

COURT VICTORY FOR MINOR PARENTS LIVING AT HOME

By Sarah E. Kurtz

In a case brought by the National Center for Youth Law and the Legal Aid Society of San Mateo County, the California Superior Court in San Francisco has handed down a significant victory for minor parents living at home. In *Dominika S. v. Saenz*, the court ruled that when a minor parent resides with his or her parent, the Department of Social Services (DSS) may no longer consider child support payments made to the parent on behalf of the minor parent and intended to provide for the needs of the minor parent, in determining the public assistance eligibility and grant amount for the minor parent's child.

The case received class-action status, and eligible class members may receive retroactive benefits back to November 30, 1997 (the policy was enjoined prospectively effective February 1, 2001). However, the state refused to do anything to notify class members who must learn about their right to retroactive benefits and contact plaintiffs' counsel (listed below) before the end of the year to have their names forwarded to the state for processing their claims. Plaintiffs' counsel have been conducting a massive outreach campaign to inform teen parents and former teen parents, and welcome any suggestions for how to further reach and inform the affected population (which includes the custodial parents and former custodial parents of teen and former teen parents). The judgment states that once class members have been certified as eligible, DSS must reimburse those members the amount they were underpaid between November 30, 1997 and February 1, 2001.

California's welfare program, "CalWORKs" (California Work Opportunity and Responsibility to Kids), replaced the state's Aid to Families with Dependent Children (AFDC) program in providing assistance to very low-income families with children. Prior to this ruling,

DSS was considering child support paid by the teen's non-custodial parent to the teen's custodial parent to be the teen's income rather than her parent's income, which had the effect of making it available to her baby for purposes of reducing the baby's public assistance grant. The policy diluted the child support meant for the teen's support, by using it to reduce or eliminate public assistance she would otherwise receive for her baby.

The legislature, aware that denying aid to a minor parent's child based on the income of her parents created a financial burden on the grandparents and encouraged the breakup of the family, enacted California Welfare and Institutions Code Section 11254(c), which prohibits counties from reducing a needy grandchild's assistance based on grandparent income. Unfortunately DSS did not take this law into account in determining eligibility when child support income between grandparents was concerned, which severely and negatively affected the well-being of low-income teens and their children living in single grandparent households, an already extremely at-risk population.

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