



LEGAL WELLNESS INSTITUTE at THE FAMILY CENTER

ADAM J. HALPER, ESQ.

493 Nostrand Avenue, 3rd Floor | Brooklyn, New York 11216
718.789.3841 x 138 | ahalper@thefamilycenter.org

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Greetings,

I am the Director of the Legal Wellness Institute at The Family Center. I write this memorandum in support of four bills currently before the New York State Senate and Assembly.

- **A7905 (S6016):** An act to amend the General Obligations Law in relation to a parent or guardian naming a caregiver as a person in parental relation to a minor or incapacitated person.
- **A7928 (S6015):** An act to amend the Family Court Act Section 657 and Public Health Law Section 2504, in relation to medical decisions making for minors.
- **Senate Bill S.6013:** An act to amend the Public Health Law and Education Law in relation to who may be a person in parental relation to a minor or incapacitated person.
- **Senate Bill S6017:** An act to amend the Social Services Law, in relation to the exclusion of certain minors from certain public assistance households.

I write this one memorandum in support of these different bills because they have a single purpose. Their purpose is to assist caregiver families and provide more security for children in those households. Caregivers are adults looking after non-biological children generally because of parental illness, incarceration, detention, deportation, or other grave circumstance. The reasons for parental absence are many. They are every family's worst nightmare. Unfortunately, these circumstances are also remarkably common. In New York State, it is estimated that there are approximately 200,000 caregiver families raising 300,000 children. That estimate is likely low for many reasons such as the variable and sometimes temporary nature of caregiver arrangements.

My agency has worked with thousands of caregiver families. For over twenty years, The Family Center (TFC) has provided legal and social services to New Yorkers affected by illness, crisis, and loss. To best meet the needs of our clients, all TFC services are available throughout NYC in multiple languages and are provided in clients' homes, hospitals, or other client-accessible locations. TFC's Legal Wellness Institute (LWI) provides civil representation on matters connected to housing, public benefits, family and matrimonial law, trusts and estates, lifetime planning and more – areas that are likely to be significant concern for caregivers. Our unique one-client/one-attorney model allows us to efficiently resolve the multiple legal issues often faced by New Yorkers struggling with poverty, illness and often, the death of a biological parent. We help our clients achieve long-term stability so that they can focus on their health and their loved ones.

The bills referenced above are submitted to help caregiver families achieve that focus and more for children under their charge. Frequently, we engage clients when they are at the intersection of economic, personal and health crises. Most commonly, we work with grandparent and relative caregivers after the death of a biological parent from cancer. In the midst of mind-numbing grief over the loss of an adult child, sibling or cousin, caregivers must confront the challenges of being a custodian to a child or children



who themselves are experiencing the same grief. Caregivers are often thrust into the role of new parent quickly and without adequate support. They find some but limited support in the law. Many confront significant problems enrolling children in school, addressing medical and mental health needs, and locating modest income and benefits for children. As they navigate a life-altering transition, they confront complex and difficult institutions which themselves are unnecessarily constrained by statutory law which often does not reflect the reality of families in this State.

Support for these bills will help change that and offer much-needed assistance to caregiver families and their children.

Support Senate Bill 6106 and Assembly Bill 7905. Change the General Obligations Law and provide parents the ability to designate a temporary custodian (caregiver) for up to 12 months. The General Obligations Law (GOL 5-1551 – 5-1555) provides a mechanism for parents to make arrangements in advance for a caregiver to be designated without going to court. The designated caregiver has authority to make decisions for the minor or incapacitated person. At a maximum, the GOL grants this authority for six months. These GOL provisions should be amended to extend the time period for designation from 6 months to 12 months. This change better reflects the realities of caregiving where 6 months may seem like barely enough time to adjust to new realities such as a parent’s detention or incarceration. Indeed, this law (and the proposed amendment) is a significant tool for undocumented parents and guardians who may not be able to easily renew designations while detained or outside the United States. By extending the time period of the designation, a caregiver is given more time to provide care for the child, and to seek judicial assistance if required. Because emergency preparedness, including executing the parental designation form, is done in advance of potential removal, a parent could execute the form immediately, but may not need the form until months later when facing sudden detention.

Support Senate Bill 6105 and Assembly Bill 7928. Provide caregivers who have legal custody of children with greater ability to make medical decisions for those children. Article Six, § 657, of the Family Court Act should be amended to add the category of caregivers who have a custody order to make medical decisions for children in their care. Legal custodians who must make medical decisions often do not have court orders expressly providing such powers. The result is that medical providers can deny non-emergency medical assistance to the children of caregivers. By expanding this law to include those caregivers who have custody orders, tens of thousands of legal custodians will not need their orders amended, and medical service providers will be protected when serving children under the care of legal custodians. Similarly, Public Health Law Section 2504 should be amended to include caregivers who have custody orders in order to insure that medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian or legal custodian when an emergency exists that warrants such medical care.

Support Senate Bill 6013. Strengthen the ability of caregivers to make medical and schooling decisions by changing definitions within the Public Health Law and the Education Law to include caregivers with custody orders. First, this amendment will modify the Public Health Law at § 2164 to allow caregivers with custody orders to consent to immunizations for children in their care. Currently, the Public Health Law omits those with orders of child custody from authorizing routine immunizations. This is a significant public health issue for all New



Yorkers. Further, this amendment will modify the Education Law at § 3212 to include caregivers with custody orders to make educational decisions for children in their care such as school enrollment. Currently, they are not included in the definition of who may make that decision in the Education Law. In its own way, this is also a significant public health concern.

Support Senate Bill 6017. Modify the “filing unit” rule of Social Services Law. A child who is being cared for by a non-parent relative is eligible for a "child only" grant, a public assistance grant for one person. The "child only" grant is calculated without taking the relative's income into consideration, because the relative is not the parent and not responsible for the support of the child. Social Services Law § 131-c (1), which is known as the "filing unit rule," requires that the income of children be applied to their parents and siblings. Unfortunately, the rule is also applied when a non-parent caregiver, who has no legal responsibility for the support of a child in their care, takes in a second, related child such as half-sibling who has income ie: Social Security Survivor's Benefits, for example. Under the current rule, that income will be applied against their half sibling's needs, which generally results in the elimination of the child only grant income. This unfair result is remedied by this bill which would allow the income of the half-sibling to be disregarded so that one child would remain eligible for the child only grant, and the other child would continue to be supported with their own income. In essence, this amendment simply states that when children come into caregiver homes no other income is counted in determining the child's own public assistance. This assures maximizing of very modest benefits and greater financial stability for the caregiver.

The amendments referenced above may seem like efforts to modify hyper-technical details of New York statutory law. To some extent that is entirely true. What is also true is that New York State caregiver families need the relief provided in these amendments very badly. Their lives and those of children in their care are lived from day-to-day under the great weight of a million tiny details. For example, caregivers often report that schools, doctors and therapists rarely question their judgement and decisions for children in their homes.

The challenge comes from a greater administrative burden of caregivers not being recognized in the law to make those decisions and judgments, in some cases, even after the caregiver has gone to court. Given the challenges which confront caregivers daily, the details addressed in these amendments should not be their concern or that of children in their care. These amendments of small details go a great distance in alleviating the burdens faced by caregivers and helping them to care for New York State's children.

I ask for your favorable review and vote on these amendments.

Thank you.

Sincerely,

Adam J. Halper, Esq.
Director