

**IT TAKES A SPECIAL PERSON TO RAISE A SPECIAL
NEEDS CHILD: HOW NEW YORK’S EXISTING
FAMILY REGULATION SYSTEMS ARE NOT EQUIPPED
FOR CHILDREN WITH AUTISM**

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INTRODUCTION

“[New York’s] child welfare system [is] a maze of dysfunctional bureaucracy operating under unconstitutional policies and practices that demonstrate its deliberate disregard for the safety and well-being of [special needs] children it is duty-bound to protect.”¹ The callous and disheartening chronicle of Judith Leekin illustrates how the New York child welfare standards and Family Court Act are not equipped to care for special needs children in the foster care system (“the system”).²

Over the span of a decade, Judith Leekin, an abusive foster parent of special needs children, collected a total of \$1.68 million in subsidies from the city of New York.³ However, the city was unaware that this amount of money was being paid to one individual;⁴ during the relevant time, there was no system in place to track foster parents or children.⁵ Unbeknownst to city officials, Leekin used at least four different aliases to foster over twenty-two children with special needs, including children with autism spectrum disorder (“autism”).⁶

While in Leekin’s care, these children were subjected to abuse, torture, and neglect.⁷ They were repeatedly beaten, starved, humiliated, restrained, handcuffed, and imprisoned in a basement.⁸ Leekin hid the children from society and deprived them of education and medical treatment.⁹ In 1999, one of Leekin’s foster children with autism, Shane Graham (nicknamed “Moo”), suddenly and inexplicably disappeared.¹⁰ Moo is presumed to be dead due to the fact that he has never been found.¹¹ And yet, Leekin was able to inflict this heinous cruelty upon other children—and even adopt eleven of them¹²—all under the city’s nose.¹³

¹ Complaint, *S.W. v. City of New York*, 46 F. Supp. 3d 176 (E.D.N.Y. 2014) (No. CV-09 1777) [hereinafter *Complaint*].

² Benjamin Weiser, *City Settles with Disabled People Fraudulently Adopted in ‘90s and Abused*, N.Y. TIMES (Dec. 6, 2012), <https://www.nytimes.com/2012/12/07/nyregion/new-york-city-settles-suit-by-abused-foster-children.html?searchResultPosition=7> [hereinafter *City Settles with Disabled People*]. Leekin served as a New York City foster parent between 1986 and 1994. *See id.*

³ *Id.*

⁴ *Id.*

⁵ *Complaint*, *supra* note 1.

⁶ Benjamin Weiser, *\$68 Million Settlement Proposed for 10 Children Fraudulently Adopted and Abused*, N.Y. TIMES (Dec. 29, 2011), <https://www.nytimes.com/2011/12/30/nyregion/settlement-proposed-in-adoption-abuse-case.html?searchResultPosition=9> [hereinafter *\$68 Million Settlement*]. This Note specifically focuses on children on the Autism Spectrum.

⁷ *City Settles with Disabled People*, *supra* note 2.

⁸ *Complaint*, *supra* note 1.

⁹ *Id.*

¹⁰ Benjamin Weiser, *New Look at City Lapses in Adoption Abuse Case*, N.Y. TIMES (Aug. 25, 2011), <https://www.nytimes.com/2011/08/26/nyregion/new-look-at-city-lapses-in-adoption-abuse-case.html?searchResultPosition=14> [hereinafter *New Look at City*].

¹¹ *Id.*

¹² Mitchel Maddux, *City Agrees to Pay Out Nearly \$10M in Judith Leekin Child Abuse Lawsuit Settlement*, N.Y. POST (Dec. 6, 2012, 11:38 PM), <https://nypost.com/2012/12/06/city-agrees-to-pay-out-nearly-10m-in-judith-leekin-child-abuse-lawsuit-settlement>.

¹³ *New Look at City*, *supra* note 10.

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Although Leekin’s scheme occurred during a less technologically-advanced time, it is unrealistically optimistic to believe that “[t]here are much more sophisticated systems in place today that would never allow this kind of fraud to be perpetrated on the city or [abuse on] our children.”¹⁴ Unfortunately, New York’s child welfare and family regulation systems in place are neither “sophisticated” nor inclusive.¹⁵

The purpose of New York State’s Family Court Act (“FCA”) is to “help protect children from injury or mistreatment and to help safeguard their physical, mental, and emotional well-being.”¹⁶ New York City’s Administration for Children’s Services (“ACS”) “protects and promotes [the] safety and well-being of New York City’s children and families by providing child welfare . . . services” and is responsible for overseeing the entirety of the foster care process.¹⁷

Approximately 7,111 children in New York City are in the system.¹⁸ Of the 1,912,617 children in New York City, an estimated 12,757 live with autism.¹⁹ But there are no provisions in the FCA or requirements put in place by ACS to ensure that autistic children with special needs are protected within the system.²⁰ Moreover, the current family regulation system often favors the placement of children to individuals looking for subsidies from New York City over qualified familial placement.²¹ The current law does not prevent fraudulent individuals, like Leekin, from abusing the system.²² Rather, New York City’s child welfare practices and the current provisions of the FCA are pernicious to the lives of autistic children in the system.²³

This Note examines how New York’s existing family regulation systems are not equipped to protect children with autism, who statistically are more likely to end up in the system than neurotypical children and who are uniquely vulnerable to harms within the system.²⁴ This Note argues that it is essential that New York amend current FCA provisions to provide laws that protect children with special needs within the family welfare systems. Part I of this Note discusses the

¹⁴ *City Settles with Disabled People*, *supra* note 2.

¹⁵ See discussion *infra* Section I. By inclusive, this Note means that there are no specific protections for children with special needs within the present New York child welfare legislation.

¹⁶ N.Y. FAM. CT. ACT § 1011 (McKinney 1970).

¹⁷ *About ACS*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/about/about.page> (last visited Mar. 17, 2024).

¹⁸ N.Y.C. ADMIN. FOR CHILD. SERVS., CHILDREN IN FOSTER CARE BY BOROUGH/CD OF FOSTER CARE PLACEMENT (2021) [hereinafter CHILDREN IN FOSTER CARE BY BOROUGH/CD OF FOSTER CARE PLACEMENT].

¹⁹ Press Release, Kirsten Gillibrand, Senator for New York, Gillibrand Unveils 3-Point Plan to Make Quality Autism Treatment Affordable for Families (June 3, 2009), <https://www.gillibrand.senate.gov/wp-content/uploads/imo/media/doc/Autism.pdf> [hereinafter Gillibrand Press Release].

²⁰ See generally N.Y. FAM. CT. ACT (McKinney 2022).

²¹ Nina Pullano, *Families Sue for Due Process in NY Foster Care System*, COURTHOUSE NEWS SERV. (Nov. 10, 2021), <https://www.courthousenews.com/families-sue-for-due-process-in-ny-foster-care-system>.

²² See generally N.Y. FAM. CT. ACT.

²³ Pullano, *supra* note 21.

²⁴ David Mandell, *Why Too Many Children with Autism End Up in Foster Care*, TRANSMITTER (Jan. 9, 2018), <https://www.thetransmitter.org/spectrum/many-children-autism-end-foster-care/?fspec=1>.

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diagnostic criteria of autism and statistical data regarding autism and the system, specifically focusing on New York City. It then examines the relevant sections of the current FCA, as well as New York's Services Law and Mental Hygiene Laws. Part II addresses the relationship between children with autism and the system. It also identifies specific cases where New York's family welfare system has failed children with autism.²⁵ Lastly, Part III focuses on why it is essential for New York to take the necessary steps to enact clear and comprehensive child protection laws that are aimed at protecting children with special needs, specifically noting that ACS should conduct frequent home visits with children in the system and their foster parents throughout the child's placement in the system.

This Note proposes that a required parenting training should be mandated under an amended provision of the FCA and serve as a prerequisite to the certification of fostering an autistic child. New York must educate prospective foster parents of children with autism about how to parent children with special needs by requiring mandatory education, providing additional informative tools, and encouraging a supportive community.

I. BACKGROUND

As discussed above, children with autism are more likely than neurotypical children to be put through the system.²⁶ The FCA is nevertheless narrow, and generally only protects the rights and welfare of neurotypical children in New York.²⁷

A. *Autistic Children in the New York City Foster Care System*

"[Autism] is a category of neurodevelopmental disorders characterized by social and communication impairment and restricted or repetitive behaviors."²⁸ Screening for autism commonly occurs between the ages of eighteen and twenty-four months, and healthcare providers often recommend ongoing developmental surveillance to continue throughout the child's formative years.²⁹ The diagnostic criteria for autism is outlined in the Diagnostic and Statistical Manual of Mental

²⁵ Zuleyha Cidav, Ming Xie & David S. Mandell, *Foster Care Involvement Among Medicaid-Enrolled Children with Autism*, 48 J. AUTISM & DEVELOPMENTAL DISORDERS 176 (2017) (available at: <https://pubmed.ncbi.nlm.nih.gov/28929296>).

²⁶ See *supra* Introduction.

²⁷ See generally N.Y. FAM. CT. ACT.

²⁸ Susan L. Hyman, Susan E. Levy & Scott M. Myers, *Identification, Evaluation, and Management of Children with Autism Spectrum Disorder*, 145 AM. ACAD. PEDIATRICS 1 (2020) (available at: <https://doi.org/10.1542/peds.2019-3447>).

²⁹ *Id.*

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Disorders, Fifth Edition (“DSM-5”).³⁰ The DSM-5 was released in 2013 and the current text revision, the DSM-5 TR, was released in 2022.³¹

According to the DSM-5 TR, autism is broken down into five diagnostic criteria.³² The DSM-5 also provides examples on the ways in which the first two criteria may present themselves, and notes that the “examples are illustrative, not exhaustive.”³³ Moreover, there are three different “levels” of severity for autism: Level “Requiring Support” (“Level 1”), Level “Requiring Substantial Support” (“Level 2”), and Level “Requiring Very Substantial Support” (“Level 3”).³⁴ According to the DSM-5, individuals with either Autistic Disorder, Asperger’s Disorder, or Pervasive Developmental Disorder all fall under the category of an autism diagnosis.³⁵ This is the updated approach to diagnosing autism, which was introduced in the newest edition of the DSM-5.³⁶ There are several medical journals that evaluate the current practice of diagnosing autism in children.³⁷

³⁰ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDER xxix (5th ed. Text Revision 2022) [hereinafter DSM-5]. The DSM is a handbook used by mental health professionals to provide accurate a diagnosis. The DSM-5 includes important diagnosis information, including criteria, classifications, specifiers, and scenarios regarding mental health conditions. *See Autism Diagnostic Criteria: DSM-5*, AUTISM SPEAKS, <https://www.autismspeaks.org/autism-diagnosis-criteria-dsm-5> (last visited May 2, 2024).

³¹ Steven Rowe & Sandra Silva Casabianca, *What Is the DSM-5? Resource Guide*, PSYCHCENTRAL, <https://psychcentral.com/lib/dsm-5> (last updated Aug. 3, 2022).

³² *See* DSM-5, *supra* note 30; *Autism Diagnostic Criteria: DSM-5*, *supra* note 30. The first criteria is “[p]ersistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history[.]” The second is, “[r]estricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history[.]” The third is, “[s]ymptoms must be present in the early developmental period[.]” however, this criterion is followed by an addition that states, “but may not become fully manifest until social demands exceed limited capacities or may be masked by learned strategies in later life[.]” The fourth is, “[s]ymptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.” The last criteria states, “[t]hese disturbances are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.” *See* DSM-5, *supra* note 30, at 57-58.

³³ DSM-5, *supra* note 30, at 58. Although the DSM is the standard for healthcare providers to follow regarding the diagnosis of mental and behavioral conditions, the way it is interpreted can be incredibly subjective. When used in practice, the diagnosis is ultimately up to the discretion of the healthcare provider to decide whether the individual meets the stated criteria. *See Autism Screening*, AUTISM SPEAKS, <https://autismspeaks.org/autism-screening> (last visited May 2, 2024); *Autism Diagnostic Criteria: DSM-5*, *supra* note 30.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *DSM-5 and Autism: Frequently Asked Questions*, AUTISM SPEAKS, <https://www.autismspeaks.org/dsm-5-and-autism-frequently-asked-questions> (last visited May 2, 2024); *see also* DSM-5, *supra* note 30.

³⁷ MARY E. DE MASI, COUNCIL ON CHILD. & FAMS., CHILDREN WITH AUTISM SPECTRUM DISORDERS (available at: <https://www.ccf.ny.gov/files/3613/8262/2276/Autism20brief.pdf>).

