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Councilmember Brianne K. Nadeau

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require, on an emergency basis, the Mayor to establish a pilot program through which a close relative of a child may be eligible to receive subsidy payments for the care and custody of a child, to establish eligibility requirements for the subsidy, to provide that there is no entitlement to a subsidy and the payment of any subsidy is subject to the availability or appropriations, to authorize the Mayor to issue rules to implement provisions of the act, to require the Mayor to issue a report to Council evaluating the program; and to amend the District of Columbia Public Assistance Act of 1982 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Close Relative Caregiver Subsidy Pilot Program Establishment Emergency Amendment Act of 2019.”

TITLE I. CLOSE RELATIVE CAREGIVER PILOT PROGRAM.

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) “Agency” means the Child and Family Services Agency established by section 301(a) of the Prevention of Child Abuse and Neglect Act of 1977, effective April 4, 2001 (D.C. Law 13-277; D.C. Official Code § 4-1303.01a).

(2) “Close relative” means an adult who is a brother, sister, aunt, uncle, nephew, niece, or cousin of the child and related to the child by blood, marriage, domestic partnership, or adoption.

32 (3) “Criminal background check” means the investigation of an individual’s criminal
33 history through the record systems of the Federal Bureau of Investigation and the Metropolitan
34 Police Department.

35 (4) “Mayor” means the Mayor or a designee of the Mayor.

36 (5) “Temporary Assistance for Needy Families” or “TANF” means the Temporary
37 Assistance for Needy Families program established by section 201 of the District of Columbia
38 Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C.
39 Official Code § 4-202.01).

40 Sec. 102. Establishment of a pilot program to provide subsidies for close relative
41 caregivers.

42 (a) By December 31, 2019, the Mayor shall establish a pilot program through which
43 eligible close relative caregivers may receive subsidy payment for the care and custody of a child
44 residing in their home.

45 (b) The pilot program shall continue through September 30, 2023.

46 Sec. 103. Eligibility.

47 (a) A close relative may be eligible to receive subsidy payments under this section if:

48 (1) The close relative has been the child’s primary caregiver for at least the
49 previous 6 months;

50 (2) The child has resided in the close relative’s home for at least the previous 6
51 months;

52 (3) The child’s parent has not resided in the close relative’s home for at least the
53 previous 6 months; provided, that a parent may reside in the home without disqualifying the
54 close relative from receiving a subsidy if:

55 (A) The parent has designated the close relative to be the child's standby
56 guardian pursuant to D.C. Official Code § 16-4806;

57 (B) The parent is a minor enrolled in school; or

58 (C) The parent is a minor with a medically verifiable disability under
59 criteria that shall be prescribed by the Mayor pursuant to section 106.

60 (4) The close relative and all adults residing in the close relative's home has
61 submitted to a criminal background check;

62 (5) The close relative's household income is under 200 percent of the federally-
63 defined poverty level;

64 (6) The close relative is a resident of the District as defined by section 503 of the
65 District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101;
66 D.C. Official Code § 4-205.03);

67 (7) The close relative has applied for Temporary Assistance for Needy Families
68 benefits for the child;

69 (8) The close relative has entered into a subsidy agreement that includes a
70 provision that no payments received under the agreement shall inure to the benefit of the child's
71 parent but shall be solely for the benefit of the child;

72 (9) The close relative is not currently receiving a guardianship or adoption
73 subsidy for the child;

74 (10) The close relative has provided a signed statement, sworn under penalty of
75 perjury, that the information provided to establish eligibility pursuant to this section, or any rules
76 promulgated pursuant to section 106, is true and accurate to the best belief of the close relative
77 applicant; and

78 (11) The close relative has met any additional requirements prescribed by the
79 Mayor pursuant to rules issued under section 106.

80 (b) The Mayor may waive the eligibility requirements established in subsection (a)(1) and
81 (2) of this section if:

82 (1) The Agency determines that the child is at risk of removal from the parent,
83 guardian, or custodian pursuant to section 107 of the Prevention of Child Abuse and Neglect Act
84 of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.07);

85 (2) The parent, guardian, or custodian permits the close relative to be the child's
86 primary caregiver; and

87 (3) The parent, guardian, or custodian permits the child to reside with the close
88 relative.

89 (c)(1) The Mayor shall recertify the eligibility of each close relative receiving a subsidy
90 on at least an annual basis.

91 (2) For the purposes of the recertification, a close relative may be required to
92 provide a signed statement, sworn under penalty of perjury, that the information provided to
93 establish continued eligibility pursuant to this section, or any rules promulgated pursuant to
94 section 106, remains true and accurate to the best belief of the close relative.

95 (d)(1) The Mayor shall terminate subsidy payments to a close relative at any time if:

96 (A) The Mayor determines the close relative no longer meets the
97 eligibility requirements established by this section, or by rules issued under section 106; or

98 (B) There is a substantiated finding of child abuse or neglect against the
99 close relative caregiver resulting in the removal of the child from the close relative's home.

