



NEW YORK
CITY BAR

**REPORT ON LEGISLATION BY THE
CHILDREN AND THE LAW COMMITTEE
AND THE COUNCIL ON CHILDREN**

**A.3580-A
S.8745**

**M. of A. Hevesi
Sen. Persaud**

AN ACT to amend the Social Services Law in relation to the adoption subsidies provided for disabled or hard to place children.

THIS BILL IS APPROVED

I. PURPOSE

The New York City Bar Association’s Children and the Law Committee and Council on Children support A.3580-A / S.8745 (“the bill”).

Our committees includes Family Court Judges, support magistrates, court attorneys, advocates for economic justice, and attorneys representing children, parents and caregivers, who have a broad range of experience with the issue addressed by the bill. Our committees support this bill because members from each of these varied perspectives agree that it would improve the lives of children by ensuring that when adoptive parents no longer provide their children with care and support, payments to the adoptive parent cease, and the adoption subsidy is paid, instead, to the person who is providing for the child’s needs.

II. REASONS FOR SUPPORT

Virtually all parents who adopt children out of foster care receive a monthly subsidy to help them provide for the child’s needs following the adoption.¹ It is a sad reality, however, that adoptive parents sometimes become unwilling or unable to care for their children before those children turn 21. In such cases, the child may be placed with a new custodian or guardian by the court, may become homeless, or may return to foster care. The Social Services Law currently

¹ See Social Services Law 453(1)(a), which provides that “[a] social services official shall make monthly payments for the care and maintenance of a handicapped or hard to place child whom a social services official has placed for adoption or who has been adopted.”

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

provides no legal mechanism for terminating or transferring the adoption subsidy when that happens, except upon the death of the adoptive parents. Instead, the adoptive parents continue to receive significant government assistance, even though they are no longer supporting the child. The bill creates a mechanism to help ensure that adoption subsidies are used for the care and maintenance of children, as mandated by the Social Services Law, by ensuring that the subsidies terminate or are transferred when the adoptive parent is no longer supporting the child.²

The law that provides for the subsidy recognizes that children who are adopted out of foster care often have complex needs. We have seen that these children's needs are magnified when they are forced out of their adoptive homes to return to foster care, reside in homeless shelters, or are placed with another resource. There is a crucial need for them to continue to receive the subsidy to ensure that they have access to basic necessities such as clothing, medical care, and permanent housing.

The bill is essential to ensuring that the financial resources of New York City and New York State are used appropriately. When an adopted child returns to foster care, the county and state fund both the child's foster care placement and the adoption subsidy. Similarly, when an older youth enters the shelter system, the county and state fund that placement as well as the adoption subsidy. This bill would prevent duplicate payments and ensure that funds designated for the care and support of minors are directed appropriately.

Our members have encountered many children whose stories illustrate the pressing need for this legislation. One child, Danielle, was adopted out of foster care after her biological mother passed away.³ Following the adoption, Danielle was physically and emotionally abused by her adoptive mother. As a result, Danielle's biological aunt was awarded guardianship. Because the adoption subsidy could not be transferred, Danielle's adoptive mother continued to receive more than \$1,000 month for the next several years – although none of that money was used for Danielle's care and support. Another child, Samantha,⁴ was kicked out of her adoptive mother's home when she turned eighteen. While Samantha became homeless and struggled to make ends meet, her adoptive mother continued to receive an adoption subsidy until Samantha's twenty-first birthday.

III. CONCLUSION

It is critically important that the scarce resources designated to facilitate the care of adopted children be used to actually support and care for those children. This bill takes an important step towards ensuring that children continue to receive and benefit from the subsidy that is intended for their care, even when they are no longer being cared for by the adoptive parent.

² Specifically, in those instances, this bill will provide a mechanism for the subsidy to be suspended if a child returns to foster care, transferred to another adult who obtains custody or guardianship of the child, or paid directly to adopted youth who are between the ages of 18 and 21 and not being supported by their adoptive parents.

³ "Danielle" is a fictitious name.

⁴ "Samantha" is a fictitious name.

For these reasons, the Children and the Law Committee and the Council on Children support the bill and urge its passage.

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