APPROVAL # 103

CHAPTER 686

Print. 3789, 4501 Intro. 3494

IN SENATE

February 22, 1962

Introduced by Mr. ALBERT—(on the recommendation of the Joint Legislative Committee on Court Reorganization)—read twice and ordered printed, and when printed to be committed to the Committee on Judiciary—committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT

To establish a family court for the state of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one

Compared by [illegible]

APPROVED

APR 24 1962

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No. of Original Bills 1

No. of Pages 93

Senate

PRINT NO. 4561 INTRO. NO 3494

Department & Agencies	Legal Groups
✓ Lt. Governor ✓	✓ Judicial Conf. ✓
✓ Attorney General	Law Revision Comm.
✓ Budget ✓	✓ Assoc. of the Bar, NYC ✓
✓ Comptroller ✓	✓ N. Y. Co. Lawyers
	✓ N. Y. State Bar
	✓ Nassau County Bar
Ag. & Markets	✓ Bronx County Bar
Banking	✓ Fed. of Bar Assoc. West. NY
Civil Service	N. Y. Crim. Cts. Assoc.
Commerce	D. A. Assoc.
Conservation	Magistrates Assoc.
Correction - Parr	C. Judges Assoc.
Education	Surrogates Assoc.
Health	✓ NYS Assn of Children
Insurance	Co. Judges
Labor	
Mental Hygiene	**Municipal Officials & Groups**
Motor Vehicles	
Public Service Comm.	✓ Mayor of NYC
Public Works	
✓ Social Welfare ✓	
State	Nassau, Erie, Monroe, Onondaga
Tax & Finance	✓ Co. Bd. of Supervisors
Atomic Energy	
Civil Defense	
General Services	
Housing	
Investigation	Town Supervisor of
Liquor Auth.	
✓ Local Gov't	
Mil & Naval Aff.	
Parole	
Rent Comm.	
St. Comm. Vs. Discrim.	Co. Atty. of
St. Police	
State Univ.	
Transportation	
Veterans Aff.	✓ Conf. of Mayors
Youth Comm.	✓ County Officers' Assoc.
	Association of Towns
Advisory Council on	✓ Committee for Modern Courts
✓ Joint Legis. Comm. on ✓	✓ Community Service Society ✓
Court Reorganization	✓ League of Women Voters
Citizens ...	✓ Erie Co. Bar Assn
[illegible]	✓ Monroe " " " ✓
Searle ✓	✓ Onondaga " " "
NY [illegible]	✓ Bronx " " " ✓
NYS [illegible] Welfare	✓ Albany " " "
	✓ Sen. Albert

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CLASS OF SERVICE
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WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

SYMBOLS
DL = Day Letter
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S-3494

1244P EST MAR 26 62 SYB279
SY N NRH012 WRZ001 WRZ001 PD NRH NEW YORK NY 26 NFT
HON ROBERT MACCRATE
COUNSEL TO THE GOVERNOR EXECUTIVE CHAMBER STATE CAPITOL ALBANY NY
THE COMITTEE ON PUBLIC AFFAIRS OF THE COMMUNITY SERVICE SOCIETY URGES THE LEGISLATURE TO PASS THE ALBERT-LOUNSBERRY BILL TO ESTABLISH A FAMILY COURT (SI 3494, PR 4501 AI 4909 PR) DESPITE RESERVATIONS ON CERTAIN ASPECTS WE BELIEVE THE BILL REPRESENTS A MAJOR IMPROVEMENT IN THE COURTS DEALING WITH FAMILIES AND CHILDREN THE ALBERT-LOUNSBERRY BILL SHOULD BE ADOPTED BY THE LEGISLATURE AND APPROVED BY THE GOVERNOR
BERNARD C FISHER DIRECTOR DEPARTMENT OF PUBLIC AFFAIRS.

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CLASS OF SERVICE
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WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

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922P EST MAR 27 62 SYB023

SY NA936 NL PD NEW YORK NY 27

GOV NELSON ROCKEFELLER

STATE CAPITOL ALBANY NY

Ack Acknowledged by WJR 3/29/62

THE BOARD OF DIRECTORS OF THE LOWER EAST SIDE NEIGHBORHOOD ASSN. URGES THAT THE COURT REFORM BILLS S 13494 , S 13494, A 14909, A 14908, BE AMENDED TO MANDATE THE ESTABLISHMENT OF A UNIFIED ADMINISTRATION FOR THE FAMILY COURT IN NEW YORK CITY AND TO EXTEND THE JURISDICTION OF THE FAMILY COURT TO BOYS AND GIRLS THROUGH THE AGE OF 18. WE REQUEST THAT YOU EXERT YOUR INFLUENCE TO SECURE IMPLEMENTATION OF THESE RECOMMENDATIONS

MARTIN A LIVENSTEIN EXEC DIR LOWER EAST SIDE NIGHBORHOOD ASSN

131 Essex Street

S 13493 S 13494 A 14909 A 14908.

S 13494

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WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

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1114A EST MAR 26 62 SYB179

SY NNY;02 NMZ1 NNZ1 RX PD AR NEW YORK NY 26 NFT

S-3494

HON ROBERT MCCRATE, COUNSEL TO GOVERNOR

ALBANY NY

CITIZENS COMMITTEE FOR DOMESTIC RELATIONS COURT OF NEW YORK CITY RESPECTFULLY URGES SUPPORT OF ALBERT LOUNSBERRY FAMILY COURT BILL SI 3494 PRINT 4501 AI 4909 PRINT BLANK BECAUSE IN SPITE OF SHORTCOMINGS IT IS MUCH SUPERIOR TO OTHER PLANS

JOSEPH M PROSKAUER CHAIRMAN HAROLD R MEDINA AND PAUL T OKEEFE CO CHAIRMEN.

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Joint Legislative Committee on Civil Reorganization

S - 3194

Memo to Committee

S 3193

Mrs. Herman M. Zucker
4535 Livingston Avenue
New York 71, N. Y.

March 7, 1962

The Hon. Nelson A. Rockefeller, Governor,
Albany, New York

My dear Governor Rockefeller:

Re: Implementing Legislation, Courts

The Joint Legislative Committee on Court Reorganization has been, really, shockingly late in proposing the above. This gives almost no time at all to appraise their suggestions; furthermore, should you wish to veto same, since the new Amendment goes into effect in the Fall of 1962, there would be no time to begin over again. Surely, no one has covered himself with glory in any way thus far in this whole matter.

In addition to this, the proposals the Committee DOES make violate not only the letter but also the spirit of the Amendment: in New York City they propose to SPLIT our civil and criminal courts and also the Childrens Court, into two departments. This is a complete violation of the whole purpose of the Amendment, which is to create an integrated, simplified court structure with effective administration. We have had not only one of the most outdated court structures in the country for lo! these many years, but now that the watered-down version of Court reform passed by the voters last Fall stands on the hazardous threshold of mutilation, we may also be losing whatever gains we could have made via the Amendment, plus sane implementing legislation.

Your views on this matter, as well as your intentions of possibly vetoing same should it prove to be desirable, are earnestly hereby solicited.

Respectfully yours,

Miriam Hamilton Zucker

FORM B-201 (9/61) BUDGET REPORT ON BILLS Session Year: 1962

30-DAY BILL

SENATE Introduced by: ASSEMBLY

Pr: Pr: 4501

Int: Int: 3494

Law: Family Court Act (new) Sections: Various (all new)

Subject and Purpose: To establish a family court for the state of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one

Division of the Budget recommendation on the above bill:

Approve: X Veto: _____ No Objection: _____ No Recommendation: _____

1. Purpose of bill: See above.

2. Summary of provisions of bill: This bill:

(1) Establishes the family court for all counties of the State.

(2) Continues the judges of the domestic relations court of New York City as family court judges.

(3) Continues the judges of the children's courts of counties outside New York City as family court judges.

(4) Provides 10-year terms for family court judges within and without New York City.

(5) Provides for the administration and operation of this new Act and the general powers of the judges.

(6) Provides in Section 131 that additional family judgeships may be created prior to August 1, 1962.

3. Prior legislative history: None.

4. Arguments in support of bill: Section 13 of Article VI of the State Constitution provides for the establishment of a new family court. This bill, therefore, implements Article VI of the Constitution which was approved by the people in November 1961.

5. through 7. : No comment.

8. Budgetary implications: There may be some additional costs to the Judicial Conference in the administration of this act but it is impossible to estimate at this time. Also funds for payments to law guardians will have to be set up in the appellate divisions. How much is not known. Although this bill as such has

Date: _____ Examiner: _____

Disposition: Chapter No: Veto Date:

no budgetary implications concerning salaries of the family court judges, a bill (Senate Intro. 3948, Print 4750) passed by the Legislature provides State aid in the amount of $10,000 for each family court judge in New York City and separately elected family court judges in counties outside of New York City providing they accept the provisions of the bill.

Date: April 10, 1962 Examiner: Louis R. Tenenini

Disposition: Chapter No.: 9 Veto Date:

MYLES B. AMEND
CHAIRMAN
STATE BOARD OF SOCIAL WELFARE

STATE OF NEW YORK
DEPARTMENT OF SOCIAL WELFARE
112 STATE STREET
ALBANY

RAYMOND W. HOUSTON
COMMISSIONER

FELIX INFAUSTO
COUNSEL AND BOARD SECRETARY

S 3494

April 13, 1962

Hon. Robert MacCrate
Counsel to the Governor
Executive Chamber
The Capitol
Albany, New York

Re: Senate Int. 3494, Print 4501

Dear Mr. MacCrate:

In response to your request, I am enclosing memorandum re the above.

Sincerely yours,

Raymond W. Houston

Raymond W. Houston
Commissioner

Enc.

FORM OF MEMORANDUM TO ACCOMPANY COMMENTS ON BILLS BEFORE

THE GOVERNOR FOR EXECUTIVE ACTION

New York State Department of Social Welfare

April 13, 1962

SENATE	ASSEMBLY	Introduced by:
Int. 3494 Pr. 4501	Int. Pr.	Mr. Albert

RECOMMENDATION: No Objection

STATUTES INVOLVED: New Family Court Act

EFFECTIVE DATE: September 1, 1962

DISCUSSION:

1. Purpose of bill: To establish a state-family court system with jurisdiction in family problems and problems relating to children.

2. Summary of provisions of bill:

3. Prior legislative history of bill and similar proposals:

4. Known position of others respecting bill: The bill is sponsored by the Joint Legislative Committee on Court Re-organization.

5. Budget implications:

6. Arguments in support of bill: There is much that is new and progressive proposed by the bill.

7. Arguments in opposition to bill: Some of the departures from current requirements and practices should receive further consideration.

8. Reasons for recommendation: Many of the suggestions we made to the committee, through Mr. Lauer in conference and through Mr. Osterman by letter (copy attached), were incorporated in the amended bill that passed, but other suggestions which we believe have much merit were not. We assume we shall have further opportunity to convince the committee of our point of view before the next session of the Legislature. **In particular we think the division of juvenile delinquents into two classes or groups is unwise and will wish to have further discussion of this.**

March 14, 1962

Hon. Melvin H. Osterman, Jr.
Assistant Counsel
Office of Counsel to the Governor
Executive Chamber
Albany, New York

Re: Senate Int. 3494, Print 3799 by Mr. Albert;
Family Court Act

Dear Mr. Osterman:

As you know from your recent conversation with Mr. Infausto we are quite concerned about the Albert Family Court bill, since it will directly affect the Department's institutions for delinquent children, private child-caring institutions under our supervision and public welfare operations under our supervision.

The first draft of the bill was made available to us only a short while ago and copies of the introduced version only about a week ago. A staff group has spent a good part of the past ten or twelve days reviewing and analyzing both versions of the bill and it was our hope that an interim bill would be substituted and passed to allow sufficient time to give full consideration to the important questions our staff has raised as a result of this review. We have been informed that others had expressed a similar hope for the same reason, but that it has been decided to pass the Albert bill with some amendments.

Although we met with Mr. Lauer of Senator Albert's staff and advised him generally and specifically of our recommendations for amendment and he agreed to pass these on to the Committee, you kindly suggested that we might wish to transmit our recommendations to you in writing also for the Committee's consideration.

There are features of the bill which would seriously and adversely affect major areas of concern to this Department and institutions and agencies and local departments under its supervision. These treat with the subjects of neglect, support, paternity proceedings and juvenile delinquency.

NEGLECT

1. The definition of neglected child is different from that contained in section 371 of the Social Welfare Law and includes abandoned children, which heretofore has been treated as a separate category upstate. The new definition would interfere with termination of parental rights and the placement of children for adoption. Specifically, the new definition does not take cognizance of the provisions of section 384 of the Social Welfare Law, which has been a useful tool in terminating parental rights and making children available for adoption. Mr. Lauer agreed to the insertion of a new section, 357, in the bill to incorporate appropriate provisions.

2. Section 347-(b) Page 45 — Reports prepared by probation service should not be furnished to parties in interest but should be furnished to law guardians under such terms and conditions that the court might prescribe.

3. Section 355-(b) Pages 47-48 — Duration of supervision of parents of neglected children. Proposed law limits supervision to a period of two years and makes extension beyond one year contingent on "exceptional circumstances". As the two year period of supervision might be inadequate, it is suggested that annual extensions be provided for a total of three years and the word "exceptional" should be deleted to allow for extension when conditions in the home are unsatisfactory, even though not sufficiently unusual to warrant the seriousness of being "exceptional". The provision for a hearing would probably prove burdensome to the agencies in terms of staff time that will be required to prepare and present their reports to the court however annual review by the court of orders in neglect cases should help to prevent protracted and unnecessary supervision or placement.

SUPPORT

1. Section 415 Page 55 — The duty of support of the relatives of a person in receipt of public assistance or one likely to become in need thereof should be statutory and the enforcement of that duty appropriately a court function. The judge should have the authority and discretion not to enforce the duty of a particular person in view of the circumstances of the case. However making the duty to support itself dependent upon a judge's determination would wreck the present system under which public welfare departments have been operating for many years. It would adversely affect the public purse to the extent of very large sums of money annually. Recoveries for public assistance granted under section 104 of the Social Welfare Law, would be made difficult if not impossible. If there is a desire to change the substance of the law concerning the duties of relatives to support it would be appropriate to postpone the decision on this question until such time as all relevant facts were gathered and weighed and all officials having duties and knowledge with respect to this subject had full opportunity to be heard.

