

STATE OF NEW YORK

3580--A

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 -- recommitted to the Committee on Children and Families in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 accordance with this section, including their obligation to provide
2 support for the child;

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

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

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

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

15 (c-2) (i) If the adoptive parents fail to respond to an annual certif-
16 ication notice within thirty days of the receipt of the certification
17 notice from the social services official or the social services official
18 receives from any person information that provides reasonable cause to
19 suspect that the adoptive parents are no longer providing any support to
20 the child, the social services official shall review whether the adop-
21 tive parents are legally responsible for the support of the child and
22 whether the child is receiving any support from the adoptive parents.
23 Circumstances in which the social services official shall conduct this
24 review include the following:

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

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

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

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

30 (III) the child is reported to no longer reside with the adoptive
31 parent.

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

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

48 (iv) If the child is in foster care and the social services official
49 determines that the child is no longer receiving any support from the
50 adoptive parents, the social services official may reduce, suspend, or
51 terminate the assistance provided to the adoptive parents pursuant to
52 this section. The adoptive parents may appeal the termination of assist-
53 ance to the department in accordance with section twenty-two of this
54 chapter. If assistance is reduced, suspended or terminated pursuant to
55 this paragraph and the child is returned from foster care to the care of
56 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; provided,
9 however, that no person shall receive an adoption subsidy payment for
10 any child for whom they previously had parental rights which were termi-
11 nated pursuant to a proceeding under section three hundred eighty-four-b
12 of this article or for whom they previously had parental rights which
13 were surrendered pursuant to a written instrument executed in accordance
14 with section three hundred eighty-three-c of this article. Such
15 payments shall be made retroactive from the termination of assistance to
16 the adoptive parents pursuant to paragraph (c-2) of this subdivision and
17 shall be made until the child's twenty-first birthday. A custodian or
18 guardian who receives adoption assistance payments pursuant to this
19 paragraph shall be subject to the same requirements that apply to adop-
20 tive parents under this section.

21 (c-4) If the social services official terminates the adoption assist-
22 ance provided to adoptive parents pursuant to paragraph (c-2) of this
23 subdivision after the eighteenth birthday and before the twenty-first
24 birthday of the adopted child, and no person other than the adoptive
25 parents has legal custody or guardianship of the child, the social
26 services official shall make payments to the child:

27 (i) through direct payments to the child, if the social services offi-
28 cial determines the child demonstrates the ability to manage such direct
29 payments; or

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

32 § 2. Clause (B) of subparagraph (iii) of paragraph (g) of subdivision
33 1 of section 453 of the social services law, as added by chapter 518 of
34 the laws of 2006, is amended to read as follows:

35 (B) If the twenty-first birthday of the child occurs while awaiting
36 the certification of a representative payee, the child shall be entitled
37 to retroactive direct payment of subsidy payments since the death of the
38 adoptive parent or parents or the termination of assistance to the adop-
39 tive parent or parents pursuant to paragraph (c-2) of this subdivision
40 after the eighteenth birthday of the child.

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

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

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

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

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

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

18 (d) Effective immediately, the addition, amendment and/or repeal of
19 any rule or regulation necessary for the implementation of this act on
20 its effective date are authorized to be made and completed on or before
21 such effective date.