The Senate Women's Issues, Children and Family Services Committee reports favorably Senate Bill No. 1705 with committee amendments.

As amended by committee, this bill conforms State law to the provisions of the federal "Adoption and Safe Families Act of 1997," (ASFA) Pub.L.105-89. The federal law is intended to assist state efforts to balance family preservation and reunification with the child's health, safety and need for permanency.

Specifically, the bill addresses the following issues:

--- The safety of children is of paramount concern: ASFA requires that a child's health and safety be the paramount concern in all aspects of services including when a child is placed outside of his home, and during the determination of whether the permanent plan for a child under the care or custody of the Division of Youth and Family Services (DYFS) should be family reunification, adoption, or some alternative placement. The bill clearly establishes as public policy in Titles 9 and 30 of the Revised Statutes that the health and safety of children shall be the paramount concern, expanding the current State policy which protects a child's best interests.

--- Reasonable efforts requirements and exceptions: The bill amends Titles 9 and 30 of the Revised Statutes, including the "Child Placement Review Act," (N.J.S.A.30:4C-50 et seq.) to incorporate ASFA's requirements for reasonable efforts to prevent placement or reunify families and exceptions to these requirements. These exceptions are included in the bill. For example, ASFA requires that reasonable efforts towards placement of a child for adoption or in another permanent placement may be made concurrently with reasonable efforts toward family preservation and reunification. When a permanency plan has been developed, reasonable efforts must be made to achieve the plan. Upon the filing of a petition to terminate parental rights, reasonable efforts must be made to obtain a qualified family for adoption. ASFA permits exceptions to the reasonable efforts requirements that are triggered when a court of competent
jurisdiction has determined that (1) the parent has subjected the child to aggravated circumstances, (2) the parent has committed certain criminal offenses or (3) the parent's rights to another child have been terminated involuntarily.

-- **Permanency hearings:** ASFA requires that a permanency hearing be held when a state is not required to make reasonable efforts to reunify a child with his parents or no later than when a child has been in out-of-home placement for 12 months. The bill also adds language to establish public policy recognizing a child's need for permanency through a return to the home, if the child can be returned home without endangering the child's health or safety; through adoption, if family reunification is not possible; or through an alternative placement plan, if termination of parental rights is not appropriate. Also, the bill specifies that any hearing held before a court of competent jurisdiction shall serve as a permanency hearing to provide judicial review and approval of a permanency plan for a child if the requirements for a permanency hearing (established in the bill) are met.

-- **Reduction of interjurisdictional barriers to adoption:** The bill authorizes the Department of Human Services (DHS) to enter into interstate compacts which enhance protection and permanency for children. The bill amends the State's adoption law, N.J.S.A. 9:3-37 et seq., to specify that: (1) an intermediary in any state or country shall not receive money or other consideration in connection with the placement of a child in New Jersey; and (2) an intermediary in New Jersey is prohibited from benefiting in connection with the placement of a child for adoption in New Jersey or in any other state or country.

-- **Termination of parental rights:** The bill mirrors the provisions of ASFA by requiring DYFS to seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months, unless one of the following exceptions is met: (1) the child is being cared for by a relative; (2) the State has documented a compelling reason why termination of parental rights would not be in the child's best interests; or (3) the State has not provided to the child's family the services the State deems necessary for the child's safe return home.

-- **Notice to caregiver:** ASFA requires that notice and an opportunity to be heard be given to a child's foster parent, preadoptive parent, or relative caregiver whenever there is a review or hearing regarding the child. The bill includes this provision in applicable sections of Titles 9 and 30 of the Revised Statutes.

-- **Criminal History Record Information (CHRI) Checks:** ASFA requires CHRI checks on prospective foster and adoptive parents and prohibits approval of applicants who have committed certain crimes. State law currently requires these checks, but the bill amends N.J.S.A.30:4C-26.8 to identify the specific crimes that prohibit approval.

Although ASFA does not address this issue, hospitals and health
care professionals have begun using document service companies to provide records to DYFS. Since DYFS is a public agency, this bill provides that DYFS shall not be charged a fee for the copying of these records.

