

STATE OF NEW YORK

6225

2019-2020 Regular Sessions

IN SENATE

May 24, 2019

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, the executive law, the public health law and the judiciary law, in relation to providing for supports and services for unaccompanied minors with no lawful immigration status

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2 of the social services law is amended by adding a
2 new subdivision 39 to read as follows:

3 39. "Unaccompanied minor" shall mean a child who, prior to release to
4 a sponsor was in the custody of the federal office of refugee resettlement and:

5 (a) has no lawful immigration status in the United States;

6 (b) has not attained eighteen years of age; and

7 (c) has no parent or legal guardian in the United States or no parent
8 or legal guardian in the United States available to provide care and
9 physical custody.

10 § 2. Article 5 of the social services law is amended by adding a new
11 title 12-A to read as follows:

TITLE 12-A

SUPPORTS AND SERVICES FOR UNACCOMPANIED MINORS

14 Section 370-c. Supports and services for unaccompanied minors.

15 370-d. Informational materials.

16 § 370-c. Supports and services for unaccompanied minors. 1. Unaccom-
17 panied minors shall be eligible for a range of appropriate services and
18 supports, which shall be beneficial to the health, safety, and well-be-
19 ing of such minors. Such services shall include, but not be limited to:
20 public assistance benefits covered under paragraph (h) of subdivision
21 one of section one hundred fifty-eight of this chapter; health and
22 behavioral health services covered under paragraph (k) of subdivision
23

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 two of section twenty-five hundred eleven of the public health law;
2 individual counseling sessions with social workers; legal services
3 provided under section three hundred ninety-four of this chapter, which
4 shall include culturally and linguistically appropriate services
5 provided by attorneys, interpreters, and other support staff for repre-
6 sentation in state court proceedings, federal immigration proceedings,
7 and any appeals arising from such proceedings; language services;
8 employment assistance; bilingual support groups; and assistance with
9 educational rights and enrollment in public schools.

10 2. Such services and supports shall be identified by an immigration
11 services liaison under section ninety-four-b of the executive law, which
12 shall, to the extent practicable, connect each unaccompanied minor with
13 resources in order to access such supports and services identified in
14 subdivision one of this section. The immigration services liaison shall
15 connect with unaccompanied minors prior to release to a sponsor deter-
16 mined to be appropriate by the federal office of refugee resettlement,
17 to the extent practicable, but no later than upon referral pursuant to
18 section three hundred seventy-four-g or three hundred ninety-three of
19 this chapter.

20 3. Any individual or program providing such services and supports or
21 otherwise providing assistance to the unaccompanied minor shall ensure
22 they receive trauma informed training as well as training on how to
23 identify and appropriately react to unaccompanied minors who may have
24 experienced adverse childhood experiences. In addition, any services,
25 supports or assistance shall be provided in a culturally competent
26 manner.

27 § 370-d. Informational materials. 1. The office of temporary and disa-
28 bility assistance, in consultation with the office of children and fami-
29 ly services, the office of mental health and the office for new Ameri-
30 cans, shall develop informational materials for authorized agencies, as
31 defined in paragraph (a) of subdivision ten of section three hundred
32 seventy-one of this chapter and out of state foster care agencies. Such
33 informational materials shall include contact information for immi-
34 gration services liaisons, as well as a general description of the bene-
35 fits the unaccompanied minor is eligible for, pursuant to subdivision
36 one of section three hundred seventy-c of this title.

37 2. The informational materials shall be made available in English and
38 the six most common non-English languages spoken by individuals with
39 limited-English proficiency in the state of New York, based on United
40 States census data, and shall be published on the office of temporary
41 and disability assistance, office of children and family services, the
42 office of mental health and the office for new Americans' websites.

