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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

***Legal Aid, Proskauer Secure Appellate Victory To Provide  
Retroactive Guardianship Subsidies To Children Between The Ages 18  
To 21***

(NEW YORK, NY) – The Legal Aid Society and Proskauer Rose LLP applauded the New York State Appellate Division, First Department for its [decision](#) recognizing that all foster care youth in the Kinship Guardianship Assistance Program (KinGAP) are entitled to financial assistance up until the age of 21, even if their benefits had already been cut off or were due to be cut off when the 2018 KinGAP reform was passed.

In 2018, the legislature reformed KinGAP in order to stop punishing youth who entered KinGAP before turning 16 by cutting off their benefits when they turned 18. Instead, the KinGAP reform provided that all youth in KinGAP may get subsidies until they turn 21, regardless of their age of entry into the program. However, the new law did not address whether youth who *already were or had been* in KinGAP when the law was passed were eligible for subsidies up to age 21. The Legal Aid Society and Proskauer challenged the denial of subsidies for these youth and the Court found the KinGAP reform must apply retroactively. As a result, youth already in KinGAP in 2018, including youth whose benefits were terminated at age 18 are now entitled to retroactive financial benefits.

“The vulnerable children who are cared for under the guardianship of kin are in need of the same financial support as all other foster care children,” said **Dawne Mitchell, Attorney-in-Charge of the Juvenile Rights Practice at The Legal Aid Society**. “We applaud the First Department for holding that the law applies retroactively, ensuring that children who have previously had their benefits terminated receive the retroactive assistance they are entitled to.”

“By recognizing that the legislature extended existing benefits to children who were arbitrarily denied those benefits by the original KinGAP legislation, the First Department has finally put guardians on equal financial footing with foster and adoptive parents,” said **Lucas Kowalczyk, attorney at Proskauer**. “The court recognized that all children, no matter their custody arrangement, should be treated the same and receive the

same opportunities for a fulfilled life. Any other outcome in this case would have been plainly unjust.”

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*The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>*

*Words like 'equality,' 'fairness' and 'justice' mean something to us at Proskauer and represent our deeply held personal values. Everyone at Proskauer is committed and encouraged to dedicate time, energy and expertise to a vast array of causes. Regardless of where we are in our professional careers, we all believe in going beyond, for good. Our pro bono efforts break boundaries. Whether helping refugees seek asylum, aiding victims of abuse, or assisting underrepresented individuals to seek justice - we champion the rights of others and fight for their freedoms. Through a host of initiatives, we are proud to advance equal access to justice, particularly in the areas of childhood education, veterans' issues, and improving opportunities for women and LGBTQ individuals.*