



COMMITTEE ON CHILDREN AND THE LAW

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The Honorable Kathy Hochul
Governor of New York State
NYS Capitol Building
Albany, NY 12224

Via Electronic Delivery

RE: NYSBA Committee on Children and the Law Supports S.8724-B /A.9321-B

Dear Governor Hochul:

The New York State Bar Association's Committee on Children and the Law strongly supports the Safe Landings Act, S.8724-B (Hoyleman-Sigal)/A.9321-B (Hevesi), which would amend the Family Court Act and the Social Services Law with respect to enforcement of orders entered on behalf of children in foster care. The bill would authorize the Family Court to adjudicate motions to enforce those orders after the children are discharged from or age out of care. Specifically, the amendments apply to youth who have been discharged from foster care between the ages of 18 and 21 and those who have aged out of care after turning 21, and who, due to the failure of the foster care agencies responsible for their care to timely comply with validly entered Family Court orders, are still in need of stable housing and/or other necessary services for their transition to adulthood.

The Safe Landings Act provides young adults who have aged out of or been discharged from foster care a vital safety net that is not currently available to them. Under existing law, when a young person is discharged from foster care or turns twenty-one, the Family Court loses jurisdiction and is without any authority to compel compliance with orders that were issued previously but remain unfulfilled at the time the youth leaves care.¹

¹ See, e.g., *Matter of Donique T.*, 193 A.D.3d 490 (1st Dept. 2021) (Family Court lacked subject matter jurisdiction to make contempt determination against agency based on its failure to fulfill lawful orders issued prior to child's 21st birthday because the child was over 21 when the contempt action was brought).

This bill offers a simple, yet effective, solution to this problem by extending the Family Court's authority to direct a social services district or foster care agency to comply with orders issued prior to the child's discharge from care. The court's authority, however, is not boundless. Rather, the bill opens a window for youth to seek enforcement of such orders until the youth reaches the age of 22, unless good cause exists to extend the court's oversight. The legislation is thus reasonably constructed to provide a limited period for the court to maintain oversight to ensure that agencies fulfill their obligation to ensure that youth are not discharged to homelessness and have the skills and supports necessary for a successful transition to living independently.

Enactment of this legislation is critically important to young adults who are venturing out on their own after spending time in foster care. For youth who are without the benefits and advantages of family support and stability, the foster care system in New York provides the extra boost needed to transition to adulthood by allowing them to remain in care until age 21 (and, under certain circumstances, to re-enter care after being discharged prior to their 21st birthday).² To that end, prior to a youth's discharge from care, the foster care agency is obligated to provide the youth with assistance related to living independently, most importantly assisting them in securing appropriate housing, employment, and education, as well as providing aid in such areas as budget management, obtaining health insurance, applying for benefits, obtaining a driver's license, and purchasing appropriate attire. At permanency hearings, held periodically while a child remains in foster care, the Family Court issues orders directing the agencies to comply with their mandate to provide the youth with these services. Far too often, however, at the time of the youth's departure from care, the orders remain unfulfilled, and the youth is without recourse to seek enforcement of the orders because the Family Court has lost jurisdiction. The youth may be left alone and without stable housing, access to their vital documents, unable to complete their education, or still needing basic necessities, despite the court having directed the agency to address those issues prior the youth's discharge from foster care. Homelessness is a devastating and ever-growing problem in our society, particularly for those who have spent time in foster care. The connection between foster care placement and homelessness is so great that the child welfare system has been described as a "highway to homelessness."³ In addition to a significantly higher likelihood of becoming homeless, research has shown that young adults who have spent time in foster care are at an increased risk of

² In 2008, the United States Congress passed the Fostering Connections to Success and Increasing Adoptions Act (PL 110-351), which gave states the option to extend foster care up to age 21, upon consent of the child. The legislation recognized that "foster youth today do not have the same family, societal, and financial support and guidance their non-foster care peers have" and, as reflected in federal data, youth who continue in care to age 21, as compared to those who leave at age 18 have better outcomes.

³ NFYI: Housing and Homelessness, available at <http://nfyi.org/issues/homelessness/#>

having run-ins with the law,⁴ suffering physical and mental health issues,⁵ and encountering problems in obtaining and retaining employment.⁶

In large measure, these negative outcomes may be attributed to youth being inadequately prepared for taking on the challenges of living independently. Extending the Family Court's jurisdiction to allow former foster care youth to enforce orders made on their behalf but not carried out by the agencies can help minimize or avert these negative outcomes by ensuring that youth have all of the tools, services, and supports that the Family Court found to be necessary for the youth's transition to independence. We therefore urge you to sign this critical piece of legislation into law.

Respectfully,

The New York State Bar Association's Committee on Children and the Law

Cc: Elizabeth Fine, Counsel to the Governor
Denise Gagnon, Legislative Secretary/ Director of Legislative Services

⁴ Jaxzia Perez, *The foster care-to-prison pipeline: A road to incarceration*, American University Washington College of Law: The Criminal Law Reporter, Feb 24, 2023, Updated Oct 18, 2023, available at <https://www.crimlawpractitioner.org/post/the-foster-care-to-prison-pipeline-a-road-to-incarceration#>: (“By age 17, over 50% of foster children will have an encounter with the juvenile legal system through arrest, conviction or detention. In addition, 25% of youth in foster care will be involved with the criminal legal system within two years of leaving foster care.”)

⁵ Young Adults Formerly in Foster Care: Challenges and Solutions, available at <https://youth.gov/youth-briefs/foster-care-youth-brief/challenges>

⁶ *Id.*

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.