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In the United States, one in fifty-nine children (approximately 1.7%) are diagnosed with autism.³⁸ In the state of New York, approximately 28,000 children are autistic.³⁹ In all five boroughs of New York City, approximately 12,757 children have been diagnosed with autism.⁴⁰ New York City therefore accounts for almost fifty percent of the total number of autistic children in New York State.⁴¹ Broken down by borough, there are 1,850 children with autism in Manhattan, 2,588 children with autism in the Bronx, 4,280 children with autism in Brooklyn, 3,279 children with autism in Queens, and 760 children with autism in Staten Island.⁴² “The highest [autism] rates [are] among school districts located in the Bronx, Brooklyn (Kings), Manhattan (New York), Ulster, Allegany, Richmond, Greene, Suffolk, and Chautauqua counties.”⁴³ Additionally, higher rates of autism in the state of New York have been found to “be concentrated in urban regions throughout New York and have higher representation of Black and Hispanic/Latino students[.]”⁴⁴ Accordingly, the school districts with the highest rates of autism had higher percentages of Hispanic and Black students (18.08% and 15.5%, respectively) compared to the sociodemographic distribution of New York State.⁴⁵

There are over 16,000 children in the system throughout the entire state of New York.⁴⁶ In New York City, there are an estimated 7,111 children in the system and 986 unknown.⁴⁷ In Manhattan there are 724 children living in foster care homes, 2,031 in the Bronx, 1,836 in Brooklyn, 1,111 in Queens, and 423 in Staten Island.⁴⁸ Of the 7,111 children in the system in New York City, about 4,000 are Black and 2,801 are Latinx.⁴⁹ These statistics demonstrate a trend between the breakdown of children diagnosed with autism in New York City and children in the system in New York City, both having the highest rates of minority children.⁵⁰

³⁸ Hyman, Levy & Myers, *supra* note 28, at 2.

³⁹ Gillibrand Press Release, *supra* note 19 (approximately 29,402); *see* DE MASI, *supra* note 37 (approximately 28,000).

⁴⁰ Gillibrand Press Release, *supra* note 19.

⁴¹ *See generally id.*

⁴² *Id.*

⁴³ Kathleen McGrath, Karen Bonuck & Mana Mann, *Exploratory Spatial Analysis of Autism Rates in New York School Districts: Role of Sociodemographic and Language Differences*, 12 J. NEURODEVELOPMENTAL DISORDERS 1 (2020) (available at: <https://doi.org/10.1186/s11689-020-09338-x>).

⁴⁴ *Id.* at 1.

⁴⁵ *Id.* at 8.

⁴⁶ Arin Cotel-Altman, *Shortage of Foster Parents in New York Means More Children Need Homes*, SPECTRUM NEWS 1, <https://spectrumlocalnews.com/nys/central-ny/news/2022/03/08/shortage-of-foster-parents-in-new-york> (last updated Mar. 8, 2022, 4:33 PM).

⁴⁷ CHILDREN IN FOSTER CARE BY BOROUGH/CD OF FOSTER CARE PLACEMENT, *supra* note 18.

⁴⁸ *Id.*

⁴⁹ N.Y.C. ADMIN. FOR CHILD SERVS., FOSTER CARE POPULATION (2020) [hereinafter FOSTER CARE POPULATION].

⁵⁰ *Id.*; Gillibrand Press Release, *supra* note 19.

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Article 10, section 1 of the FCA specifies that family courts have jurisdiction over proceedings “alleging the abuse or neglect of a child.”⁵¹ This provision coincides with New York Social Services Law, Chapter 55, Article 6, Title 1, which states that the FCA shall apply as long as it does not conflict with the Social Services Law.⁵² The Social Services Law outlines several proceedings in which the Family Court has jurisdiction over, such as: child abuse and neglect; termination of parental rights; adoption and custody of children; and family offence.⁵³ Section 1 of the FCA also sets out the court’s duties regarding the determination of the placement of a child.⁵⁴ Specifically, subsection (c) states, “The court shall determine: (i) whether there is a non-respondent parent, relative or suitable person with whom such child may appropriately reside; and (ii) in the case of a relative or suitable person, whether such individual seeks approval as a foster parent[.]”⁵⁵ The New York Social Services Law and the FCA complement one another when determining guardianship and custody.⁵⁶

Children with autism require significant care, which can “[also] affect parents and siblings and require substantial community resources.”⁵⁷ That being said, there are no provisions in either New York’s Social Services Law or the FCA that address this concern.⁵⁸ New York enacted Mental Hygiene Laws to protect individuals with disabilities, which includes individuals with autism.⁵⁹ However, the New York Mental Hygiene Laws do not concern family matters; therefore, a gap still exists between the protection of individuals with special needs and child welfare legislation in New York.⁶⁰

In order for a child to be placed in a foster home with a non-relative, the foster home must be certified.⁶¹ Specifically, New York City requires individuals

⁵¹ N.Y. FAM. CT. ACT § 1012 (McKinney 2022).

⁵² *Id.* at § 115; *see also* N.Y. SOC. SERV. LAW § 371 (McKinney 2021); N.Y. SOC. SERV. LAW § 371-a (McKinney 1976).

⁵³ Joan Baim, Practice Commentary, McKinney’s Cons Laws of NY, 2022 Electronic Update, SOC. SERV. LAW § 371-a; *see generally* N.Y. SOC. SERV. LAW (McKinney 2021); *see also* N.Y. FAM. CT. ACT § 115 (McKinney 2022).

⁵⁴ N.Y. FAM. CT. ACT § 1017; *see also* N.Y. FAM. CT. ACT § 1055.

⁵⁵ N.Y. FAM. CT. ACT § 1017.

⁵⁶ N.Y. SOC. SERV. LAW § 384-b (McKinney 2022).

⁵⁷ Hyman, Levy & Myers, *supra* note 28.

⁵⁸ *See generally* N.Y. FAM. CT. ACT; *see also* N.Y. SOC. SERV. LAW.

⁵⁹ N.Y. MENTAL HYG. LAW § 1.03 (McKinney 2022) (These laws ensure individuals with disabilities are afforded due process and equal protection under the law. Chapter 27, Title A, Article 1 [hereinafter 27A-1] of New York Mental Hygiene Laws specifically defines the term “mental disability” as “mental illness, intellectual disability, developmental disability, or an addictive disorder.” Moreover, 27A-1 then goes on to further define “developmental disability.” Developmental disability is “a disability of a person which: (a)(1) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia, Prader-Willi syndrome or autism”).

⁶⁰ *See generally* N.Y. MENTAL HYG. LAW; *see also* N.Y. FAM. CT. ACT; *see also* N.Y. SOC. SERV. LAW.

⁶¹ *Kinship and Foster Care: Become a Foster Parent*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent> (last visited Mar. 18, 2024).