43 § 3. The social services law is amended by adding a new section 394 to
44 read as follows:

45 § 394. Legal representation of unaccompanied minors. 1. An unaccompa-
46 nied minor or minor in the custody of the federal office of refugee
47 resettlement while in the care of an authorized agency against whom a
48 removal proceeding may be or has been commenced shall be entitled to
49 representation by assigned counsel for such proceeding and related
50 assistance, pursuant to subdivision one of section thirty-five of the
51 judiciary law, including interpretation or translation services pursuant
52 to subdivision five of this section when the child:

53 (a) was present in this state when questioned, taken into custody,
54 charged, summoned or presented with the allegations of the removal
55 proceedings;

1 (b) resided in this state when questioned, taken into custody,
2 charged, summoned or presented with the allegations of the removal
3 proceedings;

4 (c) or is detained in this state.

5 2. Representation and related assistance provided in accordance with
6 this section shall be a state charge, pursuant to subdivision one of
7 section thirty-five of the judiciary law.

8 3. (a) Upon receipt from a federal immigration authority of a civil
9 immigration detainer, or a request for transfer, notification, inter-
10 view, interrogation or other request, an authorized agency, or agent
11 thereof, shall provide to the child, who is the subject of such detainer
12 or request, such child's sponsor, if sponsored, and such child's coun-
13 sel, if represented:

14 (i) notification of such detainer or request;

15 (ii) a copy of such detainer or request;

16 (iii) notice regarding such child's right to counsel pursuant to this
17 section if such child is without counsel at the time of such detainer or
18 request; and

19 (iv) information as to whether or not such agency intends to comply
20 with such detainer or request.

21 (b) If such child is under the age of five at the time such detainer
22 or request is received, such information required pursuant to paragraph
23 (a) of this subdivision shall only be provided to such child's sponsor,
24 if sponsored, and such child's counsel, if represented.

25 4. Notwithstanding the provisions of subdivision one of this section,
26 a child in the care of an authorized agency may request to be inter-
27 viewed by a federal law enforcement agency or an agent thereof only with
28 written authorization by such child's counsel, provided that if such
29 child is not represented and is entitled to counsel assigned pursuant to
30 this section, he or she shall be notified of such right and provided a
31 reasonable opportunity to obtain such counsel before any such interview.

32 5. In addition to any other right to the assistance of interpretation
33 or translation services, any foreign-born child, or child not proficient
34 in the English language, to whom inquiry is made pursuant to this
35 section shall be entitled to the assistance of a neutral and qualified
36 interpreter or translator, as the case may be, with respect to such
37 inquiry, provided at no cost or expense to such child.

38 6. This section shall supersede conflicting local laws, rules, poli-
39 cies, procedures and practices, except to the extent that the provisions
40 of any such local law, rule, policy or any such procedure or practice
41 may provide any additional or greater right or protection. Nothing in
42 this section shall prohibit any authorized agency from cooperating with
43 a federal immigration authority to the extent required by federal law.
44 Nothing in this section shall be interpreted or applied so as to create
45 any power, duty or obligation in conflict with federal law.

46 § 4. Paragraphs (m) and (n) of subdivision 5 of section 94-b of the
47 executive law, as added by chapter 206 of the laws of 2014, are amended
48 and a new paragraph (o) is added to read as follows:

49 (m) Encourage and assist local governments in the development of
50 activities to enhance civic engagement among immigrants and in immigrant
51 communities; ~~and~~

52 (n) Beginning in two thousand fifteen, by June fifteenth of each year,
53 produce a report to the governor, the speaker of the assembly, and the
54 temporary president of the senate describing the activities of the
55 office, including but not limited to, summarizing calls received through
56 the hotline and website, information on ESOL training services provided

1 by the office, the number of immigrants assisted through the opportunity
2 centers, or an estimation thereof, the status of any workforce develop-
3 ment programs, and any other relevant information[-]; and

4 (o) Establish an immigration services liaison to assist unaccompanied
5 minors as defined in section two of the social services law, in order to
6 access appropriate supports and services for such minors. The office may
7 work in conjunction with the office of temporary and disability assist-
8 ance, the office of children and family services and the office of
9 mental health in order to effectuate their duties under this provision.

