

September 8, 2020

By First Class Mail and Email

Senator Joseph F. Vitale
Chair, Health, Human Services and Senior Citizens Committee
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Assemblyman Raj Mukherji
Chair, Judiciary Committee
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Re: Support for S2886/A4640

Dear Senator Vitale and Assemblyman Mukherji:

We write to express our support for S2886/A4640 and to thank you for your leadership in bringing the bill to this point and shepherding it through the legislative process going forward. We respectfully ask you to move this critical bill through your respective committees and to do what you can to ensure that it is considered and passed this session.

The bill authorizes caregivers to make alternative arrangements for the care of their children or wards when they find themselves in emergent situations (or fear these circumstances may arise) that will render them unable to provide such care themselves. The bill permits them to do so without going to court, which is something that many people fear, especially those from immigrant families. Given the number of parents who are becoming ill or dying due to COVID-19, and the number of immigrant parents who face detention or deportation under current immigration enforcement policies, thousands of New Jerseyans need this bill now. We hope you will ensure that the Legislature reviews and enacts it as soon as possible.

New Jersey currently has statutory provisions in place to enable parents (and at times legal guardians or custodians) to make emergent arrangements without going to court, but the law limits the delegation to six months (without the ability to renew) and does not permit the delegation to go into effect upon a triggering event, such as when a caregiver becomes ill or incapacitated, is detained or deported, becomes incarcerated, or deploys for military service. Moreover, New Jersey's Standby Guardianship Statute currently authorizes a court to appoint a standby guardian only when parents are seriously ill or near death. It does not permit the appointment of a standby guardian in the wide range of other circumstances that may disrupt caregiving, including immigration enforcement, incarceration, or military service.

S2886/A4640 would amend the law to remove these, and other, limitations. In particular, the bill:

- Permits a parent, legal guardian, or custodian on his/her own without going to court to delegate caregiving responsibilities to another adult (hopefully one well known to the child or ward) for up to one year, with the ability to renew.
- Expands the grounds on which a parent, guardian, or custodian can make a delegation or seek standby guardianship, permitting such alternative arrangements whenever caregivers have become or may become unable to provide care to a child or ward themselves. The bill explicitly includes illness, incapacity, immigration enforcement, incarceration, and military deployment among the reasons that may trigger alternative caregiving arrangements.
- Allows a caregiver to make a delegation effective immediately, but also permits the caregiver to identify a triggering event, such as when he/she is seriously ill or near death, has been detained or deported, becomes incarcerated, or is deployed for military service.
- Maintains the requirement of the other parent's consent for a delegation, but waives this requirement when the other parent is unknown, unavailable despite diligent efforts to locate him or her, or has not been involved with the upbringing of a child on a long-term basis.
- Clarifies that both New Jersey's Delegation Statute and Standby Guardianship Statute are available to caregivers who are parents, but also to those who are legal guardians or custodians.
- Provides a sample form that caregivers may use to delegate caregiving responsibilities for their children or wards.

We cannot emphasize enough how necessary this bill is. We are attorneys who have worked with numerous families, especially immigrant families, who fear that they will be detained and missing when their children return from school. We have also worked extensively with children in the foster care system, and we know firsthand that many could be spared emergency placements in group settings and/or in the households of strangers if their parents had had the ability to identify safe and familiar alternative caregivers for them. Finally, we work with the low-income communities that have been hardest hit by the COVID-19 pandemic, and we see the need for sick parents to have the peace of mind that comes from knowing that their children will be cared for no matter what.

We hope you will support this bill and add it to your legislative agenda for this session. We are available to answer any questions, to testify if necessary, to help build support for the bill, and to recruit others to testify. Thank you for your support, time, and consideration.

Respectfully submitted,

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