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who are interested in becoming a foster parent to fill out an application and attend an orientation with ACS in order to learn about the certification process.⁶² Similarly, in order for a child to be placed in a home of a relative or family friend who is providing kinship care, the relative's foster home must be approved according to the same standard of certification as non-relative foster placement.⁶³ To become certified, the prospective foster parent must undergo Foster Parent Training, in which they are required to attend a thirty-hour Model Approach to Partnerships and Parenting ("MAPP") training.⁶⁴ The certification process includes a background check, medical clearance and a home study.⁶⁵ After the certification process is successfully completed, the child is placed in the home on either a short-term or long-term basis.⁶⁶ The child welfare agency, ACS, provides the new foster parent with a birth family visitation schedule and with "information that will help [the foster parent] provide the best care for the child."⁶⁷ Once the child is placed with the family, the only visitation that occurs is with the birth family; there are no check-ins conducted by Child Welfare Services.⁶⁸

II. PROBLEM

Parents often become "overwhelmed with the impact and difficulties they face in accommodating to the reality they and their child face when learning of the [autism] diagnosis."⁶⁹ Parenting a child with autism requires immense patience and

⁶² *Kinship and Foster Care: An Overview the Foster Home Certification Process*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent/overview-of-the-foster-parent-process> (last visited Mar. 18, 2024); see also *Become a Foster or Adoptive Parent*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/become-foster-adoptive-parent.page> (last visited Mar. 18, 2024); see also *Kinship and Foster Care: Certification Requirements for Foster Care*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent/new-york-foster-parent-requirements> (last visited Mar. 18, 2024).

⁶³ *Kinship Care in New York State*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/programs/kinship> (last visited Mar. 18, 2024); *Kinship and Foster Care: Relative Kinship Care Options in New York*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/foster-and-kinship-care-101/kinship-family-resources> (last visited Jan. 31, 2024) (Kinship care is when children live with relatives instead of unrelated foster parents).

⁶⁴ *Kinship and Foster Care: New York State Foster Parent Training Requirements*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent/new-york-state-foster-parent-training-requirements> (last visited Jan. 31, 2024); *Become a Foster or Adoptive Parent*, *supra* note 62.

⁶⁵ *Kinship and Foster Care: An Overview the Foster Home Certification Process*, *supra* note 62; see also *Become a Foster or Adoptive Parent*, *supra* note 62; see also *Kinship and Foster Care: Certification Requirements for Foster Care*, *supra* note 62.

⁶⁶ *Become a Foster or Adoptive Parent*, *supra* note 62.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Nora Baladerian, *Addressing Abuse of Children and Adults on the Autism Spectrum*, AUTISM SPECTRUM NEWS (July 19, 2022), <https://autismspectrumnews.org/addressing-abuse-of-children-and-adults-on-the-autism-spectrum>.

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often comes with hardships and unique challenges.⁷⁰ Parents of children with autism often encounter social and emotional consequences which “include heightened levels of stress and anxiety—particularly in mothers—compromised parental mental and emotional health and well-being, depression, isolation, guilt and loneliness.”⁷¹ This can cause parents to experience frustration, which can potentially lead to abuse of children and in some cases death.⁷²

In the United States, eighty-nine percent of children diagnosed with autism “ha[ve] experienced an incident of victimization.”⁷³ For instance, in 2010, while staying at a hotel in New York City, Gigi Jordan killed her autistic son, Jude, by feeding him a fatal dose of prescription drugs.⁷⁴ While testifying in her defense, Jordan “unfurled a horrifying tale of torturous attempts to ‘cure’ [her son] of autism.”⁷⁵ Throughout Jude’s life, Jordan subjected Jude to grueling treatments to try to cure him of his autism diagnosis.⁷⁶ This is just one example in which an autistic child in New York was a victim of fatal child abuse.⁷⁷

Another example can be seen in Sharay Barney and her boyfriend Michael Ransom, who were charged with killing Barney’s eight-year-old non-verbal autistic son, Joseph Barney.⁷⁸ At the time of his death, Joseph was severely underweight and showed clear signs of long-term abuse, which were ignored.⁷⁹ New York’s Child Welfare system ignored cries for help, leaving Joseph, a vulnerable child, in an environment riddled with abuse and neglect.⁸⁰

Further, between 2015 and 2019, the Valva brothers, two of whom had autism, were subjected to mistreatment, abuse, torture, and neglect by their father and step-mother.⁸¹ In January 2018, Tommy Valva, one of the brothers with autism, “died after he was forced to sleep in his father’s garage in subfreezing

⁷⁰ Meghan Rivard, *Children with Autism More Likely to be in Foster Care, Says New Research*, ADOPTION.COM (Jan. 31, 2018), <https://adoption.com/children-with-autism-more-likely-to-be-in-foster-care-new-research>.

⁷¹ Paul McCafferty & Judith McCutcheon, *Parenting a Child with Autism: Considering the Stresses, Supports and Implications for Social Work Practice*, 27 CHILD CARE PRAC. 389 (2020) (available at: <https://doi.org/10.1080/13575279.2020.1765145>).

⁷² Mandell, *supra* note 24.

⁷³ Rebecca D. Pfeffer, *Childhood Victimization in a National Sample of Youth with Autism Spectrum Disorders*, 13 J. POL’Y & PRAC. INTEL. DISABILITIES 311 (2016) (available at: <https://doi.org/10.1111/jppi.12203>).

⁷⁴ Rebecca Rosenberg, *Millionaire Admits to ‘Mercy Killing’ of Autistic Son*, N.Y. POST (Oct. 8, 2014, 9:34 PM), <https://nypost.com/2014/10/08/gigi-jordan-admits-killing-autistic-son-with-fatal-drug-cocktail>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *See id.*

⁷⁸ Ashley Southall, *Mom, Boyfriend Charged in Death of 8-Year-Old Autistic Boy in the Bronx*, N.Y. TIMES (Mar. 22, 2022), <https://www.nytimes.com/2022/03/22/nyregion/bronx-kid-death.html>.

⁷⁹ *Id.*

⁸⁰ Sarah Maslin Nir, *A Dozen Calls to Child Abuse Hotline Did Not Save 8-Year-Old Boy*, N.Y. TIMES (last updated Feb. 23, 2020), <https://www.nytimes.com/2020/02/02/nyregion/nypd-cop-autistic-son.html?searchResultPosition=30>.