2. Section 418 Page 56 Payment for blood grouping tests should not be made by a public welfare official where the child is or is likely to be a public charge. The tests are for the benefit of the court and the respondent and not for the welfare department. The cost should be borne either by the respondent or by the court.

3. Section 437 Page 63 The omission of the presumption, currently contained in section 131 of the Domestic Relations Court Act, that a dependent adult without means to maintain himself is likely to become a public charge, in the absence of an explanation for the omission, does not appear to be warranted.

PATERNITY PROCEEDINGS

1. Section 517 Page 92 The time for instituting proceedings should not be limited to two years in the case where the public welfare commissioner is the petitioner. We know of no reason based on experience for changing the period in such cases. However, Mr. Lauer agreed to a 10 year period, as a result of our discussion.

2. See Item 2 under SUPPORT for payment for blood grouping tests.

JUVENILE DELINQUENCY

1. We are strongly opposed to the separation of juvenile delinquents into two categories. Our objections to the division of the existing classification of "juvenile delinquent" into two new groupings of "juvenile delinquent" and "person in need of supervision" are based on the grounds of principle and practicality. The proposed classification of "juvenile delinquent" recognizes the stigma presently applying to the label in the public mind. Relating the label to the act rather than to the condition and needs of the child, would serve to increase the stigmatization by labeling this group in effect as young criminals. We see this as a long step backwards and directly contrary to the principles on which the juvenile court is based.

We agree that there are children now coming before the court and even being committed as juvenile delinquents to institutions, who should be served through more and better community resources, and/or probation services. Changing the labels is not going to improve the services available to either or both groups. It is only going to set up one group as "child criminals" who may be "sentenced" to state training schools, which apparently are assumed to be custodial, correctional and punitive facilities suitable to handle only this group. Nothing could be further from the truth.

In reality, there are children under each of the proposed classifications who need to be removed from the community in their own as well as the community's best interests and who need the services of the training schools as well as all the other services which should be available. The proposed artificial and stigmatizing division, instead of helping children, will only serve to tie the hands of the court and prevent proper disposition in many cases in the best

interests of all. With the hardening of community attitudes in recent years toward what are seen as juvenile delinquency "kinds" of behavior, including "ungovernability" and "incorrigibility", the community will not countenance the continuance of many of these disturbed, acting-out children in the community "under supervision". If the two categories represent in fact not two, but one large group of children and the courts dealing with these children are to be as broad and flexible as possible, we believe that a single classification should be used. This can be accomplished by removing the term "person in need of supervision" from sections 711 and 712 and by defining the term "juvenile delinquent" in section 712 to include a) "a person over seven and less than 16 years of age who does any act which if done by an adult would constitute a crime; or by a male less than sixteen years of age and a female less than eighteen years of age who violates any law including the Compulsory Education Law, or who is incorrigible, ungovernable or habitually disobedient beyond the lawful control of parent or other lawful authority and who requires supervision, treatment, or confinement."*

We believe that the proposed legislation is wise in extending up to age eighteen the jurisdiction of the family court to include girls sixteen to eighteen who have not committed crimes. The question of age for jurisdiction of the family court is a matter of great importance and there is every reason to believe that under proper safeguards and adequate resources the family court should eventually include in its jurisdiction all youths up to age eighteen. Since there are established resources and proven methods of handling ungovernable girls in this age bracket, the decision to include them can well be taken at this time. Such is not the case with respect to boys and careful study should be made of the resources available and needed before such a change is made.

2. Section 714-(b) Page 100 — We believe that the family court should dismiss the petition in any case in which the proceedings are initiated after the respondent's eighteenth birthday.

3. Section 717 Page 101 — This is a good provision which takes care of children who have run away from home but who have not committed any delinquent act. However, there should be additional provision in this section to indicate that the proceedings of the interstate compact on juveniles covering the return of runaways (Art. I(b), return of runaway) apply in the case of a runaway whose home is in another state.

4. Section 728 Pages 105-106 — The provisions governing custody and detention are sound and constructive and represent a forward step in limiting the use of detention to children who need it for specified purposes. However, in line with our general statement concerning the dual classification of cases, we recommend that (b)(ii) be deleted.

*Note: It follows from the above comments that wherever the phrase "person in need of supervision" appears in this article it should be deleted and that any sections which refer exclusively to "person in need of supervision" should also be deleted.

5. Section 731 Page 107 Section 732 Page 108 — The provisions of (a) and (b) should be combined. (b) should include the provisions of section 732 (a) and (b). Section 731 is then eliminated.

6. Section 742 Page 112 — This section should read as follows: When used in this article, "adjudicatory hearing" means a hearing to determine whether the respondent did the act or acts alleged in the petition which, if done by an adult would constitute a crime or that he violated a law or is incorrigible, ungovernable or habitually disobedient and beyond the control of his parents, guardian or legal custodian.

7. Section 743 Page 112 — The words "in the case of a petition to determine delinquency", lines 16-17 should be eliminated. The second sentence of the section, lines 18-21, should be eliminated.

8. Section 744-(b) Page 113 — We believe that reports prepared by the probation service should be deemed confidential information furnished to the court but not to the parties in interest. We are convinced that the release of information which has been gathered on a confidential basis by the probation office and which frequently includes reports which have been made in confidence by a variety of sources including neighbors, schools, clergy, relatives and social agencies is not information which should be released directly to parents and guardians of children before the court. This information would not be available to the probation officers if their sources knew that it was to be so disclosed and the lack of such information, intended as it is to be used only for the best interest of the child, would seriously handicap the court in determining a disposition which would be most helpful to the child. However, in the recognized interest of protecting the rights of the child and parties in interest before the court, we believe and agree that the probation report should be available to the law guardian under conditions determined and stipulated by the court. We do not believe that social agencies or others would regard this limited, restricted use of information as a violation of confidentiality.

9. Sections 753, 754 Pages 115-116 — In order to make available to the court a full range of possible dispositions, subdivision (a) of section 754 should be transferred as subdivision (e) of section 753 and subdivisions (e) through (d) relettered accordingly. Section 754 can then be eliminated.

10. Section 758 Page 117 — Under subdivision (a) the phrase "subject to the further orders of the court" should be placed before the phrase "to an authorized agency". This is the way in which the provision appears in the present children's court act. The present provisions of law have worked satisfactorily for many years. The state training schools and the institutions of the department of correction to which delinquents may be committed maintain or have available extensive parole and aftercare services to which individuals may be released whenever they are ready for return to the community. The individuals may be paroled, supervised, and where necessary,

returned to the institutions at any time within the legal period of their commitment. Since this is so, the concern of the court has been satisfied by the commitment to the state institution and further orders of the court have not been necessary. Under subdivision (b), page 118, line 1, a semicolon should be entered after the word "center" in order to make it clear that the phrase "a suitable institution maintained by the state or any subdivision thereof, such as Westfield State Farm", lines 7-9, applies to females only and that state training schools are not intended to be included in this subdivision. In addition, the sentence which comprises subdivision (c), line 10, should be moved into subdivision (b) as the last sentence of the subdivision. This will conform commitments under this subdivision to the provisions of the youthful offender law but will not change the present statutory provisions for commitments to state training schools. In the latter case there are provisions for discharge from custody by the state department of social welfare contained in the social welfare law.

11. Section 772 Page 122 — Our recommendation is that the phrase "except that the maximum duration authorized for any such order shall be decreased by the time spent in placement or in commitment" be deleted. In comparison with section 368, page 51, the inclusion of this phrase in delinquency proceedings appears to give the character of a sentence to the time spent in placement or commitment. This should not be the case.

12. Section 773 Page 122 — In order to cover commitments made under section 758, subdivision (b), the phrase "except a state training school" in line 26 should be replaced by the phrase "except an institution maintained by the state or any subdivision thereof". This will include institutions in the correction department (Elmira and Westfield) as well as the state training schools.

Lastly, the bill does not directly or indirectly, define key phrases; and new definitions are not proposed to be simultaneously reflected in existing provisions of law. For example: "a duly authorized agency" and "a duly authorized association, agency, society or institution are not defined ("authorized agency" is defined by section 371 of the Social Welfare Law); the new definition of "juvenile delinquent" is not proposed to be reflected in section 371 of the Social Welfare Law, wherein the term is also currently defined. Conflicts will arise unless the bill, or another bill, conforms these provisions and makes other conforming changes.

Sincerely yours,

Raymond W. Houston
Commissioner

The Leake and Watts Children's Home

(INCORPORATED)

463 HAWTHORNE AVENUE, YONKERS, N. Y.

TELEPHONE YONKERS 3-5220

S3494

March 26, 1962

Governor Nelson A. Rockefeller
Albany, New York

Acknowledged by WJR
3/29/62

Re: Family Court Act S.Int. 3494; AInt. 4909
Judiciary Act Bill S.Int. 3493; A.Int. 4908

Dear Sir:

We the undersigned staff members of Leake and Watts Children's Home are concerned about the establishment of a sound Family Court in New York State. The Albert and Lounsberry Judiciary Committees drafted legislation to implement the Constitutional Amendment passed by the people of this state last fall. There are four major respects in which the proposed legislation is not sound.

First, all children up to the age of eighteen should come under this court's jurisdiction and not just some children to eighteen and some to sixteen years of age as presently proposed.

Secondly, the draft legislation proposes that the court's investigatory reports be open to the parties interested in a case, including parents. This is an unwise provision. Social agencies trusting the courts to respect the confidential nature of their information have cooperated in giving the courts much needed confidential information. If hereafter investigatory reports are to be available to interested parties, the social agencies may have to limit the information they share with the new Family Court. Thus, the service rendered by this court and by the social agencies will be curtailed rather than enhanced.

Thirdly, the recommended legislation proposes leaving adoption proceedings in the supreme court for two years while the new Family Court also has this jurisdiction. This is inefficient duplication.

Fourthly, the proposed law makes it permissable for the administration of the Family Court in New York City to be split.

Manhattan and the Bronx might be under one administration and the rest of the city under another. This would result in inefficient duplication of administration. It should be mandatory that New York City have a single Family Court.

Though the initial re-organization will not be easy, it still will be easier to establish an efficient sound Family Court now than to make major changes once it is in operation.

Now is the time to correct the proposed legislation. We urge you to use your influence to bring about the necessary amendments to the proposed legislation so that New York State will have a sound Family Court. Please give this matter your serious and immediate attention.

Very truly yours,

Helen Auerbach

Mary McKinney

Joint Committee:

New York State Chapters National Association of Social Workers

6 Adams Place, Delmar, New York

S-3494

March 9, 1962

Honorable Nelson A. Rockerfeller
Governor of the State of New York
Executive Chamber,
The Capitol,
Albany, New York

RE: SI 3494 PR: 3789-
Albert
1909 PR 5203 -Lounsberry

Ack. Acknowledged by WJR
3/14/62

Dear Governor Rockerfeller:

This Association representing over 6000 professional social workers in New York State, along with many other organizations, is most concerned by some inadequacys of the proposed legislation to establish a family court.

The many questions involved in court re-organization have been considered officially for 8 years, and the original recommendations of the Temporary Commission on the Courts were massively modified in the interim. The amendment voted last November represented a considerable compromise from what the many groups working for court re-organization had hoped to see written into the constitution. Now that some of the proposed enabling legislation has been introduced, we find that further major compromises have been made. Since it will be necessary for legislation to be passed and signed at this session in order for the courts to function at all after September 1, we urge you to exert your leadership to the end and that there will be, as the voters expected, real court re-organization.

Specifically, we regret; (1) THAT THE AGE JURISDICTION FOR JUVENILES IS LEFT AT AGE 16 WITH ONE MINOR EXCEPTION. When the Youth Court Act was repealed, it was agreed that this question should be considered as part of the " entire problem of handling youth cases in connection with the establishment of the new family court." There are only three other states in addition to New York where special handling for youth ends at the 16th birthday. Do we really consider those 16 years of age as " men " and "women " in contexts other than in the wording of the Criminal Court Act ?

(2) THE PROPOSED LEGISLATION IN RELATION TO ADOPTIONS. The Amendment appeared to give exclusive jurisdiction to the Family Court thereby solving the problems which concurrent jurisdiction have posed. The Albert Committee documented its recommendations that this be true and the many organizations which work in this field complimented the Committee on its position. Somehow, in the meantime, the Committee reversed itself and we find the Surrogates Court having concurrent jurisdiction for a two year period - which seems meaningless except to establish their right in this area once again.

(3) AVAILABILITY OF PROBATION SERVICE REPORTS. There is no justification for the differenciation between the professional reports of the Social Workers in probation positions and the medical or psychiatric reports which may be available to the courts. The data is often similar and the professional evaluation required in arriving at conclusions, can, without adequate knowledge for interpretation, be as mis-interpreted as the other types of examinations and therefor should be reserved for the consideration of the court only.

As you know, the Constitutional Amendment received a total of 2, 303, 446 affirmative votes. This is 82% of those voting on the issue and is only the second time that the " yes " vote on an amendment was over 2 million. With this sort of citizen support for court re-organization it is disillisioning to see the Legislative Committee refuse to tackle the questions which the Amendment was designed to settle.

We have expressed our beliefs to the Committee as testimony and now appeal to you to request Amendments correcting the errors mentioned above.

Very truly yours,

Philip R. Johnston, ACSW,
Chairman

PRJ/he

Joint Committee
NEW YORK STATE CHAPTERS
NATIONAL ASSOCIATION OF SOCIAL WORKERS
6 Adams Place, Delmar, N.Y.

STATEMENT BY PHILIP R. JOHNSTON FOR THE JOINT COMMITTEE NEW YORK STATE CHAPTERS NATIONAL ASSOCIATION OF SOCIAL WORKERS BEFORE THE HEARING ON COURT REORGANIZATION ON FEBRUARY 14, 1962 AT ALBANY, NEW YORK.

My name is Philip R. Johnston. I am Chairman of the Joint Committee of New York State Chapters National Association of Social Workers representing over 6000 social workers in this State, most of whom work directly with families and individuals who find themselves in a wide variety of troubling situations. Many of our members deal with families and children who come before Domestic Relations or Children's Courts.

At the outset may we say that we commend the Joint Legislative Committee on Court Reorganization on the thoroughness of its efforts. It was charged with a truly monumental task to be accomplished within a very limited time. Its report on the Family Court is worthy of the highest praise and admiration for its detailed analysis of the problems involved and the clarity of presentation. Any suggestions for change which we make does not reflect on our esteem for the Committee and its work.

