYE, THE LIMIT! Draft legislation that places children first.

Children First,



Patricia Warenda



DAVE THOMAS
FOUNDATION
FOR ADOPTION

FOR IMMEDIATE RELEASE

Contact: Denny Lynch/Rebecca Lusk
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**WENDY'S FOUNDER DAVE THOMAS VISITS CAPITOL HILL:
PROPOSES GOALS FOR FOSTER CARE; ADOPTION SYSTEM REFORM**

Thomas Calls For Waiting Children To Be Adopted Within One Year

DUBLIN, OHIO (June 27, 1996) – Dave Thomas, founder of Wendy's Old Fashioned Hamburgers Restaurants and chairman of the Dave Thomas Foundation for Adoption, returned to Capitol Hill today offering some goals to achieve in adoption system reform, claiming that "each waiting child should become part of a permanent family within one year."

Thomas – who was adopted at the age of six weeks—appeared before the **House Ways and Means Subcommittee on Human Resources** to share the plight of children caught in foster care limbo and propose five goals to be considered to improve the adoption system in this country.

On any day in the United States, there are an estimated 600,000 children in the foster care system, including about 100,000 who need to be adopted.

"Many foster children in America wait between three and six years before being adopted...six years could be half a lifetime spent waiting to share the love of a permanent family. That's a shame," said Thomas. "Foster parents are wonderful. They open their hearts and homes every day to these children. But foster care was never meant to be a permanent solution, and that's what it has become for many children. "

"The solution is simple," said Thomas. "It's the number one. Support should be given to keep a family together but the child's safety should be number one. Only one assessment study of each child should be conducted, only one caseworker should be assigned per child, and a child should be placed in no more than one foster home while awaiting adoption. And finally, each child should be placed in a permanent home within one year."

- more -

"These kids need an adoption system designed to keep their interests as it's number one priority," claimed Thomas.

The five goals Thomas shared were originally outlined by the Kellogg Foundation and are supported by many in the adoption community.

In urging the Ways and Means Subcommittee to streamline the adoption process, Thomas shared personal stories of children who are held hostage by the system and passed from one foster home to another.

"I met a young man in South Carolina who had been in so many homes that he literally couldn't remember his last name, " Thomas told the subcommittee. "And I met a 13-year-old in Chicago who had been in 15 different foster homes and was sick and tired of being passed around. He was worried that people wanted to adopt babies and that he was too old. "

Thomas is a longstanding advocate of adoption-related issues. In 1991, President Bush asked him to head the "Adoption Works...for Everyone" White House initiative and he continues to work on behalf of waiting children throughout America.

This is Thomas' fourth visit to Washington in the last two years to share his viewpoint on adoption. Last November, Thomas joined First Lady Hillary Rodham Clinton for a White House celebration of National Adoption Awareness Week. He also addressed the House Ways and Means Committee in January 1995 to encourage Congressional approval of a \$5,000 refundable tax credit for parents who adopt a child. And in January 1994, he addressed the governors of all 50 states, encouraging them to implement adoption benefits (paid time off and financial assistance) for those employees who adopt.

Established by Thomas in 1992, the Dave Thomas Foundation for Adoption is dedicated to the philosophy that every child deserves a permanent home and loving family. Foundation efforts focus on raising public awareness of the tens of thousands of children available for adoption, and on offering educational programs to help prospective parents better understand the adoption process.

In addition to urging employers in both the public and private sectors to provide adoption benefits, Thomas taped radio and television public service announcements encouraging the adoption of special needs children, and donated all royalties from his two books (Dave's Way and Well Done!) to the cause of adoption.

