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Contact:

Redmond Haskins
The Legal Aid Society
rhaskins@legal-aid.org
(929) 441-2384

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

Legal Aid and Dechert File Class Action Lawsuit Against NYS, NYC for Practices that Deny Children Foster Placement with Relatives

(NEW YORK, NY) - The Legal Aid Society and Dechert LLP filed a class action [lawsuit](#) in the United States District Court for the Eastern District of New York against Governor Hochul, the New York State Office of Children and Family Services (OCFS) and the New York City Administration for Children Services (ACS) [challenging](#) practices that deny children in foster care ready, willing and able family members as foster or adoptive parents. These practices rely on unduly sweeping and discriminatory factors to disqualify family members, harming children in foster care as a result.

It is well established that children who are removed from their parents and placed into foster care do much better if they are placed with family members compared to strangers. These “kinship placements” allow children in foster care to maintain connections to extended family and community and provide a sense of stability in the face of the immense trauma of familial disruption.

Nonetheless, under current law, a potential kin foster or adoptive parent cannot be certified if they have previously been convicted of any one of nearly 300 mandatory excluding crimes, even if the crime took place decades earlier and even if city officials believe that person can provide a safe home.

In addition, potential kin foster or adoptive parents may be barred from certification if:

- either the prospective kinship foster parent or any person over the age of 18 residing in the home has any criminal history; or
- either the prospective kinship foster parent or any person over the age of 18 residing in the home has any history of an “indicated” child abuse or neglect allegation with the Statewide Central Register of Child Abuse and Maltreatment (SCR).

The lawsuit alleges that children are denied safe and loving homes with family members due to government officials placing undue weight on SCR and criminal history, history that can be decades old and unrelated to the relatives ability to care for the child.

Reliance on SCR history is particularly problematic. The SCR disproportionately affects poor people since they are most likely to come into contact with mandated reporters through their reliance on public housing and shelters. In addition, the standard for indicating a report to the SCR is extremely low, requiring only “some credible evidence.” ACS need not refer the report to Family Court and in fact can take no action at all on an indicated report. As a result, SCR history is a deficient indicator of the safety of a family member’s home.

In addition, children are not notified when their kin are denied certification, and have no opportunity to challenge the denial. When kin are denied certification, children wind up placed in the home of a stranger, into a congregate care facility, or into the same disqualified kin family's home, but denied the resources and services provided to certified foster or adoptive parents.

“These policies and practices perpetuate the racially discriminatory impact of the criminal legal system and the child welfare system, which disproportionately police and prosecute communities of color and disproportionately regulate families of color,” said **Dawne Mitchell, Attorney-In-Charge of the Juvenile Rights Practice at The Legal Aid Society**. “These policies deny children in foster care loving, safe, and stable familial foster homes, and we look forward to correcting this injustice in court very soon.”

“Children in the custody of ACS deserve individualized assessments of the relatives who step forward to take care of them, not a bureaucratic response that ignores their relatives’ caretaking skills and track record,” said **Linda Goldstein, a litigation partner at Dechert LLP**.

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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 145 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. www.legalaidnyc.org