⁸¹ *Id.*

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weather[.]”⁸² The dozens of calls neighbors and concerned individuals in the community made to the child abuse hotline were overlooked.⁸³ Although there were several reports made to Child Protection Services, investigators declared the claims of abuse unfounded and did not investigate further, leaving Tommy in an abusive environment that led to his untimely death.⁸⁴

According to one study, autistic children are “up to three times as likely as their neurotypical peers to be targets of bullying and physical or sexual abuse.”⁸⁵ It is speculated that one explanation for this is that, because they often have difficulty with communication, it is harder for autistic children to report abuse.⁸⁶ In addition, child welfare workers also lack proper training for identifying autistic children’s attempts to communicate abuse.⁸⁷ Unfortunately, the studies regarding the maltreatment of autistic children are scarce.⁸⁸ Thus, there is little concrete data on the relationship between autism and parental abuse in New York, and in the United States more generally.⁸⁹ Autistic children who ultimately survive the neglect or abuse of their parents are often placed in foster care.⁹⁰

There are several ways in which a child can enter the system in New York.⁹¹ The child may be placed in the system either at the request of the parent or legal guardian, or by a court order:

The court may order that the child be placed in the care of an agency if it finds that the child has been abused or neglected or is at risk of such harm, or when a child’s behavior is beyond the control of those responsible for his or her care.⁹²

The child is commonly placed “into a group facility or private home [and] a relative or nonrelative foster parent becomes the certified caregiver.”⁹³

⁸² *Id.*; see also Elizabeth Keogh, Graham Rayman & Larry McShane, *Ignored Pleas for Help and Closed Cases: How the System Failed Thomas Valva*, N.Y. DAILY NEWS (last updated Feb. 2, 2020, 5:19 AM), <https://www.nydailynews.com/new-york/nyc-crime/ny-boy-frozen-death-long-island-20200202-4ekupjsjzbfkpk24em4aemmq-story.html>.

⁸³ Nir, *supra* note 80. The boys’ mother, Justyna Zubko-Valva, also issued warnings online and made several reports to the police regarding the treatment of her children in their father’s care. *Id.*

⁸⁴ *Id.*

⁸⁵ Emily Sohn, *How Abuse Mars the Lives of Autistic People*, SPECTRUM (Feb. 5, 2020), <https://www.spectrumnews.org/features/deep-dive/how-abuse-mars-the-lives-of-autistic-people>.

⁸⁶ *Id.*

⁸⁷ See generally *Developmental Disabilities*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/special-medical-needs.page> (last visited Mar. 25, 2024).

⁸⁸ Sohn, *supra* note 85.

⁸⁹ See generally *id.*

⁹⁰ Mandell, *supra* note 72.

⁹¹ *Foster Care*, NYCOURTS.GOV., <https://ww2.nycourts.gov/courts/5jd/family/fostercare.shtml> (last visited Jan. 31, 2024).

⁹² *Id.*

⁹³ Cidav, Xie & Mandell, *supra* note 25.

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Children with autism are exceptionally likely to end up in the system.⁹⁴ A recent study revealed that “children with autism are 2.4 times more likely to enter foster care than neurotypical children.”⁹⁵ This is partly because of the additional frustration and emotional strain involved in raising a child with autism.⁹⁶ The placement of autistic children in the system is also often due to a lack of resources; families often cannot manage the complex needs of their child who has autism.⁹⁷ There is a lesser financial burden on foster parents to care for a child with autism because all children in the system are automatically enrolled in Medicaid, and the foster parents receive a stipend to support their care.⁹⁸ Foster parents receive additional “special” foster care payments, also known as subsidies, for fostering children with special needs.⁹⁹

After being removed from their parents but before being placed in foster homes, children are often placed in city-run foster-care facilities.¹⁰⁰ However, the environment of these ACS-run facilities is similar to that of correctional facilities, and children with autism, despite their unique and complex needs, are included in these facilities’ general populations.¹⁰¹ In 2016, several children with autism living in a city-run foster-care facility were labeled “emotionally disturbed persons,” and were taken to Bellevue Hospital where they were drugged and sedated.¹⁰² Although the children’s biological parents are often consulted prior to medication being administered, the “ACS’s Psychotropic Medication Unit has the power to ‘override’ parents unwilling or unable to consent to give drugs[,]” as in the cases of child patients who are in foster care.¹⁰³ This illustration is only one example of how New York’s child welfare system fails children with autism in the system.¹⁰⁴ In the United States, children with autism remain in the system “1.6 times longer than children without [autism].”¹⁰⁵ Moreover, children in the system “have a

⁹⁴ Mandell, *supra* note 72.

⁹⁵ Rivard, *supra* note 70; *see also* Cidav, Xie & Mandell, *supra* note 25.

⁹⁶ *Family Resources and Supports: Special Needs*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcnny.org/family-supports/health-disabilities-and-special-needs/special-needs> (last visited Mar. 18, 2024).

⁹⁷ Katharine Hill, *Prevalence, Experiences, and Characteristics of Children and Youth Who Enter Foster Care Through Voluntary Placement Agreements*, 74 CHILD. & YOUTH SERVS. REV. 62 (2017).

⁹⁸ Mandell, *supra* note 72.

⁹⁹ *Kinship and Foster Care: 2020 Exceptional Rate Foster Care Subsidy Payments*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcnny.org/fostercare/financial-supports/new-york-state-foster-care-boarding-rates-2020/exceptional-rate> (last visited Mar. 18, 2024).

¹⁰⁰ Susan Edelman & Rachel Petty, ‘Disturbed’ Kids at City Foster-Care Center ‘Drugged’ at Hospital, N.Y. POST (July 31, 2016, 6:35 AM), <https://nypost.com/2016/07/31/disturbed-kids-at-city-foster-care-center-drugged-at-hospital>.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* When a child is in foster care, the biological parents are often consulted regarding medical decisions, unless the biological parents are unable to give consent. *See id.*

¹⁰⁴ Cidav, Xie & Mandell, *supra* note 25.

¹⁰⁵ Lucy A. Bilaver & Judy Havlicek, *Foster Children with Autism Spectrum Disorder: Prevalence, Length of Stay, and Placement Patterns*, 7 J. PUB. CHILD WELFARE 496 (2013).

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higher chance of ending up in the legal system, unemployed, or homeless.”¹⁰⁶ The current system therefore has a detrimental effect on these vulnerable individuals and inadvertently sets up children with autism for an unstable future.

In contrast, “foster children placed with relatives do better in school, are happier and change residences less often than children who are placed with strangers.”¹⁰⁷ Nevertheless, the current system actively pulls children away from familial relatives and places them with strangers.¹⁰⁸ Family members who have a prior criminal conviction are prohibited from becoming foster parents under state and city procedures.¹⁰⁹ Many of these rejected individuals are otherwise qualified but are barred only due to their prior convictions.¹¹⁰ For example, a sexual abuse survivor identified as Michelle was arrested in the 1980s and 1990s on loitering and prostitution charges.¹¹¹ Despite living a law-abiding and drug-free life for thirty years, Michelle was denied certification as the foster parent of D., her granddaughter.¹¹² Michelle and D. were both punished because of offenses that occurred three decades prior, notwithstanding the fact that Michelle had since turned her life around; she earned a master’s degree in community health education and had worked at a nonprofit that assisted chronically ill New Yorkers with housing and medical needs.¹¹³

Similarly, a Queens couple who had cared for their two-year-old great-grandchild for most of his young life was denied certification to serve as their great-grandchild’s foster parents because the great-grandfather had pleaded guilty to attempted second-degree burglary in 1995.¹¹⁴ Though the great-grandparents were allowed to remain with the boy as if they were his foster parents, the denial of officially becoming foster parents meant that the couple would not receive the monthly payments and medical insurance they would have otherwise been entitled to.¹¹⁵ The couple was therefore limited in caring for the child on their combined monthly income of \$1,200 in disability payments.¹¹⁶ The general effect of these

¹⁰⁶ Rivard, *supra* note 70.