The many progessive recommendations of your Committee are extremely laudable. We applaud the idea of the "law guardian" for the protection of the civil rights of the child. The proposals for eliminating abuses in the use of detention and for definitely withholding the power to detain where it is inappropriate are excellent and much needed. The specific requirements for annual review of placement in neglect and delinquency proceedings is soundly based in the best interests of the child and takes cognizance of the Court's responsibility in the plans made for his welfare.

In the matter of adoptions we heartily concur with the recommendation that the Family Court should have exclusive jurisdiction. The possibility that an adoption may be granted in one court when a neglect petition regarding the same individuals is pending in another court should be completely and forever eradicated. The experience of such a Court in family matters and the professional judgment of the staff available to them should make this the unquestionable choice for this sensitive action.

However, we oppose the recommendation that jurisdiction over minors remain unchanged at age 16 "for the time being". The intent of the Court Reorganization Amendment was to make needed improvements when the Amendment takes effect in September. There has been ample discussion of this question both during the years of the Tweed Commission and in the consideration of the Youth Court. The concept of the rehabilitative, non-criminal approach to the youngster 16 to 19, who is amenable to rehabilitation, is already embodied in existing youthful offender procedures. That the original diagnostic determination as to type of treatment for a particular youngster should be in a Family Court is the crux of the matter. Current knowledge and experience make further study seem superfluous. The State of New York is one of only four states where special treatment is limited to those under 16 years. We recommend that the Family Court have jurisdiction of all juveniles to age 19, with the Judge having discretion to refer 16 to 19 year olds to criminal court if this seems advisable. In most instances youths are not yet emancipated and are living at home at this age. This seems a reasonable criterion for setting the limits of Family Court jurisdiction at this time, especially when the Judge can choose Criminal Court transfer where the rehabilitative facilities of Family Court are inappropriate.

We agree with the Committee's feeling that there is need to find a solution to the problem of labeling of cases and especially to the effect of the label "juvenile delinquent". Narrowing its definition is a step in the right direction but we feel that in carrying this idea further some other problems have been created. Too much differentation in the law as to handling and disposition in one type of case as against the other actually hampers the Court's work. Juvenile Courts are designed to deal with the child and with his problems rather than to characterize the quality of the act and limit treatment on the basis of that act. An example of such a limit as specified in Article 7, Part 5, Section 756, which allows placement of a "person in need of supervision" only in his own home or that of a relative would in many cases make rehabilitative treatment impossible. The Court should be left free to make use of whatever treatment seems most likely to effect change and improvement.

We seriously question the decision to open probation reports to the parties involved. (Art. 7, Part 4, Sec. 746-b). There seems to be misunderstanding and difference of opinion as to the function of the probation service. As a professional person the probation officer's role here is not to collect evidence but to compile raw data for social evaluation similar to the medical and psychiatric information prior to diagnosis. Therefore, material obtained by the probation officer should be treated in the same value context and provided the protection of professional judgment. We would recommend that probation reports be treated under the same rules as medical and psychiatric reports.

We would be concerned by any plan of administration which would divide the Family Court in New York City on the basis of the Appellate Divisions and are pleased to learn that this problem will be resolved. It is important that standards and policies be the same throughout the State. Since the Auxiliary Services have been assigned an important role in the new Court, standards which will insure qualified personnel are

essential. We are pleased that your Committee has written into its report a recognition of the importance of an effective intake service and the use of voluntary adjustment techniques for reducing the number of cases which actually need judicial attention.

At a later date we will want to comment to the Administrative Board concerning the Auxiliary Services and the quality of staff necessary to fulfill this role.

March 2, 1962

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK 36

SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS

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DAVID S. WORGAN

ANTHONY S. GENOVESE, SECRETARY

S-3494

April 13, 1962

Robert MacCrate, Esq.
Counsel to the Governor
Executive Chamber
Albany, New York

Re: S. Int. 3494, Pr. 3789, 4501 - approved; comment
A. Int. 4909, Pr. 5203, 5802

Dear Mr. MacCrate:

The Special Committee on Reorganization of the Courts of this Association recommends approval of the above measure which establishes a Family Court for the State of New York in accordance with the provisions of the new Judiciary Article of the State Constitution which was approved by the voters last November.

This bill, to be known as the "Family Court Act" and to become effective as of September 1, 1962, establishes a new state-wide Family Court, provides for its administration, defines its jurisdiction and generally prescribes its procedures. It also embodies a substantial portion of the substantive law governing the proceedings to come before the Court. The bill was proposed by the Joint Legislative Committee on Court Reorganization.

This Committee has previously submitted to the Joint Legislative Committee on Court Reorganization and to the Legislature a series of reports with respect to proposed Family Court legislation.*

* See report on the Draft Family Court Act of the Albert Committee contained in the bound booklet entitled "Reports and Comments on Proposals of the Joint Legislative Committee on Court Reorganization"; see also, "Report on Bills Establishing the New Family Court" and the Supplement thereto, copies of which are enclosed.

In general, we believe that the instant measure represents a conscientious and workmanlike approach to a difficult task which had to be accomplished in a short period of time. It embodies many desirable features, a substantial number of which were recommended by this Association. However, a number of deficiencies which were the subject of specific criticism by this Committee are found in the Act as passed by the Legislature. The principal shortcomings of the bill are:

1. The failure of the Act to mandate unified administration of the Court within the City of New York, at least in the first instance. See this Committee's "Report on the Joint Legislative Committee's Proposal for Supervising the Administration and Operation of the City-Wide Civil, Criminal and Family Courts," dated March 1, 1962.

2. The failure of the Act to increase the age jurisdiction of the Court (Section 712).

3. The unduly rigid restrictions imposed on the Court's power to remand children pending disposition (Sections 322, 326, 327, 328).

4. The failure to include within the category of "persons in need of supervision" youths who have committed violations of law other than felonies or misdemeanors (Section 712(b)).

5. The exclusion from the jurisdiction of the Court of children 15 years of age who are charged with capital offenses (Section 715).

6. The authority given to the Court to accept uncorroborated confessions made in court by children not represented by counsel and the reservation to children coming before the Court of the right to remain silent (Sections 741, 744).

7. The restrictions placed upon the Court in the disposition of cases involving "persons in need of supervision" (Sections 751-759).

8. The creation of a mandatory rather than a voluntary conciliation proceeding (Article 9).

These and other criticisms of the Act are discussed in more detail in this Committee's "Report on Bills Establishing

the New Family Court" and "Supplement to Report on Bills Establishing the New Family Court," which were submitted to the Legislature, copies of which are enclosed.

Despite these shortcomings, which we hope will be remedied at the next session of the Legislature, we believe that the instant bill is a desirable measure and should be approved.

For the reasons stated, the bill is approved.

Very truly yours,

James H. Halpin, Chairman

The Association of the Bar
of the City of New York
42 West 44th Street

SPECIAL COMMITTEE ON REORGANIZATION OF THE COURTS

SUPPLEMENT TO REPORT ON BILLS ESTABLISHING THE NEW FAMILY COURT

Since the issuance of this Committee's "Report on Bills Establishing the New Family Court" (hereinafter referred to for convenience as the "Original Report") an amended version of the Albert Bill has been filed and a new bill which would supplement the conciliation proceeding provisions of the Albert Bill has been introduced (hereinafter referred to for convenience as the "Laverne Bill"). Both the new print of the Albert Bill and the Laverne Bill will be considered in this supplemental report. The Committee has not changed its previously expressed view that the Gordon Bill is not worthy of serious consideration by the Legislature.

The Committee desires to make it clear that, despite the specific criticisms contained in previous reports of this Committee and in this supplementary report directed to various of the provisions of the Family Court Bill proposed by the Albert Committee, the bill contains many desirable features and generally represents a conscientious and workmanlike approach to a difficult task. Although we continue to hope that the shortcomings in the bill which we have previously cited and to which reference is hereinafter made will be remedied, we also believe that the Bill, even in its present form, should be enacted.

I.

THE ALBERT BILL

S. Pr. 3789, 4501	Int. 3494	MR. ALBERT
A. Pr. 5203, 5802	Int. 4909	MR. LOUSBERRY

AN ACT to establish a family court for the State of New York to implement article six of the Constitution of the State of New York, approved by the People on the seventh day of November, nineteen hundred sixty-one.

General Observations

The Committee is disappointed that none of the major deficiencies of the Albert Bill outlined at pages 2-5 of its Original

Report have been remedied and that only three* of the ten specific recommendations outlined at pages 5 and 6 of that Report have been accepted.

This Committee is also seriously concerned over the failure of the Albert Committee to carry out its previously indicated intention of including within the definition of "persons in need of supervision", as contained in Section 712(b) of the Act, persons who have committed "violations of law" other than felonies or misdemeanors or motor vehicle offenses or infractions. As indicated in this Committee's Original Report (Appendix, p. (v)), this omission would seem to leave youngsters under the age of 16 who commit criminal offenses or infractions outside of the jurisdiction of the Family Court and subject to the jurisdiction of the criminal courts. This would obviously be an absurd, and, we assume, unintended anomaly.

This Committee is also seriously concerned over the continuing controversy with respect to the requirements for mandatory periodic review of placements contained in the Albert Bill and now, in a modified form, in the Amended Bill (see Sections 355, 756). We believe that these provisions constitute one of the most important contributions of the Joint Legislative Committee on Court Reorganization and should be retained and preserved against any further dilution.

The Court's responsibility with respect to placement should not end with the making of an order of disposition but should continue to the extent necessary to insure that the placement is serving the purpose intended. The provisions of Section 355 and 756 of the Amended Bill, which impose maximum limits on the period of original placement and which require further order of the Court, after review of a placement report, for the extension of such period, create necessary safeguards against placement abuses.

Specific Comments

New Provisions

The new print of the Albert Bill (hereinafter referred to for convenience as the "Amended Bill") includes a number of new provisions, most of which are approved by this Committee. E.g., Sections 119 (definition of "duly authorized association, agency, society or institution" and "person legally responsible for a child's care"); 145 (liability of judge); 167 (effect of personal appearance) 168 (certificate of order of protection); 213 (reports); 214 (rules of court prescribing forms); 231 (jurisdiction over children with retarded mental development); 232(b) (definition of "physically handicapped child"); 256 (visitation, inspection and supervision of State Board of Social Welfare); 652 (jurisdiction over applications to fix custody in matrimonial actions on referral from Supreme Court).

* See Secs. 346, 354, 355, 443, 625, 746, 835.

The Committee also approved in principle the new Section 254 of the Amended Bill, which provides for representation of the petitioner by a corporation counsel or county attorney upon request of the Family Court Judge when such representation will serve the purpose of the Act. The Committee is concerned, however, by the vagueness of the provision that "When so requested, the corporation counsel or county attorney shall represent the petitioner, if practicable," since it is not clear who will determine the "practicability" of such representation and what criteria will be utilized in making such determination. In view of the additional case load burden which this provision might impose, for example, upon the Corporation Counsel of the City of New York, Section 245 might be rendered meaningless unless adequate provision were made for necessary additional staff.

The Committee also favors, in principle, the provisions of the new Section 357 of the Amended Bill governing "an abandoned or deserted child," but is concerned with the form of this section for several reasons, to wit:

First, the term "abandoned child" is not defined in the Family Court Act but is defined in Section 371 of the Social Welfare Law. Accordingly, we believe that a cross-reference to that section of the Social Welfare Law should be made.

Second, the term "deserted child" is neither expressly defined in either the Amended Bill nor in the Social Welfare Law but the definition of an "abandoned child" in Section 371 of the Social Welfare Law expressly includes a child who is deserted. We accordingly suggest that the use of the term "deserted child" be eliminated

Amendments

The Amended Bill also reflects various changes in provisions contained in the original print of the Albert Bill.

Changes Which Are Approved

A number of the changes meet objections set forth in the Appendix to this Committee's Original Report and the comments on these sections contained in such Appendix are no longer pertinent. See Sections 116, 215 (of the original print) and 545. This Committee approves the changes made in Sections 347(b), 435(b), 625(b), 746(b) and 835(b) with respect to the confidentiality of probation reports which embody the recommendations contained in the aforesaid Appendix to this Committee's Original Report with respect to that issue.

Other changes approved by this Committee include the amendments made to Sections 211 (administration and operation of the court); 232 (medical and physical examinations); 327 (temporary removal after filing of petition); 342 (absence of parent on neglect hearing); 611 (permanently neglected child); 734(b) and 823(c) (duration of voluntary adjustment efforts).

Changes Which Are Disapproved

The Committee disapproves the change in Section 517(b) which extends the statute of limitations for the institution of a paternity proceeding by a public welfare official to ten years after the birth of the child. We believe that such extended period imposes an unfair burden on a respondent since it would be obviously difficult for a respondent to properly prepare his defense and adduce proo when as long as ten years may have elapsed since the events in issue. We suggest that a maximum limitation period of no more than five years be substituted.

The Committee also strongly disapproves the change in Section 744(b) which would, in effect, permit the court to accept the uncorroborated confession of a child even though such child was not represented by a law guardian or other counsel. The original version of this Section provided, in effect, that the uncorroborated confession of a respondent was not sufficient basis for an adjudication by the Court. We strongly feel that in view of the age of children coming before the Court no uncorroborated admission of a child, certainly one not represented by counsel, should be made the basis of an adjudication.

On the basis of the protection afforded by the original version of subdivision (b) of Section 744, this Committee recommended the elimination of that portion of Section 741 which gave a minor the right to remain silent. Unless such protection is restored the Committee believes that the right to remain silent should be retained.

II.

THE LAVERNE BILL

S. Pr. 3879 Int. 3552 MR. LAVERNE

AN ACT to amend a chapter of the laws of nineteen hundred sixty-two, entitled "An act to establish a court, to be known as the family court act, and defining its powers, jurisdiction and procedure and providing for its organization," in relation to the making of an order of no reconciliation in actions for annulment, divorce or separation.

This bill would amend the Family Court Act proposed by the Albert Committee by inserting additional provisions in Article 9 which deals with conciliation proceedings. The Laverne Bill, in effect, would require the Court, after holding conciliation proceedings between spouses pursuant to Article 9, to make an order, where applicable, that no reconciliation is possible. It would also prohibit the commencement of an action for an annulment, divorce or separation unless and until a copy of such order is filed with the county clerk and attached to the complaint. This Committee strongly disapproves these proposed amendments.

