



Child Advocates File Lawsuit Seeking to Terminate the New York State Office of Children and Family Services' Host Homes Program

Regulations Governing State Program Establish 'Shadow Foster Care System,' Strip Away Core Protections Afforded to Children and Parents

NEW YORK, April 6, 2022– Yesterday, three groups that represent children in foster care filed a lawsuit against the New York State Office of Children and Family Services (“OCFS”) over its regulations establishing the Host Homes Program. Represented by Proskauer, a leading international law firm, the groups charge that the program unlawfully creates a shadow foster care system that strips away core protections afforded to children and parents in foster care under New York State law.

New York statutes provide critical protections to families confronting the need to temporarily and voluntarily place their children in a foster home. Those protections are designed to prevent family separation whenever possible, to mitigate the trauma of removal when separation is unavoidable, and to reunite the family as quickly as possible. Like foster care, the host homes program provides for children to be placed with strangers in homes overseen by agencies authorized by OCFS. However, “The regulations governing the Host Homes Program conflict with New York’s established statutory program governing the voluntary placement of children into foster care. This program establishes a system of family separation outside the court system that removes critical safeguards for both children and parents,” said [Proskauer Partner William C. Silverman](#), lead attorney on the cases who is in charge of the Firm’s global pro bono efforts. “OCFS acted well beyond its regulatory authority.”

Safeguards and protections built into the existing statutory framework governing voluntary placement into foster care that are stripped away when children are placed in host homes include:

- Requirements that OCFS or the local department of social services provide preventive services to parents to avert placing children outside their home, and supportive services to enable the children to return home.
- Appointment of independent legal counsel for the child and parent.
- Court approval for placements expected to last longer than 30 days, based on a judicial determination that the placement is in the child’s best interest, and that the parent knowingly and voluntarily placed the child.
- Regular court review of the status of the child’s placement and the efforts of OCFS or the local department of social services to assist the family so that the child can return home quickly and safety.
- First priority placement with kin (e.g. extended family) rather than strangers.
- Restrictions on placing children out of state.

Through the complaint, the plaintiffs – Lawyers For Children, the Legal Aid Society, and Legal Aid Bureau of Buffalo – seek to terminate the Host Homes Program.



“New York’s Host Home program poses a grave threat to children and families. New York State law recognizes the trauma inflicted upon children who are removed from their families and placed with strangers. For nearly 40 years, Lawyers For Children has given voice to children placed in foster care to help mitigate that trauma by working to ensure that services are provided to families to enable children to remain at home, that children who must be placed reside with kin whenever possible, that siblings are placed together, that families have regular visitation with their children in foster care, and that the family court conduct regular meaningful reviews of the status of the child’s placement so that children return home or to another permanent placement as quickly and safely as possible. Host Homes is a frightening experiment that harkens back to a time when too many children were separated from their families to be sent to live with strangers without any legal recourse and with little apparent concern for their well-being.” **Betsy Kramer, Director of Special Litigation at Lawyers For Children** which represents children placed into the foster care system.

"The Host Homes Program purports to authorize the placement of children with strangers without necessary legal representation, supports, or oversight. Instead of creating a shadow foster care system that places children at an undue risk of harm, OCFS should provide and fund brief respite services and other primary preventive services," said **Dawne Mitchell, Attorney-In-Charge of the Juvenile Rights Practice at The Legal Aid Society.**

“New York’s Host Home program is out-of-sync with what we, as a society, know works best for children and families. It runs counter to ‘family first’ principles, embedded in New York law, to keep families intact; prioritize out-of-home placement, when needed, with kin; and to ameliorate the searing effects of separation on children and their families. As attorneys who, every day, represent children placed in foster care, it is our role and privilege to see life through the lens of each child we represent – and to bring their stories to the fore. We know firsthand the disruption and trauma that children separated from their parents, siblings and extended families endure – particularly when placed in the care of strangers. In our view, the Host Home program is a step in the wrong direction for the families and children of our State,” said **Judith Gerber, Chief Attorney, Attorneys for Children Unit, Legal Aid Bureau of Buffalo, Inc.**

Groups and advocates that work with and represent parents involved in the child welfare system have also opposed the Host Homes program. “Rise opposes the creation of a quasi-foster system through the Host Homes program overseen by OCFS. As parents who have experienced the child welfare system, we are deeply concerned that Host Homes would also harm families and would offer parents no legal protections or rights. This program lacks safeguards and protections for parents needed to prevent potential pathways to child welfare system involvement through neglect allegations. Parents in the program may risk fighting for the return of their children from Host Homes or even losing them to the child welfare system. Instead, New York State should be investing directly in families and in safe, accessible temporary respite care options unaffiliated with the child welfare system,” in a statement from **Rise**, an organization that support parents’ leadership to dismantle the current family policing system by eliminating cycles of harm, surveillance and punishment and creating communities that invest in families and offer collective care, healing and support.



About Lawyers For Children

Founded in 1984, Lawyers For Children represents children in foster care and in the following matters or proceedings: abuse and neglect, permanency hearings, termination of parental rights, adoption, custody, guardianship, visitation, and juvenile delinquency cases. Every child that LFC represents is assigned both an attorney and an LFC social worker to protect their rights, advance their safety, and give voice to their needs and wishes. www.lawyersforchildren.org.

About the Legal Aid Society

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

About the Legal Aid Bureau of Buffalo

Since 1962, the Legal Aid Bureau of Buffalo has provided legal representation to children in child welfare and juvenile justice matters in Erie County Family Court. The Bureau has represented thousands of children in Western York, including the urban center of Buffalo and suburban and rural communities. At the Legal Aid Bureau, the staff of attorneys for children and social workers work in tandem to elevate the voice of children, advocate for their needs, and enhance their life outcomes within and beyond the courtroom. www.legalaidbuffalo.org

About Proskauer

We are 800+ lawyers serving clients from 12 offices located in the leading financial and business centers in the Americas, Europe and Asia. The world's leading organizations, companies and corporations choose us to be their representatives in their most critical situations. But more, they consider Proskauer a strategic partner to drive their business forward. We work with asset managers, major sports leagues, Fortune 500 companies, entertainment industry legends and other industry-redefining companies.

At Proskauer, "for good" means giving of ourselves and making a positive impact on the lives of those less fortunate. Our pro bono work breaks boundaries. From high-impact litigation and complex transactions for nonprofit organizations, to matters for low-income individuals seeking equal access to justice – we are committed to driving businesses as well as society, forward.

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