

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require, on an temporary 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 the child, to establish eligibility requirements for the subsidy, to require the Mayor to issue a report to Council evaluating the pilot program, to authorize the Mayor to issue rules to implement provisions of the pilot program, and to provide that there is no entitlement to a subsidy and the payment of any subsidy is subject to the availability of appropriations; 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 Temporary 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 301a 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 a child and related to the child by blood, marriage, domestic partnership, or adoption.

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

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

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

(a) By December 31, 2019, the Mayor shall establish a pilot program through which eligible close relative caregivers may receive subsidy payments for the care and custody of a child residing in their home (“Pilot Program”).

(b) The Pilot Program shall continue through September 30, 2023.

Sec. 103. Eligibility.

(a) A close relative may be eligible to receive subsidy payments under the Pilot Program if:

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

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

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

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

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

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

(4) The close relative and all adults residing in the close relative’s home have submitted to a criminal background check;

(5) The close relative’s household income is under 200% of the federally-defined poverty level;

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

(7) The close relative has applied for TANF benefits for the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 104. Subsidies.

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

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

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

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

Sec. 105. Reports.

Beginning February 28, 2021, and on an annual basis thereafter, the Mayor shall issue a report to the Council regarding the Pilot Program. At a minimum, the report shall include:

- (1) The number of applications filed for the subsidy;
- (2) The number of subsidies awarded;
- (3) The number of families receiving both the subsidy and TANF;
- (4) The number of applications denied for failure to meet eligibility criteria;
- (5) The number of applications denied for lack of appropriated funding;
- (6) An estimate of the number of close relative caregivers whose income is less than 200% of the federally-defined poverty level but who have not applied for the subsidy;
- (7) The number of subsidies terminated by the Mayor pursuant to section 103(d) or voluntarily by the close relative caregiver;
- (8) The number of substantiated cases of fraud and a comparison of this figure to the proportion of cases of fraud involving other benefit programs, including TANF, food stamps, and Medicaid;
- (9) The number of children removed from households receiving a subsidy under the Pilot Program due to a substantiated allegation of child abuse or neglect; and
- (10) Any legislative, policy, or administrative recommendations of the Family Court of the Superior Court of the District of Columbia or of agencies designated by the Mayor to execute the provisions of this act that are intended to enhance the effectiveness of the Pilot Program.

Sec. 106. Rules.

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

Sec. 107. Construction.

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

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

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TITLE II. CONFORMING AMENDMENT.

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

- (a) Paragraph (8) is amended by striking the word “and” at the end.
- (b) Paragraph (9) is amended by striking the period at the end and inserting the phrase “; and” in its place;
- (c) A new paragraph (10) is added to read as follows:
“(10) Disregard any subsidy received under the pilot program established by section 102 of the Close Relative Caregiver Subsidy Pilot Program Establishment Temporary Amendment Act of 2019, passed on 2nd reading on July 9, 2019 (Enrolled version of Bill 23-358).”.

TITLE III. FISCAL IMPACT; EFFECTIVE DATE.

Sec. 301. Fiscal impact statement.

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

Sec. 302. Effective date.

- (a) This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.
- (b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia