

# STATE OF NEW YORK

3271

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

Introduced by M. of A. HEVESI, EPSTEIN, AUBRY, REYES, ROZIC, WILLIAMS, CRUZ, RAMOS, RIVERA, WALKER, WEPRIN, SIMON, PRETLOW, COLTON, DICKENS, JEAN-PIERRE, FAHY, SAYEGH, L. ROSENTHAL, GLICK, PAULIN, COOK, JACKSON, GONZALEZ-ROJAS, FORREST, BURDICK, OTIS, ZINERMAN, MITAYNES, DAVILA -- 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 41 to read as follows:

41. "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-B to read as follows:

### TITLE 12-B

#### SUPPORTS AND SERVICES FOR UNACCOMPANIED MINORS

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

#### 370-g. Informational materials.

§ 370-f. 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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1 be beneficial to the health, safety, and well-being of such minors. Such  
2 services shall include, but not be limited to: health and behavioral  
3 health services covered under paragraph (k) of subdivision two of  
4 section twenty-five hundred eleven of the public health law; individual  
5 counseling sessions with social workers; legal services provided under  
6 section three hundred ninety-four of this chapter, which shall include  
7 culturally and linguistically appropriate services provided by attor-  
8 neys, interpreters, and other support staff for representation in state  
9 court proceedings, federal immigration proceedings, and any appeals  
10 arising from such proceedings; language services; employment assistance;  
11 bilingual support groups; and assistance with educational rights and  
12 enrollment in public schools. Such support and services shall not be  
13 deemed public benefits that would affect an unaccompanied minor's immi-  
14 gration status under 8 USC 1182, as amended, and any regulations promul-  
15 gated thereunder.

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

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

33 § 370-g. Informational materials. 1. The office of children and family  
34 services, in consultation with the office of mental health and the  
35 office for new Americans, shall develop informational materials for  
36 authorized agencies, as defined in paragraph (a) of subdivision ten of  
37 section three hundred seventy-one of this chapter and out of state care  
38 providers. Such informational materials shall include contact informa-  
39 tion for immigration services liaisons, as well as a general description  
40 of the benefits unaccompanied minors as defined in section two of this  
41 chapter are eligible for, pursuant to subdivision one of section three  
42 hundred seventy-f of this title.

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

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

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

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

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

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

15 (i) notification of such detainer or request;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 § 6. The social services law is amended by adding a new section 394-a  
32 to read as follows:

33 § 394-a. Unaccompanied minors released by out of state care providers.  
34 1. Every out of state care provider that releases an unaccompanied  
35 minor, as defined in section two of this chapter, in New York to a spon-  
36 sor that is a New York resident, and deemed to be appropriate by the  
37 federal office of refugee resettlement, shall provide the unaccompanied  
38 minor and their sponsor with: (a) direct referrals to an immigration  
39 services liaison under section ninety-four-b of the executive law; (b)  
40 informational materials developed by the office of children and family  
41 services, informing them of available supports and services the unaccom-  
42 panied minor is eligible for upon release into New York as defined in  
43 section three hundred seventy-f of this chapter; and (c) notification of  
44 such minor's right to counsel under section three hundred ninety-four of  
45 this title.

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

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

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

§ 8. Subdivision 7 of section 2510 of the public health law, as amended by chapter 436 of the laws of 2021, 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, ostomy supplies 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.

§ 8-a. Subdivision 7 of section 2510 of the public health law, as amended by section 1 of part DDD of chapter 56 of the laws of 2022, 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, ostomy and other medical supplies 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; ambulance services; hospice services; emergency, preventive and routine dental care, including orthodontia but excluding cosmetic surgery; emergency, preventive and routine vision care, including eyeglasses; speech and hearing services; inpatient and outpatient mental health, alcohol and substance abuse services, including children and family treatment and support services, children's home and community based services, assertive community treatment services and residential



1 rehabilitation for youth services which shall be reimbursed in accord-  
2 ance with the ambulatory patient group (APG) rate-setting methodology as  
3 utilized by the department of health, the office of addiction services  
4 and supports, or the office of mental health for rate-setting purposes  
5 or any such other fees established pursuant to article forty-three of  
6 the mental hygiene law; and health-related services provided by volun-  
7 tary foster care agency health facilities licensed pursuant to article  
8 twenty-nine-I of this chapter; as defined by the commissioner. For unac-  
9 companied minors, as such term is defined by section two of the social  
10 services law, covered health care services shall also include: (a) chil-  
11 dren's mental health rehabilitation services including, but not limited  
12 to, those added to the Medicaid state plan in January of two thousand  
13 nineteen, other licensed practitioner services, community psychiatric  
14 support and treatment services, and psychosocial rehabilitation  
15 services, assuming such children's mental health rehabilitation services  
16 are provided by individuals acting within their lawful scope of practice  
17 as established under the education law; and (b) trauma informed care  
18 that includes the identification of and appropriate reaction and treat-  
19 ment to adverse childhood experiences. "Covered health care services"  
20 shall not include drugs, procedures and supplies for the treatment of  
21 erectile dysfunction when provided to, or prescribed for use by, a  
22 person who is required to register as a sex offender pursuant to article  
23 six-C of the correction law, provided that any denial of coverage of  
24 such drugs, procedures or supplies shall provide the patient with the  
25 means of obtaining additional information concerning both the denial and  
26 the means of challenging such denial.

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

29 § 94-d. Representation for unaccompanied minors. 1. The office for new  
30 Americans, in consultation with the office of court administration and  
31 indigent legal services, shall be responsible for facilitating access to  
32 representation and related assistance in immigration-related matters  
33 provided pursuant to section three hundred ninety-four of the social  
34 services law. Any services provided shall be compensated in accordance  
35 with this section. The office may enter into an agreement with a legal  
36 aid society or other not-for-profit organization with appropriate exper-  
37 tise and experience in immigration-related matters for the society or  
38 organization to provide such representation and related services. The  
39 agreement shall be in a form approved by the director of the office for  
40 new Americans and shall provide a general plan for a program of services  
41 to be provided by such society or organization.

42 2. All expenses for services provided under this section shall be a  
43 state charge to be paid out of funds appropriated to the office for that  
44 purpose. Counsel utilized hereunder shall receive compensation at an  
45 hourly rate for time expended in court and for time reasonably expended  
46 out of court, and shall receive payment for expenses reasonably  
47 incurred. The director of the office for new Americans shall establish  
48 rules and regulations regarding reasonable compensation and reimburse-  
49 ment for other services provided. No counsel or other service provider  
50 utilized pursuant to this section shall seek or accept any fee for  
51 representing such person.

52 § 10. Severability. If any clause, sentence, paragraph, section or  
53 part of this act shall be adjudged by any court of competent jurisdic-  
54 tion to be invalid and after exhaustion of all further judicial review,  
55 the judgment shall not affect, impair or invalidate the remainder there-  
56 of, but shall be confined in its operation to the clause, sentence,

1 paragraph, section or part of this act directly involved in the contro-  
2 versy in which the judgment shall have been rendered.  
3 § 11. This act shall take effect immediately; provided, however,  
4 sections one, two, four, five, six, seven, eight, and nine of this act  
5 shall take effect on the sixtieth day after it shall have become a law;  
6 provided, further, section eight-a of this act shall take effect on the  
7 same date and in the same manner as section 1 of part DDD of chapter 56  
8 of the laws of 2022, takes effect.