STATE OF NEW YORK

2583

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. HEVESI, EPSTEIN, AUBRY, REYES, ROZIC, WILLIAMS, CRUZ, RAMOS, J. RIVERA, WALKER, NIOU, WEPRIN, SIMON, DE LA ROSA, PRETLOW, COLTON, GOTTFRIED, FRONTUS, DICKENS, BARRON, JEAN-PIERRE, FAHY, SAYEGH, L. ROSENTHAL, FERNANDEZ, GLICK, PICHARDO, PAULIN, RODRIGUEZ -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, the executive law, and the public health 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:

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

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

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

(b) had not attained eighteen years of age prior to being taken into federal custody; and

(c) was not accompanied by a parent or legal guardian upon entry to the United States or was accompanied by a parent or legal guardian but subsequently separated from that parent or legal guardian upon entry to the United States.

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

TITLE 12-A

SUPPORTS AND SERVICES FOR UNACCOMPANIED MINORS

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

370-d. Informational materials.

§ 370-c. Supports and services for unaccompanied minors. 1. Unaccompanied minors, as defined under section two of this chapter, shall be eligible for a range of appropriate services and supports, which shall

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

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be beneficial to the health, safety, and well-being of such minors. Such services shall include, but not be limited to: health and behavioral health services covered under paragraph (k) of subdivision two of section twenty-five hundred eleven of the public health law; individual counseling sessions with social workers; legal services provided under section three hundred ninety-four of this chapter, which shall include culturally and linguistically appropriate services provided by attorneys, interpreters, and other support staff for representation in state court proceedings, federal immigration proceedings, and any appeals arising from such proceedings; language services; employment assistance; bilingual support groups; and assistance with educational rights and enrollment in public schools. Such support and services shall not be deemed public benefits that would affect an unaccompanied minor's immigration status under 8 USC 1182, as amended, and any regulations promulgated thereunder.

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

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

§ 370-d. Informational materials. 1. The office of children and family services, in consultation with the office of mental health and the office for new Americans, shall develop informational materials for authorized agencies, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of this chapter and out of state care providers. Such informational materials shall include contact information for immigration services liaisons, as well as a general description of the benefits unaccompanied minors as defined in section two of this chapter are eligible for, pursuant to subdivision one of section three hundred seventy-c of this title.

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

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

§ 394. Legal representation of unaccompanied minors. 1. An unaccompanied minor, as defined in section two of this chapter, or minor in the custody of the federal office of refugee resettlement while in the care of an authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of this article, who is present in this state and against whom an immigration proceeding may be or has been

commenced shall be entitled to representation by counsel through the completion of such proceeding, including appeals and/or obtaining status and other related assistance, pursuant to section ninety-four-d of the executive law, including interpretation or translation services pursuant to subdivision five of this section.

2. Representation and related assistance provided in accordance with this section shall be a state charge, pursuant to section ninety-four-d of the executive law.

3. (a) Upon receipt from a federal immigration authority of a civil immigration detainer, or a request for transfer, notification, interview, interrogation or other request, an authorized agency, or agent thereof, shall provide to the child, who is the subject of such detainer or request, such child's sponsor, if sponsored, and such child's counsel, if represented:

(i) notification of such detainer or request;

(ii) a copy of such detainer or request;

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

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

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

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

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

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

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

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

(n) Beginning in two thousand fifteen, by June fifteenth of each year, produce a report to the governor, the speaker of the assembly, and the temporary president of the senate describing the activities of the office, including but not limited to, summarizing calls received through

the hotline and website, information on ESOL training services provided by the office, the number of immigrants assisted through the opportunity centers, or an estimation thereof, the status of any workforce development programs, and any other relevant information[.]; and

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

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

§ 374-g. Unaccompanied minors released by authorized agencies. 1. Every authorized agency as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of this title, that releases an unaccompanied minor, as defined in section two of this chapter, in New York to a sponsor that is a New York resident, and deemed to be appropriate by the federal office of refugee resettlement, shall provide the unaccompanied minor and their sponsor with: (a) direct referrals to immigration services liaisons under section ninety-four-b of the executive law; (b) informational materials developed by the office of children and family services, informing them of available supports and services the unaccompanied minor is eligible for upon release into New York as defined in section three hundred seventy-c of this chapter; and (c) notification of such minor's right to counsel under section three hundred ninety-four of this title.