100 (2) A close relative whose subsidy payments are terminated as a result of the
101 removal of the child from the close relative's home may reapply if the child has been returned to
102 the close relative's home.

103 (e) Eligibility for subsidy payments under this section may continue until the child
104 reaches 18 years of age.

105 (f) An applicant whose application for a subsidy has been denied or whose subsidy has
106 been terminated shall be entitled to a hearing under the applicable provisions of the District of
107 Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.
108 Official Code § 2-501 *et seq.*); provided, that a close relative shall not be entitled to a hearing if
109 the denial or termination of a subsidy is based upon the unavailability of appropriated funds.

110 (g) Any statement under this section made with knowledge that the information set forth
111 therein is false shall be subject to prosecution as a false statement under section 404(a) of the
112 District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982
113 (D.C. Law 4-164; D.C. Official Code § 22-2405(a)).

114 Sec. 104. Subsidies.

115 (a) All subsidies established under this act shall be subject to the availability of
116 appropriations. Nothing in this act shall be construed as creating an entitlement to a subsidy for
117 any person.

118 (b) The amount of subsidy shall be based on the amount of the subsidy that a grandparent
119 caregiver is eligible to receive pursuant to section 104 of the Grandparent Caregivers Pilot
120 Program Establishment Act of 2005, effective March 8, 2006 (D.C. Law 16-69; D.C. Official
121 Code § 4-251.04).

122 (c) The amount of a subsidy a close relative caregiver is eligible to receive under this act
123 shall be offset by any amount a close relative receives as TANF or Supplemental Security
124 Income for the child.

125 (d) The Mayor may give a priority to an application of a close relative if the Agency
126 determines that the child is at risk of removal from the parent, guardian or custodian pursuant to
127 section 107 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23,
128 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.07).

129 Sec. 105. Reports.

130 Beginning February 28, 2021, and on an annual basis thereafter, the Mayor shall issue a
131 report to the Council on the subsidy program established by this act. At a minimum, the report
132 shall include:

- 133 (1) The number of applications filed for the subsidy;
- 134 (2) The number of subsidies awarded;
- 135 (3) The number of families receiving both the subsidy and TANF;
- 136 (4) The number of applications denied for failure to meet eligibility criteria;
- 137 (5) The number of applications denied for lack of appropriated funding;
- 138 (6) An estimate of the number of close relative caregivers whose income is less than 200
139 percent of the federally-defined poverty level but who have not applied for the subsidy;
- 140 (7) The number of subsidies terminated by the Mayor pursuant to section 103 or
141 voluntarily by the close relative caregiver;
- 142 (8) The number of substantiated cases of fraud and a comparison of this figure to the
143 proportion of cases of fraud involving other benefit programs, including TANF, Food Stamps,
144 and Medicaid;

145 (9) The number of children removed from households receiving a subsidy under the
146 program established by this act due to a substantiated allegation of child abuse or neglect; and

147 (10) Any legislative, policy, or administrative recommendations of the Family Court of
148 the Superior Court of the District of Columbia or of agencies designated by the Mayor to execute
149 the provisions of this act that are intended to enhance the effectiveness of the program.

150 Sec. 106. Rules.

151 The Mayor, pursuant to Title I of the District of Columbia Administrative
152 Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*),
153 may issue rules to implement the provisions of this act.

154 Sec. 107. Construction.

155 (a) Nothing in this act shall be construed as relieving the parent of a child from any child
156 support order regarding the child for whom a close relative caregiver is receiving a subsidy under
157 this chapter.

158 (b) Nothing in this act shall be construed to create a new cause of action or to limit the
159 rights or remedies available to parents in custody or guardianship actions.

160 **TITLE II. CONFORMING AMENDMENT.**

161 Sec. 201. Section 511(a) of the District of Columbia Public Assistance Act of 1982,
162 effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.11(a)), is amended as
163 follows:

164 (a) Paragraph (8) is amended by striking the phrase “and” at the end.

165 (b) Paragraph (9) is amended by striking the period at the end and inserting the
166 phrase “; and” in its place;

167 (c) A new paragraph (10) is added to read as follows:

168 “(10) Disregard any subsidy received under the pilot program established by
169 section of the Close Relative Caregiver Subsidy Pilot Program Establishment Emergency
170 Amendment Act of 2019, passed on emergency basis on June 25, 2019 (Enrolled version of Bill
171 23-XXX).”.

172 **TITLE III. FISCAL IMPACT; EFFECTIVE DATE.**

173 Sec. 301. Fiscal impact statement.

174 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
175 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
176 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

177 Sec. 302. Effective date.

178 This act shall take effect following approval by the Mayor (or in the event of a veto by
179 the Mayor, action by the Council to override the veto), and shall remain in effect for no longer
180 than 90 days, as provided for emergency acts of the Council of the District of Columbia in
181 section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
182 Stat. 788; D.C. Official Code § 1-204.12(a)).