In the Original Report of this Committee it objected to the mandatory conciliation features of Article 9 of the Albert Bill on the ground that conciliation attempts predicated on compulsion could not be fruitful. The Laverne Bill is even more coercive in effect. Under the Albert Bill where one party invokes conciliation the other can be compelled to attend conciliation conferences. Under the Laverne Bill, both parties are, in effect, compelled to participate in a conciliation proceeding even though neither of them may desire to do so, or be barred from instituting a matrimonial action. We feel that such an approach is fundamentally incompatible with the basic theory of conciliation. A somewhat similar experiment in New Jersey in recent years was abandoned as a failure. Moreover, this Committee is opposed in principle to making a party's right to institute a matrimonial action conditioned upon his or her participation in a conciliation proceeding.

It should also be noted that the appropriateness of conciliation techniques to all types of annulment actions is dubious. Thus, annulment proceedings based on the fact that one of the parties was under the age of consent, or that the marriage is bigamous, incestuous, involves a lunatic or idiot or was procured by fraud and duress (see Secs. 1133, 1134, 1136, 1137 and 1139 of the Civil Practice Act) are completely incompatible with concepts of reconciliation.

The Laverne Bill has also been considered and disapproved by this Association's Special Committee on Family Law.

Respectfully submitted,

SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

James H. Halpin, Chairman

The Association of the Bar
of the City of New York
42 West 44th Street

SPECIAL COMMITTEE ON REORGANIZATION OF THE COURTS

REPORT ON BILLS ESTABLISHING THE NEW FAMILY COURT

To implement the provisions of the new Judiciary article of the State Constitution which create a state-wide Family Court a proposed Family Court Act has been introduced in the State Legislature embodying the recommendations of the Joint Legislative Committee on Court Reorganization (hereinafter referred to for convenience as the "Albert bill"). In addition, a second and different Family Court bill has been introduced under the auspices of the Joint Legislative Committee on Matrimonial and Family Law (hereinafter referred to for convenience as the "Gordon bill"). Both these bills will be considered in this report.

I.

THE ALBERT BILL

S. Pr. 3789	Int. 3494	MR. ALBERT
A. Pr. 5203	Int. 4909	MR. LOUNSBERRY

AN ACT to establish a family court for the state of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one.

A. Background

Pursuant to the concurrent resolutions adopted by the Senate and Assembly on March 31, 1961, the Joint Legislative Committee on Court Reorganization submitted a report (Report II) on the proposed Family Court which incorporated a proposed draft Family Court Act (hereinafter referred to for convenience as the "Draft Act"). A Report of this Committee on the Draft Act, dated February 16, 1962, was filed at a hearing of the Joint Legislative Committee held on that date. Since that hearing the Albert bill

has been introduced in the Legislature.

The Committee is gratified that many changes in the Draft Act reflected in the Albert bill are in accord with recommendations contained in this Committee's earlier Report.(1) Other changes which have been made in the Draft Act are also approved.(2) However, there remain a number of deficiencies in the Albert bill which will be discussed in the succeeding sections of this report and in the Appendix hereto.

B. Major Deficiencies of the Albert Bill

The principal shortcomings of the Albert bill are:

1. The bisection of the Family Court within the City of New York into two separate divisions. The undesirability of dividing the courts within the City of New York into two separate divisions corresponding with the geographical lines of the First and Second Judicial Departments, has been demonstrated in reports of this Committee directed to the administration proposals of the Albert Committee.(3) This Committee is of the view that the adverse effects of acceptance of this new form of fragmentation will be most severely felt in the Family Court. The proposed division of the Court will reduce the administrative efficiency of the Court within the City of New York and will result in wasteful duplication of personnel and facilities and unnecessary expense.

2. The failure of the proposed Family Court Act to increase the age jurisdiction of the Court. This Committee is of the view that the Family Court should have jurisdiction over minors up to their 18th birthday with power to refer to the criminal courts cases involving minors between 16 and 18 who are not amenable to the

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(1) See e.g., Secs. 152, 215, 249, 251-253, 312, 355, 366, 447, 758(a).

(2) See e.g., Secs. 161(b), 231, 234, 421(e), 438.

(3) See e.g., "Report on the Joint Legislative Committee's Proposal for Supervising the Administration and Operation of the City-wide Civil, Criminal and Family Courts (Report I)", dated March 1, 1962. The prior reports of this Committee have been bound in a single booklet entitled "Reports and Comments on Proposals of the Joint Legislative Committee on Court Reorganization."

procedures and techniques of the Family Court. The Committee also recommends that the criminal courts be given power of referral to the Family Court in cases of minors between 18 and 21. It is supported in these views by substantially all the bar groups, civic organizations and social agencies in New York City.(4)

These proposals do not involve any radical innovation and are in accord with the trend in recent years throughout the country. New York is only one of four remaining states in the entire country which restrict the juvenile court age jurisdiction to as low as 16. The concept of the rehabilitative, non-criminal approach to youngsters of 16 to 18 who are amenable to rehabilitative treatment is already embodied in our existing youthful offender procedures. Basically, the issue is whether the original diagnostic determination as to suitability of civil as against criminal procedures to a particular youngster should be made in a Family Court or in a criminal court. The Family Court which presumably will have the facilities, personnel and techniques particularly adapted to the making of such determinations is the preferred tribunal.

3. The unduly rigid restrictions imposed on the Court's power to remand children pending disposition. The limitation of the Court's power to temporarily remand a child to a custodial facility pending disposition of a proceeding to situations in which such remand is necessary to avoid "imminent danger to the child's life or health" is too restrictive. It might prevent the Court from affording necessary protection to a child in cases where the retention of a child in his existing environment would be seriously detrimental to the child's welfare. Suggested changes in these provisions are contained in the Appendix annexed hereto (See comments on Sections 322, 326, 327, 328).

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(4) E.g. New York County Lawyers Association, Committee on Modern Courts, Board of Justices of the Domestic Relations Court of the City of New York, Citizens' Committee for the Domestic Relations Court, League of Women Voters of the State of New York, Junior League of the City of New York, Urban League of Greater New York, Women's City Club of New York, Citizens' Union of the City of New York, Community Service Society of New York, Community Council of Greater New York, Citizens' Committee for Children of New York City, Federation of Protestant Welfare Agencies, Federation of Jewish Philanthropies, National Association of Social Workers (Joint Committee of New York State Chapter).

4. The restrictions placed upon the Court in the disposition of cases involving "persons in need of supervision." The Draft Act (Sections 751-759) prohibited the Court from ordering commitment in any case involving a "person in need of supervision." This Committee did not disapprove the creation of the new category of "person in need of supervision" but did disapprove this severe limitation on the Court's powers of disposition. In the Albert bill the powers of the Court over "persons in need of supervision" have been broadened so as to permit the Court to place such a child with an authorized agency or in a youth opportunity center as provided in Section 502 of the Executive Law. While these changes represent a substantial improvement, the Committee adheres to its original view that the Court should have the same dispositive powers in dealing with a "person in need of supervision" as in dealing with a "juvenile delinquent." As a minimum, Section 756 should be broadened so as to permit commitment to a facility suitable for neglected children under the supervision of the Department of Social Welfare.

The distinctions which the proposed Act makes between "juvenile delinquents" and "person in need of supervision" with respect to the dispositional powers of the Court appear to be based on the premise that the form and quality of judicial disposition should be, to some degree, predetermined and controlled by the particular act or circumstance which brought the child into the court. The Committee believes that this premise is erroneous. Juvenile courts are not created primarily to deal with the act which brings the child to the court but rather to deal with the child and with the problem of which the act is merely symptomatic. Their most important function is not to characterize the quality of the anti-social conduct but to understand its source and to provide the best rehabilitative treatment available.

5. The exclusion from the jurisdiction of the Court of children 15 years of age who are charged with capital offenses. Although the act vests jurisdiction in the Court over crimes committed by a boy up to his 16th birthday and by a girl up to her 18th birthday there is specificially excluded from such jurisdiction crimes punishable by death or life imprisonment involving a person 15 years of age (Section 715). The Committee does not believe that there is any supportable basis for this exception.

6. The reservation to children coming before the Court of the right to remain silent. While the Committee generally favors the due process safeguards which the act provides in pro-

ceedings relating to children, it is opposed to the reservation to children of the right to remain silent (Section 741). We believe that this right is inconsistent with protective relationship which a Family Court is intended to exercise with respect to a child and with the basic function of the Court of attempting to ascertain the factors and influences which motivated the commission of the act which brought the child before the Court. We also believe that the child is adequately protected by the provisions of the Act (Section 744) that an uncorroborated confession of a respondent does not constitute sufficient basis for finding that the respondent committed the act or acts charged.

7. The creation of a mandatory conciliation proceeding. This Committee, although strongly favoring the principle of family conciliation believes that the conciliation proceeding provided by the Albert bill (Article 9) is unsatisfactory. Suggested provisions for the creation of a voluntary conciliation proceeding are contained in the Appendix to this Report (See comments on Article 9).

The Committee has formulated specific recommendations for changes in various sections of the Albert bill which are summarized in the Appendix annexed to this Report. In addition to the principal changes previously discussed, other proposed changes of some import include:-

(1) Elimination of the necessity for intercounty transfer proceedings within the counties comprising New York City (Sections 171-176).

(2) Imposition of a requirement for the continuous availability of a Family Court judge (Section 161).

(3) Certain revisions in the provisions relating to the temporary removal of neglected children from their home (Sections 321-328).

(4) Restriction of the classes of persons who may institute neglect proceedings (Section 332).

(5) Protection of the confidentiality of the probation reports subject to discretion in the court to disclose information contained therein to counsel and the interested parties (Sections 347, 625, 746, 835).

(6) Elimination of certain restrictions on the placement powers of the Court in cases of neglected children (Sections 354, 355).

(7) Reservation to the Administrative Board of power to adopt uniform rules with respect to the referral of matters by the Supreme Court to the Family Court (Sections 461-469).

(8) Elimination of distinctions between legitimate and out-of-wedlock children with respect to support (Sections 443, 545).

(9) Revision of the definitions of the terms "juvenile delinquent" and "person in need of supervision" (Section 712).

(10) Prohibitions against availability to the Court of the prior record of a respondent during an adjudicatory hearing (Section 746).

C. Desirable Features of the Albert Bill which are Worthy of Special Note

The following provisions of the Albert bill are particularly commendable and should be retained:

(a) The inclusion within the jurisdiction of the Family Court of not only the jurisdiction presently exercised by the Domestic Relations Court and Children's Courts but also of exclusive original jurisdiction over paternity proceedings and family offenses and ultimately over adoption (Section 114).

(b) The strengthening of the qualifications of judges to be appointed to the Court (Section 124).

(c) The provisions in the Act for the appointment of law guardians (Sections 241-249).

(d) The concern of the Act with insuring the preservation of due process in the Court's proceedings including the provisions for protecting the confidentiality of admissions made to the probation or other auxiliary service of the Court and the prohibition against use by the Court of probation reports during adjudicatory hearings (e.g., Sections 346, 347, 735, 745, 746).

(e) The prescription in the Act of standards governing

the exercise of discretion to temporarily detain a child and the imposition of time limits on such temporary detention (Sections 721-729).

(f) The creation of procedures for mandatory periodic reviews of all commitments and other placements (Sections 756-758). We are advised that substantial opposition to these procedures has developed but nevertheless strongly urge that they be retained since they constitute the most effective safeguard against errors or abuses in disposition or in commitment practices.

(g) The conversion of paternity proceedings from a quasi-criminal to a purely civil proceeding (Sections 511 et seq.).

(h) The procedures for the disposition of so-called "family offenses" on a civil rather than a criminal basis (Sections 811 et seq.).

(i) The formal recognition given by the Act to the importance of adequate and effective intake service and of the need for voluntary adjustment techniques as a device for siphoning off many cases which do not require judicial attention (Sections 333, 424, 652, 734).

C. CONCLUSION

In general, the Albert bill represents a conscientious and workmanlike approach to a difficult task. The members of the Joint Legislative Committee on Court Reorganization, its counsel and his staff are to be commended for their ability to organize and present such a comprehensive piece of legislation within the short time allotted. We believe that if the deficiencies in the bill referred to in this report are remedied, it will receive the wholehearted approval of this Association.

II.

THE GORDON BILL

S. Pr. 719, 2993	Int. 719	MRS. GORDON
A. Pr. 1497, 4377	Int. 1497	MR. FEINBERG

AN ACT to establish a court, to be known as the family court, and defining its powers, jurisdiction and pro-

cedure and providing for its organization.

This Committee did not previously report on the Gordon bill since the Draft Act and the Albert bill embody the recommendation of the Joint Legislative Committee which was specially created by the Legislature to prepare the legislation necessary to implement the amended Article VI of the State Constitution. However, we have examined the Gordon bill and believe that it is not worthy of serious consideration by the Legislature for the following principa reasons:

1. In large measure the Gordon bill merely reenacts the existing provisions of the Domestic Relations Court Act and Children's Court Act. It does not reflect the up-to-date and creative thinking which is required.

2. Such innovations as are contained in the Gordon bill, although well intentioned, freeze into legislation administrative details which are best left to the flexibility of court rules (See, e.g., Sections 26-32 of the Gordon bill).

3. The Gordon bill almost entirely ignores the basic con cept of the centralization of administration dictated by the revise judiciary article (See Article 2 of the Gordon bill).

In view of the foregoing the Committee does not believe that any useful function would be served by a detailed analysis of, or recommendations for specific amendments to, the Gordon bill.

Respectfully submitted,

SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

James H. Halpin, Chairman

APPENDIX

DETAILED RECOMMENDATIONS FOR CHANGES IN THE ALBERT BILL

ARTICLE 1 - FAMILY COURT ESTABLISHED

SECTION 113 - This section should be amended so as to provide for a single administrative unit of the Family Court within the City of New York. Similar conforming amendments should be made in Sections 118, 121, 122, 125, 127, 211, 214, 215.

SECTION 116 - This section purports to retain the present provisions of Section 88 of the Domestic Relations Court Act which deal with the protection of the religious faith of children coming within the jurisdiction of the Court in connection with remands, commitments, parole, placements, adoptions and guardianship. However, by reason of the omission from the section of the provisions of Section 88(1) of the Domestic Relations Court Act which except from the religious requirements of that section a remand or commitment to "an institution supported and controlled by the state or a subdivision thereof", the present subdivision (a) of Section 116 appears to require that all institutional commitments, remands and placements be to a sectarian institution. It is important that thi omission, which we understand was unintentional, be rectified.

