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

(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 review 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 parent 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 parent.

(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 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-

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

(c-3) If the social services official terminates the adoption assistance provided to adoptive parents pursuant to paragraph (c-2) of this subdivision and the child resides with another person who has been granted physical custody or appointed as guardian of the child, the social services official shall enter into a written agreement to make adoption assistance payments to the custodian or guardian; provided, however, that no person shall receive an adoption subsidy payment for any child for whom they previously had parental rights which were terminated pursuant to a proceeding under section three hundred eighty-four-b of this article or for whom they previously had parental rights which were surrendered pursuant to a written instrument executed in accordance with section three hundred eighty-three-c of this article. Such payments shall be made retroactive from the termination of assistance to the adoptive parents pursuant to paragraph (c-2) of this subdivision and shall be made until the child's twenty-first birthday. A custodian or guardian who receives adoption assistance payments pursuant to this paragraph shall be subject to the same requirements that apply to adoptive parents under this section.

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

(i) through direct payments to the child, if the social services official determines the child demonstrates the ability to manage such direct payments; or

(ii) to a representative payee certified by the social services official in accordance with paragraph (g) of this subdivision.

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

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

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

2. [~~The~~] Any agreement provided for in subdivision one of this section shall be subject to the approval of the department upon the application of the social services official; provided, however, that in accordance with the regulations of the department, the department may authorize the social services official to approve or disapprove the agreement on behalf of the department. In either situation, if the agreement is not approved or disapproved by the social services official within thirty days of submission, the voluntary authorized agency may submit the agreement directly to the department for approval or disapproval. If the agreement is not disapproved in writing by the department within thirty days after its submission to the department, it shall be deemed approved. Any such disapproval shall be accompanied by a written statement of the reasons therefor.

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

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

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

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

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