10 § 5. The social services law is amended by adding a new section 374-g
11 to read as follows:

12 § 374-g. Unaccompanied minors released by authorized agencies. 1.
13 Every authorized agency as defined in paragraph (a) of subdivision ten
14 of section three hundred seventy-one of this title, that releases an
15 unaccompanied minor in New York to a sponsor that is a New York resi-
16 dent, and deemed to be appropriate by the federal office of refugee
17 resettlement, shall provide the unaccompanied minor and their sponsor
18 with: (a) direct referrals to immigration services liaisons under
19 section ninety-four-b of the executive law; (b) informational materials
20 developed by the office of temporary and disability assistance, inform-
21 ing them of available supports and services the unaccompanied minor is
22 eligible for upon release into New York as defined in section three
23 hundred seventy-c of this chapter; and (c) notification of such minor's
24 right to counsel under section three hundred ninety-four of this title.

25 2. Such informational materials shall be provided to both the unaccom-
26 panied minor and the sponsor, unless such unaccompanied minor is under
27 the age of five, in which case such informational materials may be
28 provided solely to the sponsor.

29 § 6. The social services law is amended by adding a new section 393 to
30 read as follows:

31 § 393. Unaccompanied minors released by out of state foster care agen-
32 cies. 1. Every out of state foster care agency that releases an unaccom-
33 panied minor in New York to a sponsor that is a New York resident, and
34 deemed to be appropriate by the federal office of refugee resettlement,
35 shall provide the unaccompanied minor and their sponsor with: (a) direct
36 referrals to an immigration services liaison under section ninety-four-b
37 of the executive law; (b) informational materials developed by the
38 office for temporary and disability assistance, informing them of avail-
39 able supports and services the unaccompanied minor is eligible for upon
40 release into New York as defined in section three hundred seventy-c of
41 this chapter; and (c) notification of such minor's right to counsel
42 under section three hundred ninety-four of this title.

43 2. Such informational materials shall be provided to both the unaccom-
44 panied minor and the sponsor, unless such unaccompanied minor is under
45 the age of five, in which case such informational materials may be
46 provided solely to the sponsor.

47 § 7. Subparagraphs (i) and (ii) of paragraph (c) of subdivision 1 of
48 section 122 of the social services law, as amended by chapter 214 of the
49 laws of 1998, are amended and a new subparagraph (iii) is added to read
50 as follows:

51 (i) a qualified alien who entered the United States less than five
52 years earlier or for less than five years has had a status within the
53 meaning of the term "qualified alien" as defined in section 431 of the
54 federal personal responsibility and work opportunity reconciliation act
55 of 1996 (8 U.S. Code 1641), as amended, if such entry occurred on or

1 after the twenty-second day of August, nineteen hundred ninety-six;
2 [~~and~~]

3 (ii) an alien whose status is not within the meaning of the term
4 "qualified alien" as defined in section 431 of the federal personal
5 responsibility and work opportunity reconciliation act of 1996 (8 U.S.
6 Code 1641), as amended, but who is otherwise permanently residing in the
7 United States under color of law[~~-~~]; and

8 (iii) an unaccompanied minor under section two of this chapter.

9 § 8. Paragraph (g) of subdivision 1 of section 158 of the social
10 services law, as added by section 44 of part B of chapter 436 of the
11 laws of 1997, is amended and a new paragraph (h) is added to read as
12 follows:

13 (g) is a qualified alien who is ineligible to receive assistance fund-
14 ed under the temporary assistance for needy families block grant solely
15 because of section four hundred three of the federal personal responsi-
16 bility and work opportunity reconciliation act of 1996 (P.L. 104-193)
17 or is an alien who is permanently residing under color of law but is not
18 a qualified alien[~~-~~], or

19 (h) is an unaccompanied minor under section two of this chapter.