SECTION 161 - This section, as contained in the bill, differs from the Draft Act in that the requirement in Section 161 of the Draft Act that "a judge authorized to discharge the duties of judge of the family court shall be available at all times" has been eliminated and, in lieu thereof, there has been added a provision for rules of court authorizing a judge, other than a judge of the Family Court, to perform the functions of a Family Court judge. We do not believe that the elimination of the requirement of availability of a Family Court judge is desirable. In view of the emphasis in other sections of the Act on minimizing the possibility of even temporary detention without judicial hearing, we believe that there should be provision for ready availability of a judge if circumstances arise which may require a commitment. It is to be noted that a requirement of "availability" is not tantamount to a requirement that the judge be sitting in the Court. The problems, in this regard, of up-state counties which have only a single

Family Court judge are ameliorated by the provisions of the new Subdivision (b) of this section which permit other judges to be designated to perform the functions of Family Court judges.

The word "sanctions" in subdivision (b) of Section 161 is apparently a typographical error and should read "functions".

SECTIONS 171-176 - The Committee does not believe that the inter-county modification and enforcement transfer proceeding required by these sections should be applicable within the City of New York. These provisions, in effect, require a separate proceeding in one county to modify or enforce an order made in another county. We believe, for example, that a proceeding in Kings County for modification or enforcement of an order made in New York County should be deemed part of the original proceeding and not a separate transfer proceeding. We, accordingly, recommend that an additional section be added to Part 7 of Article 1 so providing.

ARTICLE 2 - ADMINISTRATION, MEDICAL EXAMINATIONS, LAW GUARDIANS, SERVICES

SECTION 215 - This section would appear to be unnecessary in view of the fact that all the provisions contained therein are repeated in Section 251 (a).

ARTICLE 3 - NEGLECT PROCEEDINGS

SECTION 322 - The Committee believes that the limitation of the circumstances under which a child may be temporarily removed from his home to a situation where there is "imminent danger to the child's life or health" is unduly restrictive. It, accordingly, suggests that the circumstances be enlarged to also include situations where there is imminent danger of "other serious harm to the child."

Similar conforming changes would have to be made in Sections 326, 327 and 328.

SECTION 327 - Subsection (a)(2) of this section should be made to conform to other sections of the same article so as to permit temporary removal of a child from home in order to avoid not

merely an imminent risk to the child's "life" but also to avoid an imminent risk to the child's "health". We believe that the omission of the phrase "or health" is unintentional.

SECTION 332 - This section differs from the Draft Act in that there is added to the description of persons who may originate a neglect proceeding as "any person having knowledge or information of a nature which convinces him that a child is neglected." We disapprove this addition because we believe that it will tend to encourage officious intermeddling by outsiders in family relationships and may be used as a weapon for harassment. A person having knowledge indicating that a child is being neglected can bring such information to the attention of a duly authorized agency, association, society or institution or a peace officer, all of whom are authorized to institute neglect proceedings. By this procedure, baseless accusations of neglect by outsiders can be weeded out.

SECTION 347 - Subdivision (b) of this section in the Draft Act prohibited the "use" of a probation report in an adjudicatory hearing. In our original report to the Albert Committee, we recommended that, in order to clarify this section, provision also be made that such reports not be "furnished" to the Court prior to the completion of an adjudicatory hearing. Subdivision (b) as contained in the bill embodies our recommendations but in so doing omits the original express proscription against "use". We believe that, to avoid any question, this express proscription be reinserted.

Subsequent to the hearings before the Albert Committee on the Draft Act, this Committee considered the question of the confidentiality of probation reports and issued an addendum to its original Report favoring the preservation of the confidentiality of probation reports with a reservation of discretion to the Court to disclose information contained therein to counsel and the interested parties. We are advised that a revision of subdivision (b) which would embody the recommended change is being considered and urge that it be made.

ARTICLE 4 - SUPPORT PROCEEDINGS

SECTIONS 461-469 - The Committee is concerned that the practices and procedures of the Supreme Court with respect to referrals of various types of issues to the Family Court will become an *ad hoc* matter depending upon the whims of each particular judge.

It therefore suggests that the statute expressly authorize the adoption of uniform court rules governing these matters. To effect such authorization, amendments could be made to Sections 461, 464, 466 and 467, or, as an alternative, a new section could be added making all of the provisions of Part 6 subject to such uniform court rules as may be adopted.

ARTICLE 5 - PATERNITY PROCEEDINGS

SECTION 542 - The new Act correctly provides for separate orders of filiation and support in a paternity proceeding. Since a filiation order determines parental status and has ramifications extending far beyond the mere issue of support, the Committee believes that public welfare officials should not, without the consent of the mother or person having legal custody of the child, be permitted to obtain a filiation order. Of course, public welfare officials should be permitted to obtain a support order in public charge cases, and the Committee recognizes that as a prerequisite for obtaining such order, it will be necessary to establish the fact of paternity. It does not believe, however, that the paternity status should be fixed for all other purposes unless the mother or other legal custodian of the child so desires.

SECTION 545 - This section permits an order of support for an out-of-wedlock child to extend beyond the age of 16 only upon a showing of "good cause." On the other hand, Section 443 permits the Court to make an order of support for a legitimate child's entire minority with no requirement of a showing of "good cause" if the order runs beyond the age of 16. We believe that no distinction should be made between legitimate and out-of-wedlock children in this respect and, accordingly recommend that Section 545 be amended to conform to Section 443.

We understand that it is the intention of the Albert Committee to amend this section so as to eliminate the distinction between legitimate and out-of-wedlock children and, if so, we strongly approve this change.

ARTICLE 6 - PERMANENT TERMINATION OF PARENTAL RIGHTS, ADOPTION, GUARDIANSHIP AND CUSTODY

SECTION 625 - The comments with respect to Section 347 are equally applicable to this section.

SECTION 641 - The Draft Act vested immediate exclusive jurisdiction over adoptions in the Family Court. The bill preserves to the Surrogate's Court concurrent jurisdiction over adoptions until September 1, 1964. We regret the change but are gratified that ultimately exclusive jurisdiction over adoptions will reside in the Family Court.

ARTICLE 7 - PROCEEDINGS CONCERNING JUVENILE DELINQUENCY AND WHETHER A PERSON IS IN NEED OF SUPERVISION

SECTION 712 - The Committee believes that the definitions of "juvenile delinquent" and "person in need of supervision" are deficient in a number of respects, as follows:

(a) For reasons heretofore stated, the age jurisdiction should be increased to the 18th birthday.

(b) "Juvenile delinquency" is determined by whether a minor commits an act which would be a crime if done by an adult. "Crime" encompasses only felonies and misdemeanors and does not include "criminal offenses". We are advised that the Albert Committee intends to correct this omission by including persons who commit criminal offenses or other violations of law within the category of "person in need of supervision" by including within the definition of that term a youth who violates any law, including the Compulsory Education Law. We approve this proposed amendment, but suggest that there be expressly excluded therefrom motor vehicle offenses or infractions.

(c) To avoid an adjudication of delinquency in de minimus situations, the Act requires not only a finding that the act has been committed but also a finding that the minor "requires supervision, treatment or confinement". We favor the purpose

behind this requirement, but believe that the language is too restrictive and suggest that, in lieu thereof, there be substituted the requirement of a finding that the child requires the "exercise of the authority of or the aid of the Court." A similar change should be made in the definition of "person in need of supervision."

If the foregoing changes are made, conforming changes should be made in Sections 714, 715, 721, 722, 731, 732, 756 and 758. If the age jurisdiction is increased to 18, there should be an express reservation of power in the Family Court to refer to the criminal courts cases involving minors between 16 and 18 who are found not to be amenable to the procedures of the Family Court.

SECTION 713 - The Girls Term Act should be repealed by separate legislation.

SECTION 715 - For reasons heretofore stated, the Committee is opposed to the exception carved out of the Family Court's jurisdiction by this section and recommends that if the present age jurisdiction of the Court is retained, the Family Court be given power to refer these cases to the criminal courts if deemed appropriate.

SECTIONS 721-729 - The Committee believes that the distinctions made between "delinquent" children and children "in need of supervision" with respect to taking into custody should be eliminated, but that specific provisions be added defining the circumstances under which persons "in need of supervision" may be taken into custody.

SECTION 728 - Under this section, the only circumstances in which a family court judge is permitted to detain a child pending the filing of a petition are if it appears that a delinquency petition will be filed and that the child will not appear on the return date, or there is serious risk that he may do another criminal act in the interim. We believe that this provision is too restrictive, and recommend that a Court should have power to detain a child under special circumstances if a petition to adjudicate such child as being "in need of supervision" is to be filed. We also recommend that the Court be permitted to detain a child pending filing of a petition if it finds that serious imminent harm might be sustained by the child if released.

SECTION 741 - For reasons heretofore stated, the Committee recommends the elimination from subdivision (a) of this section of the provision for advising a minor of his "right to remain silent."

SECTION 746 - The comments on Section 347 are equally applicable to this section. In addition, the Committee believes that subdivision (b) of this section should be further amended so as to prevent the Court from having the prior record of the respondent available to it during an adjudicatory hearing.

SECTIONS 753-758 - For reasons hereinbefore set forth the Committee believes that the distinctions between the disposition powers of the Court in dealing with "juvenile delinquents" and "persons in need of supervision" should be eliminated.

SECTIONS 756-758 - To effect changes referred to in previous comments, Section 756 should be made applicable to both Sections 753 and 754, the last sentence in subdivision (a) of Section 756 and subdivision (b) of that section should be eliminated and Section 758 should be made applicable to Sections 753 and 754. Provision should be made in Sections 756 and 758 for mandatory periodic review of placements and commitments.

SECTION 757 - The Committee opposes the limitation of the maximum probation period to 2 years. If any maximum period is to be imposed, the Committee suggests that it be 3 years for both delinquent minors and minors in need of supervision, with mandatory annual reviews by the Court of the probation status.

ARTICLE 8 - FAMILY OFFENSES PROCEEDINGS

SECTION 814 - The Committee does not believe that the Family Court should have power to rescind a transfer to the criminal court except prior to trial in the criminal court and recommends that subdivision (b) of this section be amended accordingly.

SECTION 835 - The comments on Section 347 are also applicable to this Section.

ARTICLE 9 - CONCILIATION PROCEEDINGS

The conciliation proceeding as provided for in Article 9 was not included in the Draft Act. The Committee strongly supports the use of conciliation techniques in the Court. However, an examination of the provisions of this Article indicates that it was obviously hastily conceived and drafted. Moreover, the Committee does not favor the compulsory conciliation provisions of Sections 924 and 925 whereunder a spouse can be compelled by court order to attend a conciliation conference. In our view, participation in a conciliation conference coerced by court order will not prove fruitful and the proceeding may be utilized as a device for harassment of the one spouse by the other.

We accordingly suggest that in lieu of the entire proposed Article 9, a provision be substituted directing the Administrative Board to establish by rule a voluntary conciliation procedure in the Family Court. Such provision could be generally modelled on the provisions of the present Section 1165-b of the Civil Practice Act. The following is suggested language:

> "The Administrative Board shall promulgate rules providing for the establishment and functioning of marital conciliation services in the Family Court on a voluntary basis. These services may be provided directly by the Court or by volunteer qualified persons or agencies approved by the appellate division of the Supreme Court in each department. Such services may be provided only by the mutual consent of the parties. Should any such rules provide a period during which conciliation services are to be made available, the rules as established shall provide for extension of such period only upon mutual consent of the parties, and, further, for an immediate termination of such services if and when either party withdraws his or her consent during the original period or any extension thereof. Such rules may prescribe an original period of not more than 30 days during which conciliation services are to be made available and two consecutive additional periods each of not more than 30 days duration. Consent to participation in any such conciliation services shall not constitute a condonation by either party of wrongful

acts of the other. Such rules shall provide for the confidentiality of all records, notes or proceedings at or taken with respect to such services."

It should be noted that the reference in Section 922 to Section 914 is erroneous. The correct reference is to Section 921.

COMMUNITY SERVICE SOCIETY
105 EAST 22 STREET • NEW YORK 10, N.Y. • ALGONQUIN 4-8900

DEPARTMENT OF PUBLIC AFFAIRS
BERNARD C. FISHER, *Director*

April 9, 1962

S 3494

Acknowledged by WJR
4/12/62

Hon. Nelson A. Rockefeller
Governor of the State of New York
Executive Chamber
Albany 1, New York

Re: S.Int. 3494, Pr. 4501 "An Act to establish a family court for the state of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one"

Dear Governor Rockefeller:

The Committee on Public Affairs of the Community Service Society supports this bill which creates the new Family Court of the State of New York. We have long been interested in the development of a court which was empowered to deal with all legal manifestations of family problems. While this Court does not have as comprehensive jurisdiction as we might have desired, due both to the limitations of the constitutional amendment and the further limitations imposed by the Legislature, it does represent a significant advance in its particular area of judicial administration.

We note with pleasure, and some small degree of pride, that many of the provisions of the bill embody the recommendations of the Joint Committee on Family Court Procedures of this Society and the Association of the Bar of the City of New York. With some minor exceptions, the procedural provisions of the bill are as progressive and enlightened as any to be found in the United States.

It is with respect to the areas of jurisdiction and administration that we believe the bill has serious shortcomings. We know that, in terms of this particular bill, nothing can now be done to correct the deficiencies, but we bring them to your attention at this time so that you may take appropriate action at the proper time.

Jurisdiction: With a minor exception or two, the bill retains

the present limit of the sixteenth birthday as the upper age limit for jurisdiction over juvenile delinquents and neglected children. This was done, assertedly, in order to permit the question of age jurisdiction to be further studied. We venture to say that no question in the area of youth problems has been as thoroughly studied as this one. We believe there was enough information available to have permitted the Legislature to substantially increase the age jurisdiction of the Court.

Administration: We believe the Legislature made a serious error when it failed to mandate the joint administration of the Family Court in New York City by the Appellate Divisions of the First and Second Judicial Departments, and merely made it permissive in the discretion of the Administrative Board of the Judicial Conference. For the single administrative entity of New York City, it will indeed be shameful and wasteful if the Court in one part of the city was to be administered differently from the Court in another part of the city, and if the services of the Court were to be duplicated as a result of separate administration.

Finally, we note that there is much that remains to be done to assure the effective and efficient operation of the Court. Rules of court must be devised, and operating procedures established. But most important, as far as we are concerned, sufficient funds must be appropriated to permit the development and operation of effective auxiliary services for the Court. Without such auxiliary services, we fear that the Family Court of the State of New York will exist in name only.

