

STATE OF NEW YORK

4419

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

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:

1 Section 1. Section 2 of the social services law is amended by adding a
2 new subdivision 41 to read as follows:

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

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

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

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

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

TITLE 12-B

SUPPORTS AND SERVICES FOR UNACCOMPANIED MINORS

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

17 370-g. Informational materials.

18 § 370-f. Supports and services for unaccompanied minors. 1. Unaccom-
19 panied minors, as defined under section two of this chapter, shall be
20 eligible for a range of appropriate services and supports, which shall
21 be beneficial to the health, safety, and well-being of such minors. Such
22 services shall include, but not be limited to: health and behavioral
23 health services covered under paragraph (k) of subdivision two of
24

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

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

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

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

30 § 370-g. Informational materials. 1. The office of children and family
31 services, in consultation with the office of mental health and the
32 office for new Americans, shall develop informational materials for
33 authorized agencies, as defined in paragraph (a) of subdivision ten of
34 section three hundred seventy-one of this chapter and out of state care
35 providers. Such informational materials shall include contact informa-
36 tion for immigration services liaisons, as well as a general description
37 of the benefits unaccompanied minors as defined in section two of this
38 chapter are eligible for, pursuant to subdivision one of section three
39 hundred seventy-f of this title.

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

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

48 § 394. Legal representation of unaccompanied minors. 1. An unaccompa-
49 nyed minor, as defined in section two of this chapter, or minor in the
50 custody of the federal office of refugee resettlement while in the care
51 of an authorized agency, as defined in paragraph (a) of subdivision ten
52 of section three hundred seventy-one of this article, who is present in
53 this state and against whom an immigration proceeding may be or has been
54 commenced shall be entitled to representation by counsel through the
55 completion of such proceeding, including appeals and/or obtaining status
56 and other related assistance, pursuant to section ninety-four-d of the

1 executive law, including interpretation or translation services pursuant
2 to subdivision five of this section.

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

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

12 (i) notification of such detainer or request;

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

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

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

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

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

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

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

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

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

50 (n) Beginning in two thousand fifteen, by June fifteenth of each year,
51 produce a report to the governor, the speaker of the assembly, and the
52 temporary president of the senate describing the activities of the
53 office, including but not limited to, summarizing calls received through
54 the hotline and website, information on ESOL training services provided
55 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-f 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 394-a to read as follows:

§ 394-a. 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-f 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 436 of the laws of 2021, is amended to read as follows:

1 7. "Covered health care services" means: the services of physicians,
2 optometrists, nurses, nurse practitioners, midwives and other related
3 professional personnel which are provided on an outpatient basis,
4 including routine well-child visits; diagnosis and treatment of illness
5 and injury; inpatient health care services; laboratory tests; diagnostic
6 x-rays; prescription and non-prescription drugs, ostomy supplies and
7 durable medical equipment; radiation therapy; chemotherapy; hemodialy-
8 sis; outpatient blood clotting factor products and other treatments and
9 services furnished in connection with the care of hemophilia and other
10 blood clotting protein deficiencies; emergency room services; hospice
11 services; emergency, preventive and routine dental care, including
12 medically necessary orthodontia but excluding cosmetic surgery; emergen-
13 cy, preventive and routine vision care, including eyeglasses; speech and
14 hearing services; and, inpatient and outpatient mental health, alcohol
15 and substance abuse services as defined by the commissioner in consulta-
16 tion with the superintendent. For unaccompanied minors, as such term is
17 defined by section two of the social services law, covered health care
18 services shall also include: (a) children's mental health rehabilitation
19 services including, but not limited to, those added to the Medicaid
20 state plan in January of two thousand nineteen, other licensed practi-
21 titioner services, community psychiatric support and treatment services,
22 and psychosocial rehabilitation services, assuming such children's
23 mental health rehabilitation services are provided by individuals acting
24 within their lawful scope of practice as established under the education
25 law; and (b) trauma informed care that includes the identification of
26 and appropriate reaction and treatment to adverse childhood experiences.

27 "Covered health care services" shall not include drugs, procedures and
28 supplies for the treatment of erectile dysfunction when provided to, or
29 prescribed for use by, a person who is required to register as a sex
30 offender pursuant to article six-C of the correction law, provided that
31 any denial of coverage of such drugs, procedures or supplies shall
32 provide the patient with the means of obtaining additional information
33 concerning both the denial and the means of challenging such denial.

34 § 8-a. Subdivision 7 of section 2510 of the public health law, as
35 amended by section 1 of part DDD of chapter 56 of the laws of 2022, is
36 amended to read as follows:

37 7. "Covered health care services" means: the services of physicians,
38 optometrists, nurses, nurse practitioners, midwives and other related
39 professional personnel which are provided on an outpatient basis,
40 including routine well-child visits; diagnosis and treatment of illness
41 and injury; inpatient health care services; laboratory tests; diagnostic
42 x-rays; prescription and non-prescription drugs, ostomy and other
43 medical supplies and durable medical equipment; radiation therapy;
44 chemotherapy; hemodialysis; outpatient blood clotting factor products
45 and other treatments and services furnished in connection with the care
46 of hemophilia and other blood clotting protein deficiencies; emergency
47 room services; ambulance services; hospice services; emergency, preven-
48 tive and routine dental care, including orthodontia but excluding
49 cosmetic surgery; emergency, preventive and routine vision care, includ-
50 ing eyeglasses; speech and hearing services; inpatient and outpatient
51 mental health, alcohol and substance abuse services, including children
52 and family treatment and support services, children's home and community
53 based services, assertive community treatment services and residential
54 rehabilitation for youth services which shall be reimbursed in accord-
55 ance with the ambulatory patient group (APG) rate-setting methodology as
56 utilized by the department of health, the office of addiction services

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

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

26 § 94-d. Representation for unaccompanied minors. 1. The office for new
27 Americans, in consultation with the office of court administration and
28 indigent legal services, shall be responsible for facilitating access to
29 representation and related assistance in immigration-related matters
30 provided pursuant to section three hundred ninety-four of the social
31 services law. Any services provided shall be compensated in accordance
32 with this section. The office may enter into an agreement with a legal
33 aid society or other not-for-profit organization with appropriate exper-
34 tise and experience in immigration-related matters for the society or
35 organization to provide such representation and related services. The
36 agreement shall be in a form approved by the director of the office for
37 new Americans and shall provide a general plan for a program of services
38 to be provided by such society or organization.

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

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

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