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

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

§ 393. Unaccompanied minors released by out of state care providers. 1. Every out of state care provider that releases an unaccompanied minor, as defined in section two of this chapter, in New York to a sponsor that is a New York resident, and deemed to be appropriate by the federal office of refugee resettlement, shall provide the unaccompanied minor and their sponsor with: (a) direct referrals to an immigration services liaison under section ninety-four-b of the executive law; (b) informational materials developed by the office of children and family services, informing them of available supports and services the unaccompanied minor is eligible for upon release into New York as defined in section three hundred seventy-c of this chapter; and (c) notification of such minor's right to counsel under section three hundred ninety-four of this title.

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

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

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

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

7. "Covered health care services" means: the services of physicians, optometrists, nurses, nurse practitioners, midwives and other related professional personnel which are provided on an outpatient basis, including routine well-child visits; diagnosis and treatment of illness and injury; inpatient health care services; laboratory tests; diagnostic x-rays; prescription and non-prescription drugs and durable medical equipment; radiation therapy; chemotherapy; hemodialysis; outpatient blood clotting factor products and other treatments and services furnished in connection with the care of hemophilia and other blood clotting protein deficiencies; emergency room services; hospice services; emergency, preventive and routine dental care, including medically necessary orthodontia but excluding cosmetic surgery; emergency, preventive and routine vision care, including eyeglasses; speech and hearing services; and, inpatient and outpatient mental health, alcohol and substance abuse services as defined by the commissioner in consultation with the superintendent. **For unaccompanied minors, as such term is defined by section two of the social services law, covered health care services shall also include: (a) children's mental health rehabilitation services including, but not limited to, those added to the Medicaid state plan in January of two thousand nineteen, other licensed practitioner services, community psychiatric support and treatment services, and psychosocial rehabilitation services, assuming such children's mental health rehabilitation services are provided by individuals acting within their lawful scope of practice as established under the education law; and (b) trauma informed care that includes the identification of and appropriate reaction and treatment to adverse childhood experiences.** "Covered health care services" shall not include drugs, procedures and supplies for the treatment of erectile dysfunction when provided to, or prescribed for use by, a person who is required to register as a sex offender pursuant to article six-C of the correction law, provided that any denial of coverage of such drugs, procedures or supplies shall provide the patient with the means of obtaining additional information concerning both the denial and the means of challenging such denial.

§ 9. The executive law is amended by adding a new section 94-d to read as follows:

§ 94-d. Representation for unaccompanied minors. 1. The office for new Americans, in consultation with the office of court administration and indigent legal services, shall be responsible for facilitating access to representation and related assistance in immigration-related matters provided pursuant to section three hundred ninety-four of the social services law. Any services provided shall be compensated in accordance with this section. The office may enter into an agreement with a legal aid society or other not-for-profit organization with appropriate expertise and experience in immigration-related matters for the society or organization to provide such representation and related services. The agreement shall be in a form approved by the director of the office for new Americans and shall provide a general plan for a program of services to be provided by such society or organization.

2. All expenses for services provided under this section shall be a state charge to be paid out of funds appropriated to the office for that purpose. Counsel utilized hereunder shall receive compensation at an hourly rate for time expended in court and for time reasonably expended out of court, and shall receive payment for expenses reasonably

incurred. The director of the office for new Americans shall establish rules and regulations regarding reasonable compensation and reimbursement for other services provided. No counsel or other service provider utilized pursuant to this section shall seek or accept any fee for representing such person.

§ 10. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

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