Having indicated two major objections to the present bill, we renew our support of it, recognizing that without it no Family Court could operate, and recognizing also that it is a major improvement over the courts which now serve families and children in this state. We urge you to sign the bill.

Very truly yours,

Bernard C. Fisher

BCF:rj

COPY

COMMUNITY SERVICE SOCIETY

Department of Public Affairs

April 9, 1962

Hon. Nelson A. Rockefeller
Governor of the State of New York
Executive Chamber
Albany 1, New York

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Very truly yours,

Bernard C. Fisher

BCF:rj

DPA 512

BOARD OF SUPERVISORS

BROOME COUNTY

COUNTY OFFICE BLDG.
BINGHAMTON, NEW YORK

HENRY M. BALDWIN
CHAIRMAN OF THE BOARD OF
SUPERVISORS

10 April 1962

S. 3494

Hon. Robert MacCrate,
Counsel to the Governor
Executive Chamber
State Capitol
Albany, 1, N Y

Sir: Re: Intro. 3494

Please be advised that we have no objections to the above bill.

Very truly yours

Henry M Baldwin

HENRY M. BALDWIN
CHAIRMAN,
BOARD OF SUPERVISORS

j

NEW YORK STATE CATHOLIC WELFARE COMMITTEE

Office of the Secretary • 100 State Street • Albany 7, New York

April 5, 1962

PERSONAL

Hon. Robert MacCrate
Counsel to the Governor
Executive Chambers, State Capitol
Albany, New York

Subject: Bills before the Governor

Dear Mr. MacCrate:

As you know, our Committee is deeply appreciative of your continued consideration of the views expressed by us on legislation pending before the Governor.

As in the past, I list herewith the several bills upon which we have memoranda in preparation or upon which our Committee is preparing material, together with my view of the position which we will express.

S. Int. 1927 (Pr. 1992) Wise

Relating to Board Rules of Social Welfare — Support

S. Int. 3870 (Pr. 4554) Rules Com.

Relating to Board Rules of Social Welfare — Support

A. Int. 2539 (Pr. 2563) D. Lawrence

Relating to abrogation orders in adoption — Support

S. Int. 3154 (Pr. 3408) Gordon
Relating to foreign adoptions — Support

#2
4/5/62
Hon. Robert MacCrate

S. Int. 2540 (Pr. 5672) D. Lawrence

Relating to authorized agency — No objection

A. Int. 1089 (Pr. 5365) Abrams

Relating to child care institutions — No objection

S. Int. 918 (Pr. 918) Conklin

Relating to A.D.C. — No objection

S. Int. 943 (Pr. 4528) Jerry

Relating to agency boarding homes — Support

S. Int. 1983 (Pr. 2055) Brydges

Relating to mental care for children under 5 — Support

S. Int. 1992 (Pr. 2064) Conklin

Relating to transportation under mental health — Support

A. Int. 3177 (Pr. 3258) Huntington

Relating to contracts for severely retarded — No objection

A. Int. 4031 (Pr. 4170) Peet

Relating to fire inspections — No objection

A. Int. 4208 (Pr. 4450)

Relating to scholarships

#3
4/5/62
Hon. Robert MacCrate

A. Int. 4744 (Pr. 5036) Egan	
Relating to voluntary unemployment insurance	No objection
A. Int. 2562 (Pr. 5750) Marano	
Relating to definition of obscenity	No objection
S. Int. 3494 (Pr. 4723) Albert	
Relating to Family Court	No objection
S. Int. 3934 (Pr. 4723) Rules Com.	
Relating to changes in Family Court	Support
A. Int. 2822 (Pr. 2867) Lerner	
Relating to work training	Support
S. Int. 3077 (Pr. 3307) Watson	
Relating to waiting period	Oppose
A. Int. 4978 (Pr. 5414) Rules Com.	
Relating to license for retail sale of alcoholic beverages near churches	Oppose
S. Int. 1048 (Pr. 1051) Marchi	
Relating to notice by membership corporation	Oppose

We will deliver memoranda on these bills by hand as promptly as they are finished. We are hopeful that

#4
4/5/62
Hon. Robert MacCrate

we will have the bulk of these letters in your hand by April 10th.

With deep appreciation,

Sincerely yours,

Charles J. Tobin, Jr.
Secretary

NEW YORK STATE CATHOLIC WELFARE COMMITTEE

Office of the Secretary • 100 State Street • Albany 7, New York

April 6, 1962

S 3494

Hon. Robert McCrate
Counsel to the Governor
Executive Chambers, State Capitol
Albany, New York

Re: S. Int. 3494 (Pr. 4501) Albert
establishing the Family Court
S. Int. 3934 (Pr. 4723) Rules
amending Senate Int. 3494

Dear Mr. McCrate:

Our Committee deeply appreciates the opportunity which you have afforded to it to advise you with respect to its comments and recommendation on the above bills, which are now pending before the Governor for executive action.

We enclose herewith a memorandum which sets forth our views on these bills. We would be happy to elaborate further thereon if you so desire.

Very truly yours,

NEW YORK STATE CATHOLIC WELFARE COMMITTEE

By Charles J. Tobin, Jr.
Secretary

Enc.

MEMORANDUM RE:

S. Int. 3494 (Pr. 4501) Albert
establishing the Family Court

S. Int. 3934 (Pr. 4723) Rules
amending Senate Int. 3494

Senate Intro. 3494 (Pr. 4501) is the major bill establishing the structure and jurisdiction of the Family Court in the State of New York. Senate Intro. 3934 makes certain amendments to the preceding bill.

The Joint Committee on Court Reorganization has performed a monumental task in preparing the legislation for implementation of the revision of the Judiciary Article of the Constitution, and its efforts have been widely commended.

We have submitted various criticisms of the Family Court Act to the members and staff of the Joint Committee and, within the time limits involved, a sincere effort has been made to meet the problems which we have posed. Due to lack of time and opportunity, some points have been deferred by the Committee for review during the coming year with the expectation that significant changes will be considered at the next session of the Legislature.

We have realized the point made by the Committee, that the new law will only be in effect for four months before a new legislative session convenes and thus the opportunity for prompt correction and clarification is available.

We have the following concerns, among others, with respect to the bill, which we hope will be remedied in the revisions to be made in the future:

(a) That provisions in the act for apprehension and detention of "persons in need of supervision" be strengthened to permit greater opportunity for apprehension and detention of children who are in need of action by a court, in the discretion and determination of the court.

(b) That provision be made for placement or commitment of "persons in need of supervision" in state schools.

(c) That special provision be made in the act for the utilization by the court of the services of voluntary, community organizations in providing services to persons before the Court.

(d) That review be made of the provisions which limit the court in fixing the term of commitment or placement.

(e) That provision be made for the compulsory submission of all matrimonial actions to the conciliation procedure prior to commencement in Supreme Court.

In conclusion, we recognize that the need for enactment this year is paramount and that delay is not possible. With the expectation of consideration of the points which we make, we do not object to the immediate approval of the bill and the companion amending the bill.

Respectfully submitted,

NEW YORK STATE CATHOLIC WELFARE COMMITTEE

By Charles J. Tobin, Jr.
Secretary

April 6, 1962

CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, INC.

112 EAST 19 STREET NEW YORK 3, N.Y. SPRING 7-3800

Original to Naf?
Info Copies to Mr. MacCrate
Will Jacket

April 12, 1962

53494

TO: The Honorable Nelson A. Rockefeller

FROM: Stanley M. Isaacs, Chairman, Legislative Section

RE: S.I. 3494; Pr. 3789, 4501--Albert, as amended by
S.I. 3934; Pr. 4723--Committee on Rules
To establish a Family Court

We urge you to sign the recently passed proposed Family Court Act developed by the Joint Legislative Committee on Court Reorganization despite its jurisdictional limitations and ostensible drafting errors.

Since the Joint Legislative Committee will be continued until March 31, 1963, it will be able to make its promised study of youth jurisdiction and thus be able to submit legislation on that subject during the 1963 Legislative Session.

That study can be the fulfillment of your own 1961 recommendation. At the time that you signed the repeal of the Youth Court Act, you suggested that the resolution of the conflict concerning youth jurisdiction be part of the court reorganization recommendations.

Therefore, we hope you will do all in your power to insure that the Joint Legislative Committee will undertake its proposed study and introduce appropriate legislation on youth jurisdiction in 1963.

SMI:mh

S 3494

County of Erie

DEPARTMENT OF LAW
ERIE COUNTY HALL
BUFFALO 2, NEW YORK

NORMAN A. STILLER
[redacted]
COUNTY ATTORNEY

April 24, 1962

Hon. Robert MacCrate,
Executive Chamber
State Capitol
Albany 1, New York

Re: Senate 3494, Print 3789, 4501

AN ACT to establish a family court for the state of New York to implement article six of the constitution of the state of New York, approved by the people on the seventh day of November, nineteen hundred sixty-one

Dear Sir:

The Erie County Board of Supervisors has instructed me to communicate with you and respectfully request that the Hon. Nelson A. Rockefeller, Governor of New York State, sign into law the above bill which is now before the Governor for consideration.

Very truly yours,

NORMAN A. STILLER
COUNTY ATTORNEY

By [signature]
First Assistant
County Attorney

GMN:HH

S-3494

March 16, 1962

Honorable Nelson A. Rockefeller
Governor of New York
Executive Chambers
Albany 1, New York

Acknowledged by WJR
3/20/62

Dear Governor Rockefeller:

The Community Welfare Council of Schenectady County had previously gone on record as supporting the constitutional amendment concerned with court reorganization and the creation of a state-wide Family Court system. The Council now seeks passage of the most suitable legislation possible to carry out the purpose of the amendment and to establish the Family Court.

The Council gives general approval of legislation recommended by the Albert Committee. (S. Int. 3494, Pr. 3789; A. Int. 4909, Pr. 5203.) There are, however, a few exceptions, and we would like to make the following recommendations for changes in the proposed legislation:

(1) To leave the age level of the "delinquent" category as is, until study proves otherwise, but to make it possible to transfer "Youthful Offender" cases from the criminal courts to the Family Court.

(2) To make use of a Public Defender (which is now optional for some counties) instead of the "Law Guardian" as proposed by the Albert Committee.

(3) To permit the Supreme Court and Family Court to have concurrent jurisdiction in all aspects of matrimonial actions including separation, annulment and divorce along with support and custody; and that the Supreme Court have the right to refer matrimonial cases to the Family Court.

We urge that you take appropriate action to assure the passage of the legislation as proposed by the Albert Committee with the above recommended changes.

Enclosed, for your information, is the complete report of the Council's study committee on the Family Court.

Sincerely,

M. L. Levy,
President

MLL:dp
Enclosure

COMMUNITY WELFARE COUNCIL OF SCHENECTADY COUNTY, Inc.
6 Union Street Schenectady 5, New York.

REPORT OF THE FAMILY COURT COMMITTEE

Mrs. H. M. Rozendaal, Chairman
Mrs. E. E. Baldwin
Harold A. Friedman
Miss Nina Rose
Edwin D. Sweeney
Clark Wemple

3/13/62

COMMUNITY WELFARE COUNCIL OF SCHENECTADY COUNTY, Inc.
6 Union Street Schenectady 5, New York.

March 13, 1962

REPORT OF THE FAMILY COURT COMMITTEE

I. INTRODUCTION

A. Background

In November, 1961, the voters approved the constitutional amendment which created a new court system for New York State. One of the provisions of the amendment called for the establishment of a Family Court in every county of the State. The Family Court Committee was established in recognition of the importance of a good Family Court to the health and welfare of a community.

B. Authorization

Authorized by the Chairman of the Family and Individual Services Division -- January of 1962.

C. Charge

a) To review State legislation regarding the Family Court and attempt to influence the passage of the most suitable legislation.

b) To make recommendations to local officials for implementation of Family Court legislation with particular focus on organization, function and staff of the auxilliary service.

D. Committee Members

The following are members of the Committee: Mrs. H. M. Rozendaal, Chairman, President, Children's Home; Mrs. E. E. Baldwin, League of Women Voters; Miss Nina Rose, Supervisor, Catholic Charities; Edwin D. Sweeney, President of Family & Child Service; Clark Wemple, Attorney, President of Child Guidance Center; Harold A. Friedman, Attorney.

E. Meetings

The Committee held four meetings. Two were held with Judge Nicoll serving as a consultant and two others were held without him. The legislation reviewed and discussed consisted of several bills containing implementing legislation for the Family Court which had been introduced in the current session of the legislature. However, by mid-February it became clear that the only bill which would be given serious consideration is the measure proposed by the Albert Committee. It is the content of this bill which is reviewed in this report.

F. Attachments to Report

Appended are a list of sources used by the Committee, a table comparing the jurisdiction of the Children's Court to the proposed Family Court and a summary of the Albert Committee Report, prepared by the State Charities Aid Association.

II. FINDINGS AND CONCLUSIONS

1. The Committee gave general approval of legislation recommended by the Albert Committee.

2. Items given special study --

1) Adoption procedures -- The Committee approved latest proposal which is to transfer all adoption cases to the Family Court by Sept. 1, 1964.

2) Categories of youth cases

a) Delinquent - "Juvenile delinquent" means a person over seven and less than sixteen years of age who does any act which, if done by an adult, would constitute a crime, and requires supervision, treatment or confinement.

The Committee discussed a possible recommendation of increasing the upper age level for youth in this category, but the majority favored the present age levels (16 for males, 18 for females). The Committee also approved a provision for reviewing the age limit at the end of a year.

However, the Committee would like to see a provision in the law making it possible to transfer "Youthful Offender" cases from criminal courts to Family Courts for trial and adjudication when such a procedure seemed desirable to the court of original jurisdiction.

b) "Persons in need of supervision" -- a new category designed to cover youngsters who have not committed a crime, but are brought into court in categories which used to be designated as "Wayward Minors." (Examples: persistent truancy, running away from home.)

The Committee discussed advisability of providing some type of temporary detention for these youngsters, but concluded that the proposed legislation is sound and detention of these youngsters should not be permitted.

c) Neglected Minors -- There was some feeling in the Committee that an annual review of each of these cases by the court is cumbersome and unnecessary, but the consensus was that this provision offered the best protection to the youngsters and should be retained.

