



MEMORANDUM IN SUPPORT

S. 6518 (Avella) / A.8313 (Hevesi)

An ACT to amend the Social Services Law in relation to payment of an adoption subsidy

Brooklyn Defender Services (BDS) is public defender office that provides inter-disciplinary, client-centered representation in the areas of criminal, family, and immigration defense, as well as civil legal services, for more than 30,000 clients in Brooklyn every year. Our Family Defense practice has represented more than 9,000 parents of 22,000 children in Family Court cases involving allegations of abuse or neglect over the past ten years. Our Criminal Defense practice has a specialized adolescent unit that represents over two thousand adolescents ages 13-21 annually. A large percentage of these criminal justice-involved youth are current or former foster children (including children who have been adopted out of the child welfare system), often referred to as "crossover youth." Many of our crossover clients struggle with homelessness as a result of disruptions or dissolutions of their living situations.

BDS strongly supports the passage of S.6518/A.8313.

The Current Law

New York State Social Services Law Section 453 provides assistance, in the form of a monthly subsidy, to help adoptive parents meet the varied and often costly needs of children who are adopted out of foster care. These subsidy payments are made to the adoptive parents of children who fall within the definition of "handicapped" and "hard to place." Payments can total up to \$1,941 per month per adopted child and continue until the child's twenty-first birthday. In New York State, 97.8 percent of parents who adopt children from foster care receive the adoption subsidy.¹

Most adoptive parents use the subsidy as it was intended - for the benefit, support and care of the adopted children in a permanent, safe, stable, and loving home. In some cases, however, the subsidy is paid to adoptive parents who are no longer providing a

¹ Receiving Adoption Subsidy: October 1, 2013 to September 30, 2014 (FY 2014), U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, (July 2015) https://www.acf.hhs.gov/sites/default/files/cb/adoption_subsidy2014.pdf.

home or support for the adopted child. Under existing law, transfer of the subsidy to a new guardian or custodian, or a child over 18 but under 21, can only occur upon the death of the adoptive parents.

The Proposed Amendment

This bill makes important changes to the Social Services Law Section 453 in order to prevent the monthly adoption subsidy from being paid to parents who are no longer providing care and maintenance for the children they have adopted. It appropriately expands the existing exception so that whenever a successor guardian/custodian is named, the child is replaced in foster care, the child is sent to live on his/her own, or the child becomes homeless, the adoption subsidy will be paid for the benefit of the child.

Justification

This bill acknowledges the reality that adoptions sometimes result in disruption and dissolution and takes an important step toward ensuring that the adoption subsidy is paid for the benefit of the child, as intended. The federal Children's Bureau reports that adoptions are disrupted at a rate ranging from 10 to 25 percent, and that one to five percent of adoptions ultimately dissolve irrevocably.²

At BDS we recognize that families are complex and ever-changing. New York State laws that provide for the support of child welfare-involved children, including children who have been adopted, must be flexible enough to respond to the unique needs of young people and their caretakers as the circumstances demand. Our goal is always to ensure the best outcomes for children, adolescents and their families. Yet the existing adoption subsidy provisions lead to adoption disruptions and dissolutions, making adolescents at severe risk of homelessness and criminal justice involvement.

Amending the adoption subsidy law to ensure that the caretakers of young people who are entitled to the subsidy in fact receive the subsidy will prevent food insecurity and homelessness among this extremely vulnerable population, allowing young people and their chosen families to better access the supports and services that they need to be successful and achieve their own goals.

For these reasons, we urge the legislature to pass and the Governor to sign this bill.

Questions?

Contact Andrea Nieves, Policy Attorney, Brooklyn Defender Services at 718-483-1312 or anieves@bds.org.

² Children's Bureau, *Adoption Disruption and Dissolution*, CHILD WELFARE INFORMATION GATEWAY: NUMBERS AND TRENDS (June 2012), available at https://www.childwelfare.gov/pubPDFs/s_disrup.pdf.