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Legal Aid Secures Second Circuit Ruling Allowing Lawsuit Challenging Barriers to Kinship Foster Placements to Proceed

Court recognizes children's right to challenge state and city policies that deny them placement with safe and loving family members

(NEW YORK, NY) — The Legal Aid Society released the following statement in response to the Second Circuit [ruling](#) in *B.B. v. Hochul* [affirming](#) that children have the right to challenge state and city policies and practices that deny them placement with safe and loving family members:

“The Second Circuit’s decision is a powerful recognition that children’s constitutional rights may be violated when the state blocks them from living with their families. The court made clear that denying children placement with relatives may deprive them of stability, vital services, and family connections, as well as expose them to serious emotional and psychological harm. This ruling affirms that children have their own constitutional rights at stake when government policies deprive them of willing and capable kin foster parents.”

Background

In November 2021, The Legal Aid Society filed a [class action lawsuit](#) in federal court challenging State and City policies and practices that prevent children removed from their parents from being placed into foster care with relatives who are ready and able to care for them.

The lawsuit alleges that State and City agencies rely on overly broad and discriminatory rules — such as decades-old criminal records or child welfare registry entries — to disqualify family members from becoming foster or adoptive parents.

As a result, many children are denied safe, stable placements with relatives and instead placed with strangers or in congregate care, despite extensive evidence showing that children do better when they remain connected to their families and communities.

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The Legal Aid Society is a nonprofit law firm that exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 150 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 the people we serve and helps improve our communities.

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