¹⁰⁷ Andy Newman, *They Wanted to Foster Their Great-Grandson. Why Did New York Say No?*, N.Y. TIMES (Nov. 10, 2021), <https://www.nytimes.com/2021/11/10/nyregion/foster-care-lawsuit-nyc.html>; *see also* N.Y.C. ADMIN. FOR CHILD. SERVS., REPORT OF THE INTERAGENCY FOSTER CARE TASK FORCE (2018) (available at: <https://www.nyc.gov/assets/acs/pdf/testimony/2018/TaskForceReport.pdf>) [hereinafter REPORT OF THE INTERAGENCY FOSTER CARE TASK FORCE].

¹⁰⁸ Newman, *supra* note 107.

¹⁰⁹ *Id.*; N.Y. SOC. SERV. LAW § 378-a (McKinney 2021); *see also Kinship and Foster Care: Requirements for Foster Parent Criminal and Background Check*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent/requirements-for-foster-parent-criminal-and-background-check> (last visited Apr. 18, 2024).

¹¹⁰ Newman, *supra* note 107 (such as Michelle who over the past 30 years has earned her master and worked for a non for profit but was a sexual abuse survivor and had once been arrested on loitering and prostitution charges).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

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kinds of familial disqualifications is that “some children are sent to live with strangers or in group homes” and “the system pulls away a safety net from some of its most vulnerable children.”¹¹⁷

As demonstrated in the case of the Queens couple, although sometimes family members are granted custody of a child, they are often denied aid to help support that child.¹¹⁸ In denying aid, the state is “[b]asically [] saying ‘[w]ell, you can have him but we’re not going to fund him.’”¹¹⁹ Therefore, ACS’s actions in these situations “run counter to the city’s considerable progress toward its goal of placing more children with family members, an arrangement that research shows is often best for the children.”¹²⁰ New York’s current child welfare system is counterintuitive; it does not provide sufficient protections for children in the system and is structured in a way that blocks children from escaping the system and being raised by their family members.¹²¹

III. PROPOSAL

Since children with autism are statistically more likely than neurotypical children to end up in the system,¹²² New York must improve the current child welfare systems and enact clear and comprehensive child protection laws that are specifically aimed at protecting children in the system with autism. The state must also provide a cohesive, user-friendly medium for individuals to access information and resources regarding parenting a child with autism.

A. ACS Must Do a Better Job Monitoring the Health and Safety of Children in Foster Care

Currently, New York has a preemptive certification approach¹²³ to the system, which is theoretically designed to filter out individuals who the state believes would be a danger to the child.¹²⁴ On March 9, 2018, the New York State Office of the State Comptroller acknowledged the problematic hands-off approach to the system taken by ACS, and brought this to the attention of ACS by way of an audit report, which provided recommendations on how to improve the system.¹²⁵

¹¹⁷ *Id.*

¹¹⁸ *Id.*; see also Megan Conn, Madison Hunt & Michael Fitzgerald, *New York Class-Action Lawsuit Alleges Kin Caregivers are Denied Rights by Foster Care System*, THE IMPRINT (Nov. 11, 2021, 7:05 PM), <https://imprintnews.org/top-stories/new-york-class-action-lawsuit-alleges-kin-caregivers-are-denied-rights-by-foster-care-system/60366>.

¹¹⁹ Newman, *supra* note 107.

¹²⁰ REPORT OF THE INTERAGENCY FOSTER CARE TASK FORCE, *supra* note 107.

¹²¹ Newman, *supra* note 107.

¹²² Sohn, *supra* note 85.

¹²³ *Become a Foster or Adoptive Parent*, *supra* note 62. ACS requires potential foster parents to complete a certification process, as a pre-requisite, that is intended to prevent the placement of the child in an environment where they would experience abuse and/or neglect. See *id.*

¹²⁴ *Id.*

¹²⁵ OFF. N.Y. STATE COMPTROLLER, HEALTH AND SAFETY OF CHILDREN IN FOSTER CARE 2 (2018) [hereinafter HEALTH & SAFETY REPORT]. Fifteen key recommendations include: ACS conduct “the

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In 2019, the New York State Office of the Comptroller sent a follow up letter to David A. Hansell, the Commissioner of ACS, regarding the continued problems with New York City's child welfare system and articulating the lack of implementation of the previously provided recommendations.¹²⁶ Importantly, one of these recommendations, which was ignored, was to “[e]nsure that agencies conduct the minimum required casework contact visits with foster children and their foster parents, including at the placement locations, during the initial placement period and throughout the child’s placement in foster care.”¹²⁷ To date, there has been no implementation of the previously recommended monthly safety check-in practice in the system.¹²⁸ Consequently, “foster children and their foster parents could potentially have no contact visits for extended periods of time and ACS may not detect this safety risk based on its current procedures.”¹²⁹ Therefore, in order to prevent fatal foster care placements, like the placement of Moo with Judith Leekin,¹³⁰ it is vital to implement mandatory monthly check-ins conducted by an ACS caseworker with the foster families in order to assess the safety of the child on an ongoing basis. Monthly check-ins could ensure that foster parents are monitored, and that the children’s health and safety are continuously accounted for.

It may be argued that this proposal would add an additional burden on ACS workers, who are already overworked and underpaid,¹³¹ and would not ensure that abusers in the system will be detected. However, ACS workers are already required to conduct home visits as a part of their job, but this obligation has fallen to the wayside.¹³² Monthly check-ins would therefore not introduce a completely new obligation to ACS case workers and would only impose new guidelines for the frequency of these visits. Further, ACS could assign specific staff members to conduct foster family home visits. That way, ACS could ensure it does not overload its case workers’ already excessive caseload. This Note argues that the benefits of a well-monitored check-in system outweigh the additional burdens that would come from having to conduct more frequent home visits.

minimum required casework contact visits with foster children and their foster parents,” establish a required time frame for these visits and “ensure that agencies are complying with this requirement,” and improve connections with The Office of Children and Family Services, “thus allowing for improved case management.” *See id.*

¹²⁶ Letter From Michael Solomon, Audit Manager, New York State Off. State Comptroller to David A. Hansell, Comm’r, New York City Admin. for Childs. Servs. on Health and Safety of Children in Foster Care Report 2019-F-23 (Dec. 18, 2019) [hereinafter Report 2019-F-23].

