

STATE OF NEW YORK

3580

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the adoption subsidies provided for disabled or hard to place children

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

Section 1. Paragraph (c) of subdivision 1 of section 453 of the social services law, as amended by chapter 83 of the laws of 1995, is amended and three new paragraphs (c-2), (c-3) and (c-4) are added to read as follows:

(c) No payments may be made pursuant to this subdivision if the social services official determines that the adoptive parents are no longer legally responsible for the support of the child or the child is no longer receiving any support from such parents. For purposes of this section:

(i) "any support" shall be limited to support that is directly for the benefit of the adopted child that meets the food, clothing, education, medical and shelter needs of the adopted child and that has an identifiable value;

(ii) "no longer legally responsible for the support of the child" means (A) the child has become legally emancipated, married or joined the military; (B) a court has ruled that the adoptive parent is no longer legally responsible for the support of the child; or (C) the adoption is no longer legally valid by operation of law.

(c-1) The social services official on [~~a biennial~~] an annual basis shall:

(i) require adoptive parents to certify that they are fulfilling their obligations pursuant to any adoption subsidy agreement entered into in accordance with this section, including their obligation to provide support for the child;

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

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(ii) remind the adoptive parents of ~~[their obligation]~~ the following obligations, which shall also be included in any agreement entered into with an adoptive parent concerning payments made for the care and maintenance of the child pursuant to this section:

(A) to support the child ~~[and]~~;

(B) to notify the social services official if the adoptive parents are no longer providing any support of the child or are no longer legally responsible for the support of the child~~[-]~~; and

(C) to notify the social services official if: (I) another person has been granted physical custody of the child; (II) another person has been appointed guardian for the child; or (III) the child no longer resides with the adoptive parents.

(c-2) (i) If the adoptive parents fail to respond to an annual certification notice within thirty days of the receipt of the certification notice from the social services official or the social services official receives from any person information that provides reasonable cause to suspect that the adoptive parents are no longer providing any support to the child, the social services official shall provide written notice to the parents that a review will be held to determine whether the adoptive parents are legally responsible for the support of the child and whether the child is receiving any support from the adoptive parents. Circumstances in which the social services official shall conduct this review include the following:

(A) the child has been placed in foster care;

(B) a person alleges to the social services official that:

(I) a person other than the adoptive parents has been granted legal custody of the child;

(II) another person has been appointed guardian for the child, or

(III) the child is reported to no longer reside with the adoptive parents.

(ii) The adoptive parents shall be given an opportunity to respond to the notice. Upon receiving confirmation that the parents continue to meet their legal obligations to provide support to the child, the department of social services will take no further action to reduce, suspend, or terminate the subsidy. If the parents fail to confirm that they continue to meet their legal obligations to provide support to the child, the social services official shall review all available information in order to confirm the parents' continued eligibility to receive the subsidy.

(iii) If the child is not in foster care and, based on a review of the available information, the social services official determines that the adoptive parents are no longer legally responsible for the support of the child or that the child is no longer receiving any support from the adoptive parents, the social services official shall terminate the assistance provided to the adoptive parents pursuant to this section. The adoptive parents may appeal the termination of assistance to the department in accordance with section twenty-two of this chapter.

(iv) If the child is in foster care and the social services official determines that the child is no longer receiving any support from the adoptive parents, the social services official may reduce, suspend, or terminate the assistance provided to the adoptive parents pursuant to this section. The adoptive parents may appeal the termination of assistance to the department in accordance with section twenty-two of this chapter. If assistance is reduced, suspended or terminated pursuant to this paragraph and the child is returned from foster care to the care of the adoptive parents, the social services official shall resume assist-

1 ance effective from the date when the child was returned to the adoptive
2 parent's care.

3 (c-3) If the social services official terminates the adoption assist-
4 ance provided to adoptive parents pursuant to paragraph (c-2) of this
5 subdivision and the child resides with another person who has been
6 granted physical custody or appointed as guardian of the child, the
7 social services official shall enter into a written agreement to make
8 adoption assistance payments to the custodian or guardian. Such payments
9 shall be made retroactive from the termination of assistance to the
10 adoptive parents pursuant to paragraph (c-2) of this subdivision and
11 shall be made until the child's twenty-first birthday. A custodian or
12 guardian who receives adoption assistance payments pursuant to this
13 paragraph shall be subject to the same requirements that apply to adop-
14 tive parents under this section.

15 (c-4) If the social services official terminates the adoption assist-
16 ance provided to adoptive parents pursuant to paragraph (c-2) of this
17 subdivision after the eighteenth birthday and before the twenty-first
18 birthday of the adopted child, and no person other than the adoptive
19 parents has legal custody or guardianship of the child, the social
20 services official shall make payments to the child:

21 (i) through direct payments to the child, if the social services offi-
22 cial determines the child demonstrates the ability to manage such direct
23 payments; or

24 (ii) to a representative payee certified by the social services offi-
25 cial in accordance with paragraph (g) of this subdivision.

26 § 2. Clause (B) of subparagraph (iii) of paragraph (g) of subdivision
27 1 of section 453 of the social services law, as added by chapter 518 of
28 the laws of 2006, is amended to read as follows:

29 (B) If the twenty-first birthday of the child occurs while awaiting
30 the certification of a representative payee, the child shall be entitled
31 to retroactive direct payment of subsidy payments since the death of the
32 adoptive parent or parents or the termination of assistance to the adop-
33 tive parent or parents pursuant to paragraph (c-2) of this subdivision
34 after the eighteenth birthday of the child.

35 § 3. Subdivision 2 of section 453 of the social services law, as
36 amended by chapter 83 of the laws of 1995, is amended to read as
37 follows:

38 2. ~~The~~ Any agreement provided for in subdivision one of this section
39 shall be subject to the approval of the department upon the application
40 of the social services official; provided, however, that in accordance
41 with the regulations of the department, the department may authorize the
42 social services official to approve or disapprove the agreement on
43 behalf of the department. In either situation, if the agreement is not
44 approved or disapproved by the social services official within thirty
45 days of submission, the voluntary authorized agency may submit the
46 agreement directly to the department for approval or disapproval. If the
47 agreement is not disapproved in writing by the department within thirty
48 days after its submission to the department, it shall be deemed
49 approved. Any such disapproval shall be accompanied by a written state-
50 ment of the reasons therefor.

51 § 4. This act shall take effect immediately; provided however that:

52 (a) the office of children and family services shall submit to the
53 United States Department of Health and Human Services, Administration
54 for Children, Youth and Families, an amendment to the state title IV-E
55 state plan regarding the provisions of this act;

1 (b) notwithstanding any other provision of law, this act shall not
2 take effect unless and until ninety days following the date that the
3 United States Department of Health and Human Services, Administration
4 for Children, Youth and Families approves a title IV-E state plan amend-
5 ment regarding the provisions of this act;

6 (c) the office of children and family services shall notify the legis-
7 lative bill drafting commission upon the occurrence of the submission
8 set forth in this section in order that the commission may maintain an
9 accurate and timely effective data base of the official text of the laws
10 of the state of New York in furtherance of effectuating the provisions
11 of section 44 of the legislative law and section 70-b of the public
12 officers law; and

13 (d) the addition, amendment or repeal of any rule or regulation neces-
14 sary for the implementation of this act on its effective date is author-
15 ized to be made and completed on or before such effective date.