



Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Brianne K. Nadeau
Councilmember, Ward 1

Statement of Introduction Vulnerable Youth Guardianship Protection Amendment Act of 2023

January 18, 2023

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today along with Councilmembers Allen, Gray, R. White, Bonds, and Pinto, I am introducing the “Vulnerable Youth Guardianship Protection Amendment Act of 2023”. This bill will promote stability and provide protection for the lives of vulnerable youth up to age of 21 who have been subject to parental abuse, abandonment, neglect, or similar mistreatment. While this legislation applies to all vulnerable youth, it would especially support undocumented immigrant youth.

District courts do not currently have jurisdiction over youth aged 18 to 21 unless they are already in the Child and Family Services Agency’s (“CFSA”) custody or were previously found to be neglected. The Vulnerable Youth Guardianship Protection Amendment Act thus makes two critical changes to D.C. Superior Court jurisdiction. First, the bill aligns District and federal law to allow the Court to review and approve findings for certain youth up to age 21, allowing them to then be eligible to petition the federal government for Special Immigrant Juvenile Status (“SIJS”). SIJS is a special humanitarian visa applying to abused, abandoned, or neglected immigrant youth under age 21.¹ Upon approval from the Court, SIJS youth become eligible for a certain benefits like work authorization, a Social Security number, housing assistance, and federal financial aid for education. They may also begin their path towards seeking permanent residency or citizenship.

Second, this bill grants the D.C. Family Division authority to appoint legal guardians for the newly created class of “vulnerable youth,” defined as “an unmarried noncitizen who is under 21 years of old.” These changes do not alter or repeal existing law, thereby circumventing any impact to minor children under the age of 18 or those already in the care and custody of CFSA. Numerous child welfare and advocacy groups have spoken on the benefits of these guardian relationships, which can reduce the

¹ U.S. Citizenship and Immigration Services, *Special Immigrant Juveniles* (last accessed Dec. 6, 2022), <https://www.uscis.gov/working-in-US/eb4/SIJ>.

risk of further harm of trafficking and abuse and provide critical stability and support while the youth enters young adulthood and integrates into their new community.² Additionally, because most SIJS youth typically lack the resources to navigate the court system, establishment of a guardianship for youth can provide a critical support for those seeking SIJS.

This legislation will ensure that the District continues to reinforce its status as a sanctuary city, while extending supports specific to the needs of undocumented youth. Federal data suggests that more than a third of the unaccompanied immigrant children between the ages of 0-17 arriving in the U.S. were already 17 years old.³ the District's Kids in Need of Defense ("KIND") office has handled nearly 90 cases in which a D.C. predicate order was approved less than 6 months before the client's 18th birthday. Of those, nearly 50 were approved a month or less before the client's birthday. Additionally, KIND has been unable to serve more than 40 youth since 2019 because of District laws cutting off SIJS eligibility after the age of 18. In a recent example shared with the Committee on Human Services, a 17-year-old woman missed the deadline to complete her custody hearings before aging out by a matter of weeks after her sponsor was hospitalized with COVID. Had this legislation been in effect, this young person would have had the opportunity to seek SIJS protection.

To date, more than a dozen states, including Maryland and Virginia, have taken action to permit juvenile courts to appoint guardians or otherwise issue SIJS determinations for immigrant youth aged 18 up to 21.⁴ This bill is supported by experts and practitioners in cross-cutting disciplines, including child welfare services, immigration legal services, educators, and abuse and trafficking service providers. It provides a path forward for some of our most vulnerable youth while creating a stable foundation from which they can build a future education, home, career, and lives in the District. I look forward to working with my colleagues to pass this critical legislation.

Sincerely,



Brianne K. Nadeau
Councilmember, Ward 1
Chairperson, Committee on Public Works & Operations


² See e.g., Wa. Dept. of Comm., *Vulnerable Youth Guardianships*, (Jan. 2019), <http://www.commerce.wa.gov/wp-content/uploads/2019/03/Commerce-Vulnerable-Youth-Guardianship.pdf>; CT Gen. Assembly, *Joint Favorable Report: An Act Concerning Guardianship Appointments for Individuals Seeking Special Immigrant Juvenile Status* (Mar. 23, 2018), <https://www.cga.ct.gov/2018/JFR/h/2018HB-05185-R00KID-JFR.htm>

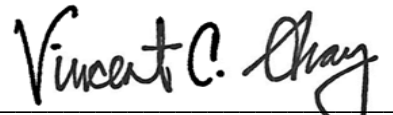
³ U.S. Dept. of Health and Human Services, *Unaccompanied Children: Fact Sheets and Data* (last accessed Dec. 6, 2022), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

⁴ Project Lifeline, *Predicate Order State-by-State Age-Out Analysis* (last accessed Dec. 6, 2022) <https://projectlifeline.us/resources/state-by-state-analysis>. (The map is not up to date, as Virginia and Minnesota have also recently taken action to achieve this goal.)