¹²⁷ *Id.* at 2.

¹²⁸ *Id.*

¹²⁹ *Id.* at 3.

¹³⁰ *City Settles with Disabled People*, *supra* note 2.

¹³¹ Rich Calder, *Low Pay, Heavy Caseloads Causing an Exodus of Child-Welfare Workers*, N.Y. POST (Oct. 28, 2016, 1:24 AM), <https://nypost.com/2016/10/28/low-pay-heavy-caseloads-causing-an-exodus-of-child-welfare-workers>.

¹³² *Kinship and Foster Care: Foster Parent Homestudy*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/become-a-foster-parent/home-study> (last visited Apr. 18, 2024).

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*B. Mandatory Special Needs Specific Parental Education
Required Prior to Foster Parent Certification & Kinship Care
Approval*

Although a parenting education course, MAPP, is currently mandatory to become a certified foster parent in New York City, this course is quite general and is really only applicable to serving as a foster parent to a neurotypical child.¹³³ The purpose of MAPP is to “help [the foster parent] assess [their] strengths as a parent and develop the special skills to meet the needs of a child in foster care.”¹³⁴ However, there are currently no specific versions of MAPP for foster parents who foster children with complex additional needs, such as autism.¹³⁵ This Note argues that it is essential to provide foster parents of children with special needs with adequate information and training before placing the child in their home. As follows, the New York legislature should add a provision to the FCA that requires prospective foster parents of children with special needs to complete an alternative parenting course (another version of MAPP) specific to parenting a child with special needs (“Special Needs Specific MAPP”). Additionally, because kinship care approval requires the same educational requirement as non-familial foster care certification,¹³⁶ the prospective family member caregiver should also be mandated to complete the Special Needs Specific MAPP. Additionally, both familial and non-familial foster parents should receive free continuing education materials in one clear and concise manual after they complete the Special Needs Specific MAPP.¹³⁷ This manual should include information regarding parenting workshops, free “self-help” parenting books, research articles about autism and other disabilities and links to state and city resources. Moreover, once selected as a foster parent to a child with autism, ACS should automatically provide the foster

¹³³ CHILDREN’S ALLIANCE, MODEL APPROACH TO PARTNERSHIPS IN PARENTING (MAPP) (2018) (available at: https://cwlibrary.childwelfare.gov/discovery/delivery/01CWIG_INST:01CWIG/1218416910007651); *Become a Foster or Adoptive Parent*, *supra* note 62.

¹³⁴ *Become a Foster or Adoptive Parent*, *supra* note 62.

¹³⁵ See generally MODEL APPROACH TO PARTNERSHIPS IN PARENTING (MAPP), *supra* note 133.

¹³⁶ *Kinship Care in New York State*, *supra* note 63; *Kinship and Foster Care: Relative Kinship Care Options in New York*, ADOPTIVE & FOSTER FAM. COAL. N.Y., <https://affcny.org/fostercare/foster-and-kinship-care-101/kinship-family-resources> (last visited Jan. 31, 2024) (kinship care is when children live with relatives instead of unrelated foster parents).

¹³⁷ See generally *ARI: Advancing Our Understanding of Autism*, AUTISM RSCH. INST., <https://autism.org/ari-advancing-our-understanding-of-autism> (last visited May 2, 2024). Research regarding autism is constantly developing and the individual needs of children with autism are everchanging.

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parent with a “Parent Match”¹³⁸ through Parent to Parent of New York State,¹³⁹ in order to ensure they have an instant support system.

There may be concerns that the additional education requirements will be prohibitively expensive. Although the Special Needs Specific MAPP will be more individualized to parenting a child with autism, it is in practice just a more precise version of MAPP. As a result, the prospective foster parent of a foster child with special needs will only be required to complete the Special Needs Specific MAPP and not the standard MAPP course which is currently required. Thus, there should not be higher costs undertaken by both New York State and New York City to implement this mandatory special needs specific education requirement because parents are already mandated to take MAPP, and there is presently adequate funding to support MAPP. Accordingly, the Special Needs Specific MAPP could utilize the same funding because it will not be an additional requirement, but rather a more precise version of the training already utilized.

C. *Biological Parents Required to Complete Mandatory Special Needs Specific Parenting Education*

Although under the current law mandatory check-ins are conducted by a caseworker when ACS has received a report of child abuse and mistreatment by the child’s birth parents, no parenting education is required for biological parents.¹⁴⁰ Moreover, even when the child is removed from their birth parents and placed in foster care, there is still no mandatory parenting education course required for biological parents.¹⁴¹ The goal of foster care is reunification, and biological parents are expected to rehabilitate before reunification can occur.¹⁴² Therefore, the FCA should also include a provision that requires mandatory completion of the same parenting course, either MAPP or a Special Needs Specific MAPP (depending on the specific child), as a requirement of reunification. By educating parents on how to deal with the complex nature of raising a child with autism, parents would be better equipped to care for their children. This would begin to remedy the issue of children with autism suffering abuse by their parents and would improve the

¹³⁸ See *About Our Parent Match Support Services for Special Needs Caregivers*, PARENT TO PARENT OF NYS, <https://www.ptopnys.org/programs-services/family-support-services> (last visited Mar. 25, 2024). “Parent to Parent of New York State builds a supportive network of families to reduce isolation and empower those who care for people with developmental disabilities or special healthcare needs to navigate and influence service systems and make informed decisions.” Through Parent to Parent, parents of children with special needs are matched with a trained Support Parent who has a child with a similar disability. See *Support for New York State Families of Individuals with Special Needs*, PARENT TO PARENT OF NYS, www.ptopnys.org (last visited May 2, 2024).

¹³⁹ *Kinship Care in New York State*, *supra* note 63.

¹⁴⁰ See generally *A Parent’s Guide to a Child Abuse Investigation*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/parents-guide-child-abuse-investigation.page> (last visited Mar. 18, 2024); *The Collaborative Assessment, Response, Engagement & Support (CARES) Approach*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/cares.page> (last visited Mar. 18, 2024).

¹⁴¹ See generally *The Collaborative Assessment, Response, Engagement & Support (CARES) Approach*, *supra* note 140.

¹⁴² *A Parent’s Guide to a Child Abuse Investigation*, *supra* note 140.

