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EXECUTIVE DIRECTOR
Judith Sandalow

**Testimony before the
District of Columbia Council
Committee on Human Services**

**Public hearing on the
Foster Care Youth Identity Protection Amendment Act of 2009
Bill 18-449**

December 9, 2009

Judith Sandalow
Executive Director
Children's Law Center



Good afternoon Chairman Wells and members of the Committee on Human Services. My name is Judith Sandalow. I am the Executive Director of Children's Law Center¹ (CLC) and a resident of the District. CLC is the largest non-profit legal services organization in the District and the only such organization devoted to a full spectrum of children's legal services. Every year, we represent hundreds of children in the child welfare system and see firsthand the importance of protecting credit histories.

I am pleased to testify in support of the Foster Care Youth Identity Protection Amendment Act of 2009. The bill will require the Child and Family Services Agency (CFSA) to obtain credit reports on behalf of older youth in foster care. Ensuring a credit review prior leaving foster care is an important step in improving the financial security of the hundreds of children and youth who will emancipate from foster care in the next few years.

Identity theft is a common problem for foster children and youth across the country. Newsweek reported earlier this year that up to half of foster children may be victims of identity theft.² But very few states have taken formal steps to address this problem. By passing this bill, the District would join leading states like California, which has enacted a law similar to the bill being considered by this committee.³

The value of this bill is best illustrated through a CLC client, Johnisha,⁴ a 20 year old in foster care. Abused by her step-father, neglected by her drug-addicted mother, and abandoned by her father, Johnisha has spent the last five years in foster care. She has finished high school, recently enrolled in Job Corps and is preparing to emancipate from foster care in the coming months. CFSA

¹ Children's Law Center envisions a future for the District of Columbia in which every child has a safe home, a meaningful education and a healthy mind and body. We work toward this vision by providing free legal services to 1,200 children and families each year and by using the knowledge we gain from representing our clients to advocate for changes in the law. Children's Law Center is the largest non-profit legal services organization in the District of Columbia and the only organization providing comprehensive representation to children.

² Jesse Ellison, Sabotaged by the System, *Newsweek*, Feb. 7, 2009, <http://www.newsweek.com/id/183711>.

³ Cal. Welfare & Institutions Code § 10618.6.

⁴ The client's name has been changed to protect her confidentiality.

called several meetings with Johnisha to discuss her pending emancipation. At those meetings, her social worker and independent living program case manager discussed various issues she would have to confront when she turned 21 – but nothing about her credit, even though she planned to apply for a credit card, lease an apartment and, she hoped, eventually buy a car. Her credit was only discussed when her CLC guardian *ad litem* – her court-appointed lawyer – insisted that CFSA assist her in obtaining a free credit report.

When CFSA did help Johnisha obtain a free credit report, an outstanding charge of more than \$3500 from 2002 was discovered. Seven years earlier, when she was 13 years old, someone had opened a public utility account in Johnisha's name. As happens far too frequently, a relative or someone else who knew her name and Social Security number used that information to open an account and then never paid it.

The good news is that once discovered, the situation was easy to resolve. CLC contacted the creditor, explained that a 13 year old could not have legally opened an account and that Johnisha could not be held responsible. We documented Johnisha's age, and the creditor took the negative report off of Johnisha's credit history.

The bad news is that it took our advocacy to reach this result. If it was not for Johnisha's lawyer, no credit check would have occurred. Johnisha would have left foster care with a serious blemish on her credit report, which would have jeopardized her ability to rent an apartment, obtain a credit card, purchase a car, and obtain decent terms on any loan she might take out. She could have been induced to spend thousands of dollars that she can ill afford to lose paying off a debt that is not hers.

This bill will ensure that all youth like Johnisha receive the same benefit that she did. It empowers youth to address credit problems before they are on their own. This small no cost step of obtaining a free credit report can make a significant difference for a youth's financial security.

We suggest three technical changes which we believe will make the bill more effective, and I have attached to my written testimony the specific language. First, foster youth's attorneys should be informed of the results of their clients' credit checks. As the successful resolution to Johnisha's case demonstrates, children's lawyers can be effective advocates for victims of identity theft. Creditors will likely be more responsive when lawyers contact them to resolve problems on behalf of their clients than when clients call themselves. But lawyers can only help their clients resolve credit issues if they know the results of clients' credit checks.

Second, CFSA should request credit checks on behalf of foster children and youth on an annual basis. Credit theft is not simply a problem that occurs in foster children's past. Identity theft can recur throughout a youth's stay in foster care and a clean credit report at age 16 does not mean that the youth will have a clean credit report at age 20. Federal law entitles all individuals to a free annual credit report.⁵ To address problems early and to prevent identity theft from creating lasting problems to a foster child's financial security, this bill should require that CFSA assist youth obtain the annual credit checks to which they are entitled.

Finally, some of the bill's terminology is problematic. The bill uses the term "minor" to refer to children 16 years old and older. That definition, however, is in tension with an existing provision of the statute which defines a "child" in a neglect case to be under 18 years of age and a "minor" to be under 21 years of age.⁶ We encourage the Committee to tweak the bill's language to avoid unnecessary confusion.

With these small changes, I urge you to favorably and swiftly mark-up this legislation and bring it to the Council for a vote. Thank you for your leadership on this issue and for the opportunity to testify. I am happy to answer any questions.

⁵ 15 U.S.C. § 1681j.

⁶ D.C. Code § 16-2301(3)-(4).

Children's Law Center's Suggested Amendments to Bill 18-449, Foster Care Youth Identity Protection Act of 2009

Children's Law Center recommends marking up section 2 of the Bill as indicated below:

Sec. 2. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 4-1301.02) is amended as follows:

(1) A new paragraph (5A) is added to read as follows:

“(5A) “Credit Disclosure Report” means information maintained by no less than three nationally recognized credit reporting agencies bearing on a consumer’s creditworthiness, credit standing, or credit capacity.”

~~(2) Paragraph (15A) and (15B) are re-designated paragraph (15B) and (15C).~~

~~(3) A new paragraph (15A) is added to read as follows:~~

~~“(15A) “Minor” means any person 16 years of age who is a ward of the District of Columbia Child and Family Services Agency.~~

(b) Section 303(a) (D.C. Official Code § 4-1303.03 (a)) is amended to read as follows: (1) A new paragraph (16) is added to read as follows:

“(16) To request a credit disclosure report, **on an annual basis**, pursuant to the federal Fair Credit Reporting Act, on behalf of a ~~minor~~ **child or minor committed to the legal custody of the Agency 16 years of age or older** to determine whether identify theft has occurred. **The Agency shall provide the credit disclosure report to the child’s or minor’s guardian *ad litem* within 30 days of obtaining the results.** If the credit disclosure report identifies any negative items, or any evidence that any form of ~~identify~~ **identity** theft has occurred, the Agency shall refer the **child or** minor to an approved organization that provides credit counseling services to victims of identity theft.”