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TESTIMONY OF:

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BEFORE:

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HUMAN RESOURCES
OF THE COMMITTEE ON WAYS AND MEANS

REGARDING:

BARRIERS TO CHILDREN BEING PLACED FOR
ADOPTION UNDER THE PROVISIONS OF THE ADOPTION
ASSISTANCE AND CHILD WELFARE ACT OF 1980

DATE:

THURSDAY, JUNE 27, 1996

**TESTIMONY OF LAUREEN D'AMBRA, ESQUIRE
CHILD ADVOCATE FOR THE STATE OF RHODE ISLAND**

SUMMARY OF TESTIMONY

The State of Rhode Island, Office of the Child Advocate, investigates child fatalities of those children who die while involved with the child welfare system. Through the work of child fatality review panels, and in collaboration with legislators, judges, policy makers and child advocates from a range of professional disciplines, Rhode Island has strengthened termination of parental rights statutes and codified case law. The purpose of these laws is to move children toward permanency planning as was intended by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

R.I.G.L. §15-7-7 allows the Family Court to terminate parental rights when the parents' rights have been terminated previously and the underlying conditions still exist. "Reasonable effort" to reunify are not required if the Court finds that additional services would not result in reunification. A second provision states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem. The third provision mandates that the Court consider the child's placement in foster care, integration into the foster home, length of time that the child has been placed, and the child's preference, if the child is able to express a preference in determining best interest of the child.

The Rhode Island General Assembly has also passed amendments to R.I.G.L. §40-11-12, that gives the Family Court the authority to appoint a guardian of the person of a child who has been placed with the Department of Children, Youth and Families, and allows guardianship subsidies. This statute provides "permanency planning" for older and/or difficult to place children through guardianship rather than adoption.

Last month, the "Report of the Children in Crisis Task Force" was issued by the Office of the Child Advocate. The Task Force reviewed the death of four children involved with the child welfare system. The Task Force concluded that public awareness of the needs of children, and the action of policy makers is essential if we are to appropriately protect children and provide stability through adoption when reunification is not possible.

Rhode Island's legislative enactments facilitate termination of parental rights and ensure timely adoptions. Passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have better defined the intent of this federal mandate in an effort to balance the rights of families, but not at the expense of vulnerable children.

Dear Mr. Chairman and Distinguished Members of the Committee:

Thank you for the opportunity to speak before the Subcommittee on Human Resources of the Committee on Ways and Means regarding the provisions of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). I am Laureen D'Ambra, testifying as the Child Advocate for the State of Rhode Island. I have served in this capacity for the past seven years. Prior to that, I served as legal counsel for the Department of Children, Youth and Families, the state child welfare agency in Rhode Island, for nine years. I have worked closely with child advocates, legislators, judges, and policy makers in our state to strengthen termination of parental rights statutes and to codify case law regarding reasonable efforts. The impetus for these legislative initiatives were crucial questions that emerged in the course of our statutorily mandated child fatality investigations. During these investigations, experts from within the community examined the cases of children who died while in the state's care.

Panel members addressed circumstances under which a child should be removed from a family that poses a risk of abuse or neglect. Additional issues of major significance include the following:

1. How can we better define "reasonable efforts" in accordance with federal and state law, in the best interest of children?
2. How can we identify and expedite cases that require termination of parental rights?
3. How do we facilitate timely adoptions for those children who are permanently removed from their families?

The Office of the Child Advocate is a state funded and operated ombudsman office for children in the care of the state. In accordance with our mandate, we protect the legal, civil and special rights of our most vulnerable population: abused and neglected children; those with serious emotional and behavioral problems; and those in the juvenile justice system. Since its inception in 1980, the State of Rhode Island, Office of the Child Advocate has reviewed the cases of all children who have died while involved with the Department of Children, Youth and Families. The Office has studied these tragic cases, and determined systemic changes that can be made to improve our child welfare system and reduce the numbers of children who die from abuse or neglect.

This enactment is an acknowledgement that some parents whose parental rights to another child had been terminated continue to lack the ability or willingness to respond to services that would rehabilitate them. If the Court finds that it is improbable that additional services would result in reunification, reasonable efforts to reunify are not required.

In Rhode Island there had been public focus on a case involving a mother who was convicted of murdering her young son. Upon her release from prison, she gave birth to three more children and subsequently abused them. This case triggered the passage of this provision of the legislation. This statute recognizes the absurdity of reunification under these circumstances, and the need to protect children from chronically abusive parents.