3. Litigation in the Family Court -- The committee concurred with Judge Nicoll in thinking that procedures in the Family Court should be simple and that litigation in the Family Court should be held to a minimum. Defendents should be informed in all cases of their right to counsel, but the Committee did not favor the "Law Guardian" proposed by the Albert Committee which might lead to prolonged and complicated litigation in the Family Courts (as well as being subject to political patronage). They recommended that the appointment by the county of a Public Defender for all courts is preferable. (Such an appointment is optional under State Law.)

4. Matrimonial actions -- The Committee recommends that the Supreme Court have concurrent jurisdiction with the Family Court in all aspects of matrimonial actions including separation, annulment, divorce, support and custody; and that the Supreme Court have the right to refer matrimonial cases to the Family Court, if it so desires. The Committee was of the opinion that this would simplify matters and would make it possible to have an entire matrimonial case heard before one Court.

5. Other Provisions -- The Committee noted the inclusion of intro-family charges and disputes in the work of the Family Court and approved such a procedure.

The following source materials were used by the Family Court Committee in its deliberations:

1. Appropriate Family Court bills and related Constitutional Ammendment.

2. Auxiliary Services to the Courts of New York City, 1961 Report.

3. Recommendations on Jurisdiction Procedures for the New Family Court of the State of New York, Joint Committee on Family Court Procedures -- Committee Service Society of New York, Committee on Youth and Correction and Association of the Bar of the City of New York, Committee on Family Law.

4. Remarks on Proposed New Family Court Act, Jacob L. Isaacs, Chairman, Committee on Family Law, Association of the Bar of the City of New York.

5. Report of the State of New York Joint Legislative Committee on Court Reorganization - Vol. II - The Family Court Act, Senator Daniel G. Albert, Chairman

JURISDICTION OF THE

FAMILY COURT	CHILDREN'S COURT
1. Neglected, delinquent and dependent children	1. Same
2. Support of dependents	2. Same
3. Establishment of paternity (There is now clear constitutional authority conferring jurisdiction of these cases on the Family Court thus removing the adjudication of paternity from the danger of collateral attack and also giving the new Court power to determine custody.)	3. Same
4. Custody of minors	4. No jurisdiction where that is the only issue. Has jurisdiction where necessary incident in a proceeding of which it has jurisdiction, such as delinquency, neglect or support.
5. Adoption proceedings	5. None
6. Proceedings for conciliation of spouses	6. None
7. Crimes and offenses, etc.	7. None
8. Custody of minors in marital actions and habeas corpus proceedings and support in marital actions, when referred by Supreme Court.	8. None

Judge Nicoll
1/30/62

FAMILY & CHILD WELFARE

Family Court

The Joint Legislative Committee on Court Reorganization, under the chairmanship of Senator Daniel G. Albert of Mineola, has just submitted a proposed Family Court Act for public and official examination and review. The length and complexity of the Act and accompanying explanations precludes a digest, and those concerned will of course wish to study the proposal itself.

Hearings: February 14 in Albany, 10:30 am at Manger-DeWitt Clinton Hotel; February 16 in New York City, 10:30 am at Association of the Bar of the City of New York, 42 West 44 Street.

The Preface to the report of the Joint Legislative Committee recognizes the existence of differences of opinion on the problems to be dealt with, and says: "hence, it is necessarily an experimental court. The proposed legislation for this reason leaves room for experimentation and looks to improvements based on experience and observation."

The Preface states that the age at which the law of juvenile delinquency should apply is a question the Committee will study and report on in 1963. Meanwhile, the Committee's draft continues the existing age limit: persons under 16.

The ten major proposals of the Act are these:

1. Law guardians for children involved in court proceedings so that they are properly represented and the court aided in making proper decisions.

2. Revision of the law of juvenile delinquency and introduction of the concept of 'person in need of supervision'.

3. Rules for avoiding excessive detention and commitment of children.

4. Transferring a modified version of Girls' Term Court jurisdiction to the Family Court.

5. Revision of the law of neglect.

6. Civil proceedings for dealing with disorderly conduct and assaults in the family.

7. Exclusive jurisdiction in the Family Court of all adoption proceedings.

8. Revision of the law of support and of the law governing paternity proceedings.

9. Rules for referring support and custody matters from the Supreme Court to the Family Court.

10. A program for Family Court Judges.

The Committee's introduction includes the following observations:

The Committee believes that criminal powers and procedures are inconsistent with the proper development of the Family Court "during its formative period." Accordingly, the proposed Family Court Act does not include provisions for the conduct of any criminal trial in the new court.

Law guardians would be provided by agreements with Legal Aid Societies; or if no suitable one exists, the Appellate Division would designate a panel of qualified lawyers to serve. They would represent children involved only in neglect, delinquency and supervision proceedings. On this type of case, lawyers must be familiar with social techniques to give truly effective representation, for here the issues are difficult, and frequently the interests of children and their parents are not identical.

Costs would be paid by the State. Eight or nine law guardians would be required in New York City at a cost of approximately $100,000 to $125,000 a year. A similar sum would cover costs in the remainder of the State.

Juvenile Delinquency

The Committee believes that an "adjudication of delinquency" may have a damaging effect on a child and on his career as a citizen. The Committee therefore proposes to narrow the current definition of juvenile delinquent, and to create a new category to be known as a "person in need of supervision."

"Juvenile delinquent" is defined in the proposed legislation as "a person over seven and less than sixteen years of age who does any act which, if done by an adult would constitute a crime, and requires supervision, treatment or confinement."

"Person in need of supervision" is defined by the Committee as "a male less than sixteen years of age and a female less than eighteen years of age who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority, and requires supervision or treatment."

With the introduction of the new category of "person in need of supervision," the proposed legislation defines the powers of police and courts so that a person allegedly in need of supervision may not be taken into custody (no urgency); may not be placed in detention pending the filing of a petition; may not be committed for conduct which, if done by an adult, would not constitute a crime. The Committee observed that: "Detention is drastic action that may result in lasting damage to the children who are needlessly detained. It clearly should be avoided for their welfare." The Committee cited reports showing that unnecessary detention occurs both in New York City and in upstate New York.

The Committee discussed as follows the confidentiality of reports prepared by the probation service for use of the court prior to making an order of disposition:

1. There is validity to the argument that total confidentiality is necessary to keep open needed sources of information. However, this consideration does not outweigh the important values derived from opportunities to cross-examine and to rebut: thus lessening the possibility of error and protecting against statements prompted by anger, jealousy, or other feelings unrelated to the welfare of the child.

2. There is greater merit to the argument that damage to family fabric might result from disclosing medical and psychiatric data.

The Committee concludes that rather than have an absolute rule of total confidentiality or of full disclosure, the judge may withhold medical or psychiatric data from the parties in interest when he concludes disclosure would damage the family. This would not prevent him from entrusting a law guardian with the information.

As to Privacy of Hearings:

Section 741 (b) reads: "The general public shall be excluded from any hearing under this article and only such persons and the representatives of authorized agencies admitted thereto as have a direct interest in the case."

Jurisdiction over cases now brought to Girls' Term in New York City would be transferred to the new Family Court, with two changes: age would be reduced from 21 to 18; and a new person-in-need-of-supervision proceeding would be provided for girls over 16 and under 18.

Revision of Law of Neglected Children

The Committee believes that the coercive powers of a court should be used "only when methods of persuasion, informal adjustment, and help have failed." Accordingly, the statutory definition of "neglected child" (Section 312) refers to a male under sixteen or female under eighteen years of age who "suffers serious harm from the improper guardianship, including lack of moral supervision or guidance, of his parents or other person legally responsible for his care, and requires the aid of the court." In the absence of serious harm and a need for the court's aid, continues the report, the matter should not be brought to court.

"The main purpose of a neglect proceeding under the proposed legislation is to assure that the home satisfies at least the minimal requirements of a suitable place for a child to grow. Only in grave and urgent circumstances does it authorize removal of a child from his home and his being placed elsewhere.

"The main purpose of a juvenile delinquency proceeding or a person-in-need-of-supervision proceeding is the treatment, supervision or commitment of the child. This of course may require giving direction to the family by means of an order of protection; the proposed legislation authorizes the court to do so.

"According to expert opinion, the probability of a satisfactory return home of a placed child diminishes considerably after the first year of placement. This consideration and the desirability of periodic review of the work of those with whom the child is placed seem to the Committee of major importance. Accordingly, it proposes that no placement under the law of neglect 'may be for a period in excess of one year, unless the court finds at the conclusion of that period and after hearing that exceptional circumstances require continuation of the placement for an additional year.' Successive extensions are permitted."

Family Offenses

Analysis of assault and disorderly conduct cases by wives against husband shows three general patterns:

1. despair at salvaging marriage, and thus use threat of criminal prosecution to compel husband to leave home;

2. seek court's assistance to resolve underlying difficulty; i.e., seek help in conciliation;

3. try to use court to stop husband beating wife, and to stop heavy drinking.

Those are basically civil in origin and should be treated as such since their aim is not punishment but practical help. If the court feels in a particular case they should be transferred to a criminal court, it can do so.

The Family Court would have exclusive jurisdiction over adoption; and also over paternity proceedings, which would be civil rather than criminal in nature.

In support proceedings the Committee's draft:

1. Removes the $50 limitation on support orders currently contained in the Domestic Relations Court Act.

2. It permits an order of support of a child to extend throughout the child's minority. This proposal follows the Children's Court Act. It alters the Domestic Relations Court Act, which sometimes limits such an order to the child's seventeenth birthday.

3. It authorizes the Family Court to extend a support order beyond minority "if the child suffers physical or mental disabilities or if there are other exceptional circumstances that warrant such extension." This change, in the Committee's judgment, reflects the proper scope of parental responsibility.

The new Judiciary Article gives the Supreme Court jurisdiction over actions for separation, annulment, divorce, with power to the Supreme Court to refer support and custody aspects to the Family Court.

A judge would be required to have had ten years of practice in the State.

The Act contains the following provision on Privacy of Records: "The records of any proceeding in the family court shall not be open to indiscriminate public inspection. However, the court in its discretion in any case may permit the inspection of any papers or records. Any duly authorized agency, association, society or institution to which a child is committed may cause an inspection of the record of investigation to be had and may in the discretion of the court obtain a copy of the whole or part of such record."

* * *

THE HOME ADVISORY AND SERVICE COUNCIL OF NEW YORK, INC.

THE SOCIAL SERVICE AUXILIARY OF HOME TERM COURT
80 LAFAYETTE STREET, NEW YORK 13, N. Y. TELEPHONE BARCLAY 7-9235

March 7, 1962

The Hon. Nelson A. Rockefeller, Governor
Executive Chamber
Albany, New York

Ack. Acknowledged by WJR
3/9/62

Dear Governor Rockefeller,

All Social Agencies and forces in the City are deeply concerned about the trend which Court unification is taking under the direction of Senator Albert and his Committee.

The concern of this Council is, we believe, particularly notable since for sixteen years, as the cooperative agency of the religious bodies and family service societies, we have lived and worked in Home Term Court as a voluntary auxiliary and in the course of that time have served with marriage counseling nearly 9,000 families. This has been done by means of a trained staff contributed by Catholic Charities, the Protestant Council and various other sources.

I am enclosing a copy of a letter which has just been sent to Senator Albert. This, at some length, interprets our unchangeable conviction that the effective service of the deeply human needs presented in a family court together with the tragic shortage of treatment personnel demand the efficient use of resources such as only a single City-wide Court can provide.

Only one issue should be determining - How can we best use our helping resources to reach as many families as possible.

I feel sure that because of your life-long social concern you will see the human factor as paramount in this situation.

Sincerely,

Robert W. Searle
Executive Director

RWS:ma

March 7, 1962

Senator Daniel G. Albert, Chairman
Joint Legislative Committee on Court Reorganization
State Capitol
Albany, New York

My dear Senator Albert,

First, may I tell you who I am in order that you may realize that I speak from intimate and immediate inside knowledge of the responsibilities and needs of a Family Court.

For ten years I have directed an auxiliary marriage counseling service staffed by the Religious and Family Service bodies of the City in Home Term Court, which has City-wide jurisdiction over charges of assault and disorderly conduct within an immediate family. We have during this time served nearly 7,000 families. The intake of the Court averages 9,000 cases a year. Between the combined efforts of the Probation Staff and those of the Council, we scarcely serve more than 40% of the Court intake in any year.

Home Term is but one of the Courts involved in the merger of the Social Problem Courts. We estimate that when these courts are merged, they will face on a City-wide basis at least 50,000 families a year with 150,000 children in their membership.

To meet this heavy human responsibility adequately would require a case-work trained Probation Staff five times as large as the aggregate of the present staff. At present only approximately five percent of the P. O.s are case-work trained.

From the medical viewpoint, the prevailing illness of the Court-involved families is classified as "Character Disorder". Often there are neurotic or psychotic complications. Treatment involves the development of internal moral and social controls. This is a long and arduous task calling for both skill and patience.

This Council has at last convinced the authorities that Probation Officers should have case-work training. It has in the past pressed for the expansion of the Probation Staff and will continue to do so - but all of this will take time and money and can only be progressively accomplished.

I am sure that from this the reasons emerge as to why there should be but <u>one centrally controlled</u> Family Court for the five Boroughs or Counties of the City. We need all the money and personnel that can be available to put into the accomplishment of the purpose that is central to all of these courts - the rehabilitation of individuals and family character.

Two Courts - two administrations - will multiply administrative personnel at the expense of treatment personnel. That price will be taken out of the lives of individuals and families who might otherwise have been redeemed. I don't think that you or the members of your committee really want to require this.

You have been looking at these Courts from a dehumanized legal and administrative viewpoint. I plead with you to change your posture and see them really as hospitals into which come confused and miserable human beings who need help.

Strategy calls for the most effective unity of the organization of available resources to accomplish a determined purpose. In this case, the avowed purpose is the redemption of individuals and families in the City of New York when such families or their children appear in Court.

You have more than technical legal decisions before you. Basically what you are facing are profound human values.

I am sorry not to have been able to testify at either of the New York hearings, I was forced to leave the first during the morning by sickness and was still confined when the second was held.

Please do the big thing, the real thing, the thing which your heart tells you is right.

Sincerely,

Robert W. Searle

RWS:ma

CORRECTIONAL PROGRESS · CRIME PREVENTION, STUDY AND TREATMENT

THE CORRECTIONAL ASSOCIATION OF NEW YORK

135 EAST 15th STREET
NEW YORK 3, N. Y.
TELEPHONE ALGONQUIN 4-9718

(Formerly The Prison Association of New York)

Founded 1844 Incorporated 1846

March 7 1962

S3494

The Honorable Robert MacCrate
Council to the Governor
Executive Chamber
The Capitol
Albany 1, New York

RE: SENATE INTRO. 3494 - PRINT 3789
by Mr. Albert
Committed to the Committee on the Judiciary

Dear Mr. MacCrate:

The above bill is to establish a Family Court for the State of New York to implement Article VI of the Constitution of the State of New York.

