

**REPORT ON LEGISLATION BY  
THE FAMILY COURT AND FAMILY LAW COMMITTEE,  
CHILDREN AND THE LAW COMMITTEE, AND  
COUNCIL ON CHILDREN**

**A.10581-A  
S.8470-B**

**M. of A. Wright  
Sen. Montgomery**

AN ACT to amend the family court act, in relation to the placement of a former foster care youth during a certain state of emergency

**THIS BILL IS SUPPORTED**

The Family Court and Family Law Committee, Children and the Law Committee and Council on Children of the New York City Bar Association writes to express its support for the above-referenced bill, which would amend the Family Court Act to allow youth to remain in foster care after the age of 21 and to return to foster care without a court order between the ages of 18 and 21 during a state of emergency.<sup>1</sup>

This bill recognizes the precarious circumstances faced by many youth who age out of foster care to live on their own. It further recognizes that the challenges faced by these young people are magnified during the COVID crisis.

New York would not be the first jurisdiction to adopt these emergency measures to protect youth aging out of foster care in the midst of this pandemic. We urge the State to join California,<sup>2</sup> Illinois,<sup>3</sup> Rhode Island,<sup>4</sup> Alaska,<sup>5</sup> Connecticut,<sup>6</sup> Georgia,<sup>7</sup> Michigan<sup>8</sup> and the District of Columbia,<sup>9</sup> all of which have taken similar steps to assist this population.

This legislation makes sound fiscal sense. Youth who leave foster care prematurely during the pandemic are more likely to need and receive costly services from other state-funded government support systems (such as public assistance and the shelter system) for longer periods of time. The small investment in continuing foster care for these youth until they are able to obtain permanent housing and a stable source of income is more than off-set by the expenses that would be incurred if they were prematurely discharged and forced to rely on other systems for survival.

OCFS's July 3, 2020 *Protocols for Supporting Young Adults Aging out of Care During the COVID-19 Pandemic For Local Departments of Social Services* is not sufficient to address the needs of young people who are aging out of foster care. The protections afforded by those protocols exclude youth in New York City, despite the need for all youth throughout New York State to receive continued foster care services. The protocols provide protection only until December 31, without regard to whether the State of Emergency has been ended, or youth can be

reasonably expected to secure housing and employment. The protocols do not require that the youth's attorney be engaged in the decision about whether they wish to remain in care. And, incredibly, the protocols exclude youth who are in college, explaining that those youth may access other funding sources to assist them. However, most youth already exhaust those funds in order to cover payments for tuition and fees, books and other supplies. They are not sufficient to cover rent, food and living expenses for youth who are discharged from care and unable to reside in a dorm.

At a time when young people are returning to the homes of their parents all over the country, we ask that you consider the plight of youth who do not have that option. The state stepped in and took over for their parents because the youth were abused or neglected and their parents could not provide a safe home for them. The state needs to keep its doors open to these youth during this crisis.

Family Court and Family Law Committee  
Michelle Burrell, Chair

Children and the Law Committee  
Melissa J. Friedman, Chair

Council on Children  
Lauren A. Shapiro, Chair

July 2020

---

<sup>1</sup> The City Bar also support the approach outlined in a similar bill (S.8503-B).

<sup>2</sup> State of California Executive Order N-53-20 (April 17, 2020).

<sup>3</sup> State of Illinois Executive Order 2020-22, Executive Order in Response to COVID-19 (April 7, 2020).

<sup>4</sup> State of Rhode Island Executive Order 20-26, Twenty-third supplemental Emergency Declaration – Support for Young Adults Aging out of State Care (April 15, 2020).

<sup>5</sup> COVID-19 Disaster Order of Suspension No. 2 Appendix A - Amendment 2, Relating to the Suspension of Sections of Alaska Administrative Code and Sections of Alaska Statutes (Amended April 9, 2020).

<sup>6</sup> Connecticut DCF Memorandum re DCF Youth and Termination of Services (April 21, 2020).

<sup>7</sup> Alexandra, Dufresne, Extended Foster Care is A Necessity During COVID-19, <https://www.law360.com/access-to-justice/articles/1282324/extended-state-foster-care-is-a-necessity-during-covid-19> (last visited July 14, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> 2020 District of Columbia Laws Act 23-286, COVID-19 Response Supplemental Emergency Amendment Act of 2020, Sec. 402 (Twenty-Third Council Session 2019-2020).