

Memorandum in Support

COMMITTEE ON CHILDREN AND THE LAW

Children #4

June 14, 2013

S. 4529-B
A. 7339-A

By: Senator Felder
By: M. of A. Lupardo
Senate Committee: Children and Families
Assembly Committee: Codes
Effective Date: Immediately

AN ACT to amend the family court act and the social services law, in relation to the reentry of former foster children into foster care.

THE NYSBA CHILDREN AND THE LAW COMMITTEE STRONGLY SUPPORTS THE BILL FOR THE FOLLOWING REASONS:

Since the passage of Chapter 342 of the Laws of 2010, which permits youth who have left foster care to live on their own at the age of 18, to reenter care if they have become homeless or otherwise unable to live independently, many young people have been able to take advantage of this vital safety net legislation. As a condition of reentry, they are participating in educational and vocational programs and, as a result, will be better prepared to transition to adulthood when they ultimately age out of foster care.

This bill would make explicit that *all* young people in foster care, including those who were placed pursuant to Persons in Need of Supervision (PINS), juvenile delinquency and destitute minor adjudications as well as voluntary placements and children freed for adoption but not yet adopted, who are over the age of 18 and have chosen to leave foster care, are eligible to return to and remain in foster care until age 21.

In *Matter of Jefry H.*, 102 A.D.3d 132, 955 N.Y.S.2d 90, 2012 N.Y.Slip Op. 08007 (2nd Dept, 2012), the Appellate Division, Second Department, reversed a Family Court decision in which the judge had determined that Family Court Act § 1091 did not apply to PINS cases because explicit statutory language was missing. The Appellate Division disagreed with the judge's interpretation and held that Family Court Act § 1091 does apply to PINS who had been placed in foster care and stated that the rationale for enacting chapter 342 applies with equal force to *all* foster youth discharged from care. This bill would codify *Jefry H.* and ensure that all former foster youth who find themselves in dire straits are given the opportunity to be heard on their applications to return to care.

We strongly support the Legislature's efforts to ensure that children who have been discharged from foster care are able, if necessary, to reenter foster care in order to access services they need in order to transition successfully to adulthood. With the exception of short-term trial discharge in some counties, youth leaving foster care with no permanent homes lack the safety net that families can provide. While youth can choose to remain in foster care, research shows that those parts of the brain which govern impulsivity, judgment, planning for the future and understanding of consequences are not fully developed during adolescence, indeed, not until the mid-twenties. The consequences of that decision can be severe. Compared to their peers, youth who leave the foster care system at age 18 are more likely to become homeless, unemployed or incarcerated. If given the opportunity to remain under court supervision or return to foster care, many of the deleterious outcomes experienced by youth who are discharged and later find themselves needing support could be minimized or averted.

Based on the foregoing, the New York State Bar Association's Committee on Children and the Law **SUPPORTS** this legislation.

Memo prepared by Committee on Children and the Law, Legislative Subcommittee

Chair of the Committee: Karen Fisher Gutheil, Esq.