This bill contains five sections, (347b, 435b, 625b, 746b, and 835b) which would violate the principle of confidentiality of probation reports and which in our estimation and in the minds of many others would dry up the information now available to the courts in making proper disposition through the probation investigations.

No less a body than the Supreme Court of the United States, speaking through Mr. Justice Black in Williams v. New York, supra, stated "We must recognize that most of the information now relied upon by judges to guide them in the intelligent imposition of sentences would be unavailable if information were restricted to that given in open court by witnesses subject to cross-examination. And the modern probation report draws on information concerning every aspect of a defendant's life."

It is our belief that the wording of the above sections to the effect that the reports prepared by the probation service shall be deemed confidential information "furnished to the court and to the parties in interest" is a serious violation of the confidentiality principle long standing in this State and would seriously hamper the proper disposition of cases after adjudication.

In support of the principles stated above we are also opposing Senate Intro. 45 Print 45 by Mr. Liebowitz.

Sincerely,

ERC.s

General Secretary

P. S. If you agree with us we hope you will use your influence with the Committee on the Judiciary to effect the necessary amendments.

(Formerly The Prison Association of New York)

Founded 1844 | Incorporated 1846

April 6, 1962

S 3494

Hon. Robert MacCrate
Executive Chamber
State Capitol
Albany 1, New York

Re: Senate Intro. 3494, Print 4501
By Mr. Albert
APPROVED

Dear Mr. MacCrate:

This bill establishes a family court in each county of state as part of the unified court system of state, thereby implementing the constitutional provisions relating to the judiciary and the re-organization of the court system.

Here again we were active over the years, along with others, to bring about an improved family court organization and operation, realizing that this court was an important segment in the whole of court structure within the city of New York. It needed some special attention because it dealt with domestic affairs and children coming in conflict with the law.

As stated in our other correspondence relating to court re-organization bills, we were active during the days of the various Legislatures that had the question under consideration, furthermore, during the days prior to the November election and, finally, during the days of the 1962 Session. The various communications in support of the reorganization of the court system undoubtedly have been brought to your notice, likewise the Governor's, and it is urged and hoped that the above measure will receive his approval.

While there are many important points involved in the bill, we were concerned in the beginning because of the wording that would make for a departure from the confidentiality of the probation reports. We urgeda retention of this principle.

It is hoped the Governor will sign the bill.

Sincerely yours,

E R C. Carr

General Secretary

ERC:fh

S-3494

LEAGUE OF WOMEN VOTERS
OF NEW YORK STATE

131 EAST 23rd STREET • NEW YORK 10, N.Y. • OR 7-5050

Mrs. John Fitchen, President

LEGISLATIVE MEMORANDUM

S.I. 3494; P. 4501
S.I. 3917; P. 4677
S.I. 3918; P. 4678
S.I. 3726; P. 4076
S.I. 3949; P. 4764

The Family Court

S.I. 3494; P. 4501

This Family Court Act is a forward looking measure and basically sound in concept. We are particularly pleased that under its provisions the Family Court would have uniform jurisdiction throughout the state (Section 115), enjoy statewide process (Section 154) and that uniform court rules would be applied to the extent practicable throughout the state (Section 212a). These provisions should go far towards eliminating many of the present inequities in the administration of family justice in various areas of the state.

Section 211 of this bill provides that the Family Court will be administered in accord with the new Section 7A of the Judiciary Law. Our comments on that measure are, of course, applicable here. We wish to emphasize particularly the disastrous effect which a divided administration of the Family Court in New York City would have. The prospect of two divisions of the Family Court competing for available cityfunds, the inevitable confusion among the highly mobile clients of the court in New York City, and the destruction of the newly consolidated lower court probation service all mitigate against such a split in this court.

A major source of disappointment is this bill's failure to give the Family Court jurisidction over crimes and offenses by minors who are presently eligible for Youthful Offender treatment in the criminal courts. (Sec. 712). The evils of this type of fragmentation of family justice have been too often pointed out to bear repetition here. A large proportion of these cases occur in "multi-problem" families and should be handled in the court which is most likely to be familiar with the entire situation and which has the necessary auxiliary services to deal with it. In approving the repeal of the Youth Court Act, Governor Rockefeller stated that the question of crimes and offenses by minors over 16 years of age should properly be considered in connection with the establishment of the Family Court. We regret that the Joint Legislative Committee on Court Reorganization has not seen fit to take positive action on this matter at the very beginning of the new court. We understand, however, that the Committee intends

LEAGUE OF WOMEN VOTERS
OF NEW YORK STATE

131 EAST 23rd STREET • NEW YORK 10, N.Y. • OR 7-5050

Mrs. John Fitchen, President

S.I. 3494; P. 4501 (continued)

to begin a study of this problem in the near future with the intention of proposing legislation to the 1963 session. We hope that Governor Rockefeller will encourage immediate attention to this vital question. We are certain that the broadening of the jurisdiction of the Family Court in this area will receive enthusiastic statewide support from civic groups and social agencies.

Section 641 gives the Family Court original concurrent jurisdiction with the Surrogate's Court over adoptions until September 1, 1964. We deeply regret this retreat from the original recommendation of the Joint Legislative Committee on Court Reorganization which gave the Family Court exclusive original jurisdiction over these matters. We submit that this grant of concurrent jurisdiction to the Surrogates, even for this limited period, is contrary to the provisions of Article 6 of the state constitution. Section 13b of that Article lists those matters "which shall be originated" in the Family Court and includes in that list "the adoption of persons". We call your attention to Section 11a of the Article which uses the same language in establishing the jurisdiction of the County Court. In that section the legislative intent to give concurrent jurisdiction over certain cases to the district, town, city and village courts is specifically spelled out as an exception to the grant of exclusive jurisdiction to the County Court. No similar exception is included in the Family Court section for Surrogates and adoptions.

S.I. 3917; P. 4677 S.I. 3918; P. 4678 S.I. 3726; P. 4076

These bills are concerned with correcting and amending existing laws related in some way to the Family Court. Apparently no attempt has been made to change these statutes beyond conforming them technically to the new legislation. In this, as in other cases, we regret that time apparently did not permit a more thoroughgoing re-drafting and substantive changes. As an example we point to S.I. 3726, P. 4076, Section 3, which amends the Correction Law as to the duties of the state director of probation. It seems to us that there is a clear conflict here between his authority and responsibility and that of the new Administrative Board with respect to the administration of probation services in the Family Court

S.I. 3949; P. 4764

This further amends a previous bill amending the Family Court Act which has not as yet been made available to us and which we believe is S.I. 3934; P. 4723. These comments are

LEAGUE OF WOMEN VOTERS
OF NEW YORK STATE

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Mrs. John Fitchen, President

S.I. 3949; P. 4764 (continued)

based on reports of the contents of this bill.

We approve of a uniform minimum salary for Family Court judges which will encourage the establishment of full time judgeships and make it unnecessary for judges to supplement their judicial salaries by other professional or business activities.

Since it is now proposed that the state pay some portion of the salaries of Family Court judges, the Legislature should properly determine the number of such judgeships which shall exist at any given time. We feel it is sound, therefore, that the provision for the creation of new judgeships merely by certification within the counties and New York City, be eliminated.

STATE OF NEW YORK
DEPARTMENT OF CORRECTION
DIVISION OF PROBATION

PAUL D. McGINNIS
COMMISSIONER
EDWARD J. TALYOR
DIRECTOR OF PROBATION

PLATT K. WIGGINS, CHAIRMAN
142 PIERREPONT STREET
BROOKLYN 1, N.Y.

STATE PROBATION COMMISSION
PLATT K. WIGGINS, CHAIRMAN, BROOKLYN
DR. EGON PLAGER, VICE-CHAIRMAN, ALBANY
JAMES J. BEHA, NEW YORK CITY
PAUL D. McGINNIS, ALBANY
LEONARD PROBST, NEW YORK CITY
EDWARD J. TAYLOR, ALBANY
REV. C. PHILIP TORRANCE, ELMIRA

March 12, 1962

Honorable Robert MacCrate,
Counsel to the Governor,
The Executive Chamber, Capital,
Albany 1, New York.

Dear Bob:

I am advised that the Joint Committee on Court reorganization (The Albert Committee) to establish the State-wide Family Court have finally decided to honor the confidentiality of probation reports.

I wish to thank you for your work in connection with this matter. Believe me, it is very important to probation and had the Bill gone through as originally prepared confusion would have resulted in most of the Probation Departments in the State.

There are two Bills before the Legislature at the present time. The Bill of the Joint Committee on Court Reorganization - The Albert Committee - to establish the State-wide Family Court and the Senate Introduction 3494, Pr. 3789, Assembly Introduction 4909, Pr. 5203.

There was another Bill introduced, the Gordon-Feinberg Bill, sponsored by the Children's Court Judges Association of New York. This is actually the New York State Domestic Court Act retailored to make it a State-wide Family Court. This Bill is Senate Introduction 719, Pr. 2993, Assembly Introduction 1497, Pr. 1497.

Personally, I believe that the administration measure, that is, the Albert Committee Bill, Senate Introduction 3494, etc. is the Bill to be approved because it is far superior to the Gordon-Feinberg Bill. I find that the Commission is of the same opinion and I am, therefore, requested to advise you of this fact so that you, in turn, may communicate the Commission's selection of the Bills to the Governor should that be necessary.

I wish to thank you for all you have done in connection with this matter.

Sincerely yours,

Platt Wiggins

PKW:g

Monroe County Bar Association

313 Powers Building

Rochester 14, New York

LOcust 2-8910

PRESIDENT
E. JAMES HICKEY
16 MAIN STREET EAST

SECRETARY
HYMAN G. GOULD
30 STATE STREET

TREASURER
ANTHONY C. LABUE
45 EXCHANGE STREET

EXECUTIVE SECRETARY
MILFORD J. WHEELER
313 POWERS BLDG.

April 16, 1962

ADDRESS REPLY TO:

S3494

HON. ROBERT MAC CRATE
Executive Chambers
State Capitol
Albany 1, New York

Re:

Senate	Intro
1783	3494 ✓
3947	3727
3376	3918
3641	3949
	3719
	3934

Dear Sir:

This will acknowledge receipt of your request for my comments and recommendations concerning the above legislation.

This legislation has been reviewed by our Legislative Committee and other appropriate committees of the Association but because of the press of time it has not been reviewed by our Board of Trustees.

However, I can advise you that on the basis of the report submitted to me by our Committees there is no opposition to this legislation.

Very truly yours,

E. JAMES HICKEY
President

EJH:idl

STATE OF NEW YORK
DEPARTMENT OF AUDIT AND CONTROL
ALBANY

ARTHUR LEVITT
STATE COMPTROLLER

April 6, 1962

IN REPLYING REFER TO

S 3424

REPORT TO THE GOVERNOR ON LEGISLATION

To: Hon. Robert MacCrate, Counsel to the Governor

The following bills are of no interest to this Department:

SENATE Int.	Pr.
27	A. 5904
943	4528
1547	4700
1804	1862
1912	4410
1917	4293
1927	1992
1970	3853
1990	2062
2439	4565
2454	4441
2664	4651
2680	2850
2832	4701
2883	4486
2888	4567
3004	4137
3028	4652
3065	3295
3191	3445
3283	3555
3345	4226
3415	3705
3482	3777
3483	4489
3493	4500
3494	4501
3556	3882
3557	4490
3673	4460
3696	4706

SENATE	Int.	Pr.
	3703	4051
	3716	4674
	3719	4069
	3721	4077
	3724	4602
	3726	4076
	3729	4078
	3736	4660
	3737	4166
	3782	4336
	3783	4337
	3791	4367
	3793	4508
	3795	4371
	3813	4389
	3822	4421
	3827	4426
	3865	4645
	3868	4552
	3876	4582
	3911	4689
	3917	4677
	3918	4678
	3933	4722
	3934	4723
	3938	4745
	3947	4765
	3949	4764

ARTHUR LEVITT
State Comptroller

By Alfred W. Haight

Alfred W. Haight
First Deputy Comptroller

DD:bf

THE JUDICIAL CONFERENCE
OF THE
STATE OF NEW YORK
270 BROADWAY
NEW YORK 7, N. Y.
BARCLAY 7-1616

CHARLES S. DESMOND
CHAIRMAN

BERNARD BOTEIN
GEORGE J. BELDOCK
FRANCIS BERGAN
ALGER A. WILLIAMS
OWEN McGIVERN
WILLIAM B. GROAT
KENNETH S. MacAFFER
ROBERT E. NOONAN

THOMAS F. McCOY
STATE ADMINISTRATOR

3441

April 5, 1962

Hon. Robert MacCrate
Counsel to the Governor
The State Capitol
Albany, New York

Re: Senate Int. 3493, Print 4500
" Int. 3494, Print 4501
" Int. 3719, Print 4069
" Int. 3721, Print 4071
" Int. 3724, Print 4602
" Int. 3726, Print 4076
" Int. 3917, Print 4677
" Int. 3918, Print 4678
" Int. 3933, Print 4722
" Int. 3934, Print 4723
Assembly Int. 4920, Print 5214
" Int. 4924, Print 5218
" Int. 4926, Print 5905
" Int. 4921, Print 5215

Dear Mr. MacCrate:

This will acknowledge your request for comments and recommendation upon the above listed bills, all of which are recommended by the Joint Legislative Committee on Court Reorganization.

These fourteen bills are part of the implementing legislation required to make effective the provisions of the new Judiciary Article which becomes operative on September 1, 1962.

The Judicial Conference has not officially passed upon the detailed provisions contained in these bills. Indeed, to do so would require a period of study at least as lengthy as that required to draft the proposals.

The matter of approving implementing legislation under which the court structure can function in September is an overriding necessity. At this juncture it would be unwise for any reason to postpone approval of this package of bills. Judges,

administrators, clerks and lawyers alike must be able to plan the processing of cases under the new court system and must have available to them the detailed provisions under which they will function.

I would recommend that all of the bills proposed by the Joint Legislative Committee on Court Reorganization be approved.

Sincerely yours,

State Administrator

TFM:ah