OVERVIEW

In 1999, New York State adopted its version of the federal Adoption and Safe Families Act (ASFA). The Act created dramatic changes in child welfare law and practice by creating time frames for reunification which move children more quickly toward either reunification with their parents or adoption. ASFA requires states to terminate the parental rights of parents whose children have been in foster care for fifteen out of the most recent twenty-two months unless there are compelling reasons not to seek termination.

For parents who are in chemical dependence treatment, especially those who are in residential treatment programs, this time frame can have a serious impact on the parent's relationship with his or her child. Termination of parental rights is a proceeding to end the legal relationship between the parent and child, and forecloses the possibility of family reunification. In order to avoid termination of parental rights, parents in recovery must demonstrate that, in addition to addressing the causes of their child's placement in foster care, they are able to build or maintain a meaningful connection to their children while engaged in chemical dependence treatment.

According to the law and ACS' policies, there must be a visiting plan for every family involved in the foster care system. Family visiting plans are generally developed by the agency responsible for planning but must also be ratified by the Family Court and are often set forth in court orders. A parent's ability to maintain regular and meaningful visits is one of the most important factors looked at by the Family Court, foster care agencies and law guardians in determining whether children should be returned to their parents. The foster care system will base its evaluation of a parent's compliance largely on the parent's ability to maintain regular and meaningful visiting with their children.

When a parent does not visit for weeks at a time, misses visits, or cancels at the last minute, he or she is jeopardizing his or her future relationship with their children, increasing the chances that their parental rights will be terminated. Parents with chemical dependence problems may have already experienced problems complying with visiting plans by the time they begin treatment. Engagement in treatment can and should have a stabilizing impact on a parent's relationship with the foster care agency and their children as well.

Traditionally, residential chemical dependence programs have not taken the ramifications of ASFA into account when developing treatment plans for parents in recovery. Restrictive practices during orientation, sanctions, and other practices that limit a parent's ability to comply with the visiting plan are having unintended harmful consequences on the legal rights of parents and consequently on their commitment to ongoing treatment. However, ASFA has created a dramatic need to re-examine traditional treatment practices as they relate to a parent's relationship to his or her children.

Partly in response to ASFA's expedited time frames, OASAS and New York City's Administration for Children's Services (ACS) issued the Operational Protocol for Client Referral and Communication between Child Welfare Staff and Alcohol and Other Drug Treatment Providers. Designed to promote collaboration between the agencies, the Protocol addresses procedures for release of information, assessment for appropriate treatment, and treatment planning for families affected by both systems. ACS issued its Best Practice Guidelines for Family Visiting Arrangements which emphasize the importance of frequent and meaningful visiting between parents and children involved in the foster care system. Despite implementation of the Protocol and issuance of the Visiting Guidelines, problems persist in maintaining connections between children and parents during treatment.

OASAS recognizes the importance of maintaining strong family connections to support long-term recovery, to promote healthy development in children, and help break the intergenerational cycle of addiction. OASAS believes that there is a need for a clear set of principles and policies pertaining to family visiting during treatment.

The following documents--OASAS Local Services Bulletin No. 2006-02, Policy and Practice Chart and Recommendations--are suggested to ensure that parent/child relationships become an integral part of a parent's treatment plan.