The bill requires the court, when a termination of parental rights petition is filed under N.J.S.A.3:4C-15, to provide a parent with notice that he has the right to retain and consult with an attorney. If the parent is indigent, the court shall advise the parent that he may obtain counsel through the Office of the Public Defender. The bill also requires the court to appoint legal representation for the child from the Office of the Law Guardian in the Office of the Public Defender. The attorney appointed by the court shall represent the child in all proceedings filed under Titles 9 and 30 of the Revised Statutes unless relieved by the court upon application for substitution counsel or other just cause.

The bill also amends N.J.S.A.9:6-8.21 to provide that a law guardian may represent minors in termination of parental rights proceedings as well as in alleged cases of child abuse and neglect, as the law currently provides.

The bill also authorizes the Office of the Public Defender to provide representation to parents and children in termination of parental rights proceedings under Title 30 of the Revised Statutes and appropriates $600,000 for Fiscal Year 1999 (and such other sums as may be necessary) to the Office of the Public Defender to provide the representation. The appropriation authorizes the office to contract with attorneys in private practice, Legal Services of New Jersey and other qualified public interest organizations to provide the legal representation, as the office deems appropriate.

Finally, the bill directs the Public Defender to report to the Legislature and the Governor by October 1, 1999 on the number of cases for which it has provided representation and who provided the representation. The office shall recommend how and by whom the representation should be provided in Fiscal Year 2000 and how the State can ensure that a parent or child can have continuous legal representation throughout proceedings brought under Titles 9 and 30 of the Revised Statutes.

The committee amended the bill to:

- Establish the responsibility of DYFS under Title 9 of the Revised Statutes (when DYFS becomes involved with a child for protective services) to provide reasonable efforts towards family preservation or family reunification as well as to provide concurrent planning services for an alternative placement (section 4);
- Require that, in situations in which a child is the subject of protective services litigation under Title 9 of the Revised Statutes, a permanency hearing shall be held before the court and the court shall review the permanency plan periodically to ensure that it is achieved. Similarly, in situations in which a
review of a placement is being conducted in accordance with the "Child Placement Review Act," N.J.S.A. 30:4C-50 et seq., the court may schedule a summary hearing if the review will serve as a permanency hearing for the child (sections 15 and 48);

- Clarify in the statement of public policy in N.J.S.A.30:4C-1 that a child's health and safety takes priority over the preservation of the family unit (section 20);

- Clarify that DYFS shall seek termination of parental rights as soon as the grounds provided in N.J.S.A. 30:4C-15 are established, but no later than when a child has been in placement for 15 out of the most recent 22 months (section 15);

- Limit the authority of a person or agency interested in the child to file a petition to terminate parental rights by deleting those situations in which DYFS has a responsibility to confirm that certain actions occurred (section 29);

- With respect to long-term foster care, retain the original language in N.J.S.A.30:4C-26.13 which requires a determination that adoption is "not in the child's best interest" rather than "not appropriate," as the bill originally provided (section 36);

- Authorize the court to schedule a summary hearing when a review of a placement under the "Child Placement Review Act." N.J.S.A.30:4C-50 et seq., will consider an exception to the requirement that DYFS provide reasonable efforts to reunify a child with his family (section 48);

- Require that the Commissioner of Human Services report to the Legislature and the Governor within 18 months on the implementation of the provisions of the bill and provide an opportunity for public input in the development of rules and regulations to implement the provisions of the bill (sections 52 and 53);

- Provide for legal representation of children and indigent parents in termination of parental rights proceedings (section 54);

- Amend N.J.S.A. 9:6-8.21 to provide that a law guardian may represent minors in termination of parental rights proceedings (section 55); and

- Authorize the Office of the Public Defender to provide representation to parents and children in termination of parental rights cases, appropriate $600,000 and such other sums as may be necessary, to the office for Fiscal Year 1999 and require the office to report to the Legislature and the Governor by October 1, 1999 (sections 56 and 57).

Other amendments are technical and delete the word "natural" when it modifies parent and correct references to "Family Part" of the Chancery Division of the Superior Court.