20 § 9. Subdivision 2 of section 2511 of the public health law is amended
21 by adding a new paragraph (k) to read as follows:

22 (k) Where an applicant for a subsidy payment pursuant to subdivision
23 three of this section is an unaccompanied minor as defined in section
24 two of the social services law, such unaccompanied minor shall be eligi-
25 ble for such subsidy.

26 § 10. Subdivision 7 of section 2510 of the public health law, as
27 amended by chapter 428 of the laws of 2013, is amended to read as
28 follows:

29 7. "Covered health care services" means: the services of physicians,
30 optometrists, nurses, nurse practitioners, midwives and other related
31 professional personnel which are provided on an outpatient basis,
32 including routine well-child visits; diagnosis and treatment of illness
33 and injury; inpatient health care services; laboratory tests; diagnostic
34 x-rays; prescription and non-prescription drugs and durable medical
35 equipment; radiation therapy; chemotherapy; hemodialysis; outpatient
36 blood clotting factor products and other treatments and services
37 furnished in connection with the care of hemophilia and other blood
38 clotting protein deficiencies; emergency room services; hospice
39 services; emergency, preventive and routine dental care, including
40 medically necessary orthodontia but excluding cosmetic surgery; emergen-
41 cy, preventive and routine vision care, including eyeglasses; speech and
42 hearing services; and, inpatient and outpatient mental health, alcohol
43 and substance abuse services as defined by the commissioner in consulta-
44 tion with the superintendent. For unaccompanied minors, as such term is

45 defined by section two of the social services law, covered health care
46 services shall also include: (a) children's mental health rehabilitation
47 services including, but not limited to, those added to the Medicaid
48 state plan in January of two thousand nineteen, other licensed practi-
49 tioner services, community psychiatric support and treatment services,
50 and psychosocial rehabilitation services, assuming such children's
51 mental health rehabilitation services are provided by individuals acting
52 within their lawful scope of practice as established under the education
53 law; and (b) trauma informed care that includes the identification of
54 and appropriate reaction and treatment to adverse childhood experiences.

55 "Covered health care services" shall not include drugs, procedures and
56 supplies for the treatment of erectile dysfunction when provided to, or

1 prescribed for use by, a person who is required to register as a sex
2 offender pursuant to article six-C of the correction law, provided that
3 any denial of coverage of such drugs, procedures or supplies shall
4 provide the patient with the means of obtaining additional information
5 concerning both the denial and the means of challenging such denial.

6 § 11. The opening paragraph of paragraph a of subdivision 1 of section
7 35 of the judiciary law, is designated subparagraph (i) and a new
8 subparagraph (ii) is added to read as follows:

9 (ii) Persons providing assigned counsel and related assistance in
10 immigration-related matters under section three hundred ninety-four of
11 the social services law shall be compensated in accordance with this
12 section. In any case where a child is entitled to assigned represen-
13 tation under section three hundred ninety-four of the social services
14 law, petitions any court with jurisdiction where the minor is to be
15 questioned or detained, or is detained, or was charged in such immigra-
16 tion-related matter, or most recently resided, the court shall assign
17 counsel, with appropriate expertise and experience in immigration-relat-
18 ed matters, in accordance with this section.

19 § 12. Severability. If any clause, sentence, paragraph, section or
20 part of this act shall be adjudged by any court of competent jurisdic-
21 tion to be invalid and after exhaustion of all further judicial review,
22 the judgment shall not affect, impair or invalidate the remainder there-
23 of, but shall be confined in its operation to the clause, sentence,
24 paragraph, section or part of this act directly involved in the contro-
25 versy in which the judgment shall have been rendered.

26 § 13. This act shall take effect immediately; provided, however,
27 sections one, two, four, five, six, seven, eight, nine, ten and eleven
28 of this act shall take effect on the sixtieth day after it shall have
29 become a law.