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chances of reunification between biological parents and children.¹⁴³ Mandating that both foster parents and birth parents take the same course will also help with the collaboration between the child welfare services, the birth parent(s), and the foster parent(s).

D. New York Must Provide Clear, Concise & Easily Accessible Resources

In New York, specifically in New York City, navigating government resources on caring for children with special needs in the system is confusing. Useful information regarding foster care can be found on two separate government websites: New York City Children,¹⁴⁴ and New York State Child Welfare & Community Services.¹⁴⁵ However, each of these websites contain different and distinct information regarding child welfare and caring for children, specifically children with disabilities such as autism, and contain distinct and independent resources regarding serving as a foster parent for children with autism.¹⁴⁶ Although New York State Child Welfare & Community Services is general for New York State and New York City Children is specific to New York City, they are both applicable to residents of New York City's five boroughs.¹⁴⁷ However, there is no clear indication on either website that the other website exists.¹⁴⁸

A parent, potential foster parent, or current foster parent who may be interested in accessing available online resources must conduct a cumbersome amount of research in order to access both the New York City Children and New York State Child Welfare & Community Services websites.¹⁴⁹ As a result, it may be difficult to locate the basic information on how to even become a foster parent in New York, specifically in New York City.¹⁵⁰ Therefore, the unwieldy path to

¹⁴³ See generally MODEL APPROACH TO PARTNERSHIPS IN PARENTING (MAPP), *supra* note 133.

¹⁴⁴ *Become a Foster or Adoptive Parent*, *supra* note 62.

¹⁴⁵ *Foster Care*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/programs/fostercare> (last visited Mar. 18, 2024).

¹⁴⁶ See generally *Child Welfare and Community Services*, N.Y.S OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/programs/cwcs> (last visited Mar. 11, 2024); see *Foster/Adopt*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/become-foster-adoptive-parent.page> (last visited Mar. 25, 2024); see also *Developmental Disabilities*, *supra* note 87 (Development Disabilities Unit work with special needs children during ACS's foster care phases); see also *Resources for Families*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/programs/childcare/resources-for-families.php#idea> (last visited Feb. 5, 2024) (regarding education of special needs children in New York state).

¹⁴⁷ *About OCFS*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/main/about> (last visited Feb. 5, 2024); *About ACS*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/about/about.page> (last visited Feb. 5, 2024).

¹⁴⁸ See generally *About OCFS*, *supra* note 147; see generally *About ACS*, *supra* note 147.

¹⁴⁹ See generally *About OCFS*, *supra* note 147; see generally *About ACS*, *supra* note 147.

¹⁵⁰ See generally *Keeping Children Safe & Supporting Families*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/index.page> (last visited Mar. 11, 2024) (In order to find information regarding becoming a foster parent, you must first go to "Child Welfare" tab, then click on the "Foster/Adopt" box, and finally select "Become a Foster or Adoptive Parent" prompt on the left side of

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finding accurate information may act to deter individuals who are otherwise qualified and interested in becoming a foster parent.¹⁵¹ Moreover, the responsibility currently falls on the individual to realize that there are both state-wide and city-specific resources available to aid them in parenting a child with special needs.¹⁵² If and when they discover all the available resources, it is quite difficult to find the resources within the intricate design of both websites.¹⁵³ This is a major burden on individuals who may not have high-caliber technological skills or speak English as their first language; such individuals may never even discover that these resources exist. In order to address the issue, New York child welfare agencies should be statutorily obligated to make the current available resources as clear as possible to ensure they are easily accessible for New York parents and foster parents on one concentrated government operated website. In order to positively update the existing sources, each New York child welfare agency should include a link directing parents and foster parents to the newly created government operated website. In practice, this concentrated website can serve as a toolkit for New Yorkers to access information regarding foster care and all of the available resources that may be advantageous when parenting a child with special needs. New York must also provide more educational tools regarding autistic children in the system, especially to parents, foster parents, and potential foster parents of these children.¹⁵⁴ To do this, New York must adapt its current website to direct viewers to the several city and county specific websites that are also at their disposal.

CONCLUSION

Children with autism too often fall through the cracks in the child welfare system, and, in New York, there are no statutory provisions or child welfare requirements currently in place to protect autistic children from maltreatment. This

the page); *see also Office of Children and Family Services*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/main> (last visit Mar. 11, 2024) (To find information regarding applying to be a foster parent in New York State, you must go to the “Child Welfare” tab, and then under “Programs” on the lefthand side select “Foster Care” and then within that tab, select “Requirements for Foster Parents”).

¹⁵¹ *See generally Become a Foster or Adoptive Parent*, *supra* note 62; *Foster Care*, *supra* note 145.

¹⁵² *Developmental Disabilities*, *supra* note 87; *see also Education Support Services*, N.Y.C. ADMIN. FOR CHILD. SERVS., <https://www.nyc.gov/site/acs/child-welfare/education-support-services.page> (last visited Mar. 18, 2024); *Health Services for Children in Foster Care*, OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/main/sppd/health-services> (last visited Feb. 5, 2024); *Educational Stability Provisions for Students in Foster Care*, N.Y.S. OFF. CHILD. & FAM. SERVS., <https://ocfs.ny.gov/programs/fostercare/education.php> (last visited Feb. 5, 2024).

¹⁵³ *Keeping Children Safe & Supporting Families*, *supra* note 150 (In order to find city specific resources, you must first go to “Child Welfare” tab, then click on the “Foster/Adopt” box, and then choose from: “Foster/Adopt Frequently Asked Questions,” “Family Stories” or “Foster Parent’s Guide to Education”); *Office of Children and Family Services*, *supra* note 150 (To find statewide resources, you must go to the “Child Welfare” tab, and then under “Programs” on the lefthand side select “Foster Care” and then on the right-hand side select the “Foster Care Resources” tab which will provide several sub-categories that can be selected).

¹⁵⁴ A manual may not be enough, given that many in this population may not have strong reading skills in English. To make these materials more useful, perhaps when the ACS worker checks in, there should be a discussion about how the foster parent/biological parent is handling the special needs child and provide them with referrals to experts to further aid them.

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Note's proposals attempt to take steps toward protecting children with autism in the system by implementing more rigid requirements for becoming a foster parent of a child with autism and better monitoring the foster families who care for children with special needs. These proposals can also be expanded in the future to include fostering physically disabled children. A more cooperative child welfare system between all parties involved and better developed, clear-cut child protection laws can help protect children with autism in New York City's system. These proposed improvements would help to ensure that children, both neurotypical and autistic, will be safe and well-cared for, and may hopefully improve the chances for reunification of the children with their biological parents.