Councilmember Charles Allen


Councilmember Brianne K. Nadeau


Councilmember Robert C. White, Jr.


Councilmember Vincent C. Gray


Councilmember Brooke Pinto


Councilmember Anita Bonds

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

1 To amend Chapter 23 of Title 16 of the District of Columbia Official Code to give the Family
2 Division of Superior Court jurisdiction to appoint, modify, and terminate a new class of
3 legal guardianship for vulnerable youth so defined.

4
5 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
6 act may be cited as the “Vulnerable Youth Guardianship Protection Amendment Act of 2023”.

7 Sec. 2. Section 13-336(b) of the District of Columbia Official Code is amended as
8 follows:

9 (a) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in
10 its place.

11 (b) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its
12 place.

13 (c) A new paragraph (9) is added to read as follows:

14 “(9) actions for the appointment of a vulnerable youth guardian under Subchapter
15 VI of Chapter 23 of Title 16 of the District of Columbia Official Code.”.

16 Sec. 3. Title 16 of the District of Columbia Official Code is amended as follows:

17 (a) The table of contents for Chapter 23 is amended by adding a new designation for
18 Subchapter VI to read as follows:

19 “Subchapter VI. Vulnerable Youth Guardian.

20 “§ 16-2399.01. Definitions.

21 “§ 16-2399.02. Guardianship petition.

22 “§ 16-2399.03. Parties.

23 “§ 16-2399.04. Timing and notice.

24 “§ 16-2399.05. Adjudicatory hearing.

25 “§ 16-2399.06. Order appointing a guardian of a vulnerable youth.

26 “§ 16-2399.07. Jurisdiction.

27 “§ 16-2399.08. Additional available remedies.”.

28 (b) Chapter 23 is amended by adding a new subchapter VI to read as follows:

29 “Subchapter VI. Vulnerable Youth Guardian.

30 “§ 16-2399.01. Purpose

31 ““The general purpose this subchapter is to:

32 “(1) Promote stability and protection in the lives of certain vulnerable youth who
33 have been subject to parental abuse, abandonment, neglect or similar circumstances under
34 District law by one or both parents by providing judicial procedures to protect their best interests
35 through appointment of a guardian in the circumstances set forth in this subchapter;

36 “(2) Increase the opportunities for such vulnerable youth to receive appropriate
37 care, supervision, and support, especially from relatives, without ongoing government
38 supervision.

39 “(3) This subchapter shall be liberally construed to promote the best interests of
40 the vulnerable youth.

41

42 “§ 16-2399.02. Definitions.

43 “For purposes of this subchapter, the term:

44 “(1) “Guardian” means a person designated by the court pursuant to this
45 subchapter as the legal guardian of a vulnerable youth..

46 “(2) “Noncitizen” means a person who is not a United States citizen.

47 “(3) “Petitioner” means a person seeking to be appointed guardian of the
48 vulnerable youth.

49 “(4) “Person” means an individual, business or nonprofit entity, public
50 corporation, government or governmental subdivision, agency, or instrumentality, or other legal
51 entity whether or not a citizen or domiciliary of the District of Columbia and whether or not
52 organized under the laws of the District of Columbia.

53 “(5) “Similar circumstances” means conditions that have an effect on a minor
54 comparable to abuse, neglect, or abandonment, including the death of a parent.

55 “(6) “Vulnerable youth” means an unmarried noncitizen who is under 21 years
56 old.

57 “§ 16-2399.03. Guardianship petition.