A second provision of this new law states that when a parent has been unable to provide care for a child for a period of twelve months due to substance abuse, it shall constitute prima facie evidence of a chronic substance abuse problem at trial.

All are aware of the impact that parental substance abuse has had on the child welfare system. Brief, time-limited interventions have not been successful in many cases. Recovery is not able to be addressed in a permanent way. Typically, children have moved in and out of care, or cases are kept open for years, as the patterns of relapse stymie the efforts of a system designed to intervene and resolve issues. This legislation was intended to address the escalating number of cases of abuse and neglect due to parental substance abuse. This law has allowed Rhode Island to quickly move to terminate parental rights in cases where there is chronic substance abuse.

The third provision of the law mandates considerations by the Family Court in determining the best interest of the child. The Court shall give consideration to the child's placement in foster care, integration into the foster home, and the length of time the child has been placed, and the preference of the child, if the child has capacity to express a reasonable preference.

When the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was passed, many of us hoped for a radically reformed child welfare system. In some ways, this promise has been fulfilled. Programs that are comprehensive, sensitive to ethnic and cultural issues, cognizant of the social environment, and individualized to the problems and needs of each family will work in the vast majority of cases. However, passage of P.L. 96-272 was never intended to require reasonable efforts at all costs. State initiatives such as those in Rhode Island have

emphasis on the importance of placing children within their own cultural community. As you are aware, however, from recent Congressional action on this issue, minority families would have to adopt at a much higher rate than the general population to satisfy the need, given the number of children free for adoption. According to the 1990 Federal Census data, the percentage of black persons in Rhode Island is small, (3.9%), yet almost half of the children available for adoption are black (39%).

Given the over-representation of minority children in placement, it is critical that child welfare systems review what they are offering families of color in terms of family preservation and reunification services. Service providers must be culturally competent to assess the family's strengths, as well as its limitations, and to successfully engage the family in a service plan.

The impact of a delay in permanency planning, whether due to age, race, sibling groups, or medical, emotional or behavioral problems, is devastating. Each child who feels alone and abandoned wants nothing more than what most of us take for granted, the continuity and security of belonging to a family.

Recognizing this pattern of children being "stuck" in the child welfare system, the General Assembly enacted legislative changes in order to more easily facilitate guardianships. Amendments to R.I.G.L. §40-11-12 "Awarding Custody" gives the Family Court the authority to appoint a guardian of the person of a child who has been placed in the care, custody and control of the Department of Children, Youth and Families and allows subsidies for guardians of handicapped or hard to place children. Written consent of the parent or parents previously having custody of the child is required.

Provisions in this statute acknowledge the fact that "permanency planning" for older and/or difficult to place children may be achieved through guardianship, rather than adoption. In certain cases, termination of parental rights may not be feasible or in the best interest of the child.

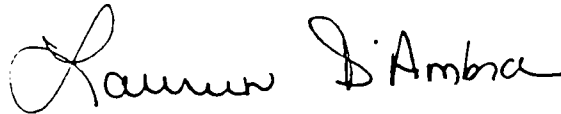
IV. CONCLUSION

In an Office of the Child Advocate report released in May of 1996 reviewing the death of four children, the Children in Crisis Task Force focused on resource issues as a barrier to appropriate planning for children in state care. At a time when child deaths due to abuse and neglect illustrate the vulnerability of children born into troubled families, appropriate resources must be the focus of public policy. Ironically, the professional environment

As Rhode Island's Child Advocate, I am fortunate to be able to carry the message to policy makers and the public that there exists a crucial need for resources for children at risk. In addition to financial and service-related resources, however, we must open our homes and hearts to this growing number of needy children. I hope that through this testimony their voices will be heard.

Thank you again for the opportunity to testify and to provide written testimony concerning state initiatives to address barriers to children being placed for adoption under the Provision of the Adoption and Child Welfare Act of 1980.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lauren D'Ambra".

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