58 “(a) A vulnerable youth or petitioner may file a petition with the Family Court to appoint
59 a guardian and to request that the court make the findings described in 8 U.S.C. 1101(a)(27)(J)
60 under District law. The petition must name the proposed guardian and describe why:

61 “(1) The appointment is in the best interests of the vulnerable youth;

62 “(2) Reunification of the vulnerable youth with one or both parents are not viable
63 due to abuse, neglect, abandonment, or similar circumstances under District law; and

64 “(3) It is not in the best interests of the vulnerable youth to be returned to the
65 vulnerable youth’s or vulnerable youth’s parents’ country of nationality or last habitual
66 residence.

67 “(b) The court shall determine whether it is in the vulnerable youth’s best interests that a
68 guardian be appointed by considering:

69 “(1) The vulnerable youth’s need for continuity of care and caretakers, and for
70 timely integration into a stable home, taking into account the differences in the development and
71 the concept of time of youth of different ages and nationalities;

72 “(2) The physical, mental, and emotional health of all individuals involved to the
73 degree that each affects the welfare of the vulnerable youth, the decisive consideration in regard
74 to this factor being the physical, mental, and emotional needs of the vulnerable youth;

75 “(3) Access to stability, safety, supports or services to remedy the impacts of prior
76 abuse, abandonment, neglect, or similar circumstances;

77 “(4) The quality of the interaction and interrelationship of the vulnerable youth
78 with his or her parents, siblings, relatives, and caretakers, including the proposed guardian; and

79 “(5) The vulnerable youth’s opinion of their own best interest.

80 “§ 16-2399.04. Timing and Notice.

81 “(a) The following individuals, if there are any for the vulnerable youth, and their
82 attorneys, shall be provided notice of, and an opportunity to be heard in, the guardianship
83 proceedings:

84 “(1) The vulnerable youth;

85 “(2) The vulnerable youth’s parent; and

86 “(3) The proposed guardian.

87 “(b) When a petitioner files a petition to appoint a guardian of a vulnerable youth
88 pursuant to this subchapter, the court shall set a time for an adjudicatory hearing, as soon as
89 administratively feasible, prior to the vulnerable youth reaching 21 years of age.

90 “§ 16-2399.06. Order appointing a guardian of a vulnerable youth.

91 “(a) After consideration of all the relevant, material, and competent evidence, the court
92 shall issue an order establishing a guardianship if the court finds that the guardianship is in the
93 youth’s best interests.

94 “(b) After the guardianship is established, upon request by the petitioner or the vulnerable
95 youth, the court shall, if the court finds that the allegations in the petition pursuant to §16-
96 2399.03(a) are supported by a preponderance of the evidence, enter a special findings order
97 containing the following judicial determinations supported by relevant state statutory citations
98 and findings of fact:

99 “(1) Where the identity is known, the specific identity of the parent or parents
100 whom the court finds have abused, abandoned, or neglected, or similarly mistreated the
101 vulnerable youth;

102 “(2) That the vulnerable youth is dependent on the court and has been placed
103 under the care and custody of an individual or entity appointed by the court through the
104 appointment of a guardian;

105 “(3) That reunification of the vulnerable youth with one or both parents is not
106 viable due to abuse, abandonment, neglect or similar circumstances under District law;

107 “(4) That it is not in the best interest of the vulnerable youth to be returned to the
108 vulnerable youth or vulnerable youth’s parents’ country of nationality or last habitual residence.

109 “(c) The court may, upon motion of a party, modify or terminate a guardianship order
110 when the modification or termination of the guardianship order is in the vulnerable youth’s best
111 interests.

112 “(d) The entry of a guardianship order under this subchapter shall not impinge on the
113 vulnerable youth’s fundamental rights to make their own medical, educational, financial, or other
114 such decisions.

115 “(e) A guardianship order entered under this subchapter shall automatically terminate
116 when the youth reaches age 21.”

117 “§ 16-2399.08. Additional available remedies.

118 “Nothing in this subchapter shall prevent a petitioner or vulnerable youth from seeking
119 any other remedy or protections available under other subparts of Title 16 or any other laws of
120 the District intended to promote the welfare of children and youth, to protect children and minors
121 from abuse or other harm, or to provide support. Nothing in this section prevents the court from
122 issuing judicial determinations similar to those in subsections §16-2399.06(b) in any other
123 proceeding concerning a noncitizen minor.

124 Sec. 5. Fiscal impact statement.

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

128 Sec. 6. Effective date.

129 This act shall take effect following approval by the Mayor (or in the event of veto by the
130 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
131 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
132 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
133 Columbia Register.