

4390--A

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sen. MONTGOMERY -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, the education law, the social services law and the executive law, in relation to permanency planning and dispositional alternatives in juvenile delinquency and persons in need of supervision proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 312.1 of the family court act is amended by adding
2 a new subdivision 4 to read as follows:
3 4. UPON THE FILING OF A PETITION UNDER THIS ARTICLE, THE PRESENTMENT
4 AGENCY SHALL NOTIFY ANY NON-CUSTODIAL PARENT OF THE RESPONDENT NOT
5 SUMMONSED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION, PROVIDED
6 THAT THE ADDRESS OF EACH PARENT HAS BEEN PROVIDED. THE PROBATION DEPART-
7 MENT AND PRESENTMENT AGENCY SHALL ASK THE CUSTODIAL PARENT OR PERSON
8 LEGALLY RESPONSIBLE FOR THE RESPONDENT, FOR INFORMATION REGARDING ANY
9 OTHER NON-CUSTODIAL PARENT OR PARENTS OF THE RESPONDENT. THE NOTICE
10 SHALL INFORM SUCH NON-CUSTODIAL PARENT OR PARENTS OF THE RIGHT TO APPEAR
11 AND PARTICIPATE IN THE PROCEEDING AND TO SEEK TEMPORARY RELEASE OR, UPON
12 DISPOSITION, DIRECT PLACEMENT, OF THE RESPONDENT. THE PRESENTMENT AGENCY
13 SHALL SEND THE NOTICE TO THE NON-CUSTODIAL PARENT OR PARENTS AT LEAST
14 FIVE DAYS BEFORE THE RETURN DATE. THE FAILURE OF A PARENT ENTITLED TO
15 NOTICE TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE RESPONDENT'S
16 INITIAL APPEARANCE, AS DEFINED IN SECTION 320.1 OF THIS ARTICLE.
17 S 2. Subdivision 2 of section 320.2 of the family court act, as
18 amended by chapter 41 of the laws of 2010, is amended to read as
19 follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD10485-06-0

1 2. At the initial appearance the court must appoint an attorney to
2 represent the respondent pursuant to the provisions of section two
3 hundred forty-nine OF THIS CHAPTER if independent legal representation
4 is not available to such respondent. WHENEVER AN ATTORNEY HAS BEEN
5 APPOINTED BY THE FAMILY COURT TO REPRESENT A CHILD IN A PROCEEDING UNDER
6 THIS ARTICLE, SUCH APPOINTMENT SHALL CONTINUE WITHOUT FURTHER COURT
7 ORDER OR APPOINTMENT DURING THE PERIOD COVERED BY ANY ORDER OF DISPOSI-
8 TION ISSUED BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL,
9 OR ANY EXTENSION OR VIOLATION THEREOF, OR DURING ANY PERMANENCY HEARING,
10 OTHER POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS
11 REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT
12 SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE
13 BY THE COURT OR UNLESS SUCH ATTORNEY MAKES APPLICATION TO THE COURT TO
14 BE RELIEVED OF HIS OR HER APPOINTMENT. UPON APPROVAL OF SUCH APPLICATION
15 TO BE RELIEVED, THE COURT SHALL IMMEDIATELY APPOINT ANOTHER ATTORNEY TO
16 WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE
17 ATTORNEY FOR THE RESPONDENT SHALL BE ENTITLED TO COMPENSATION PURSUANT
18 TO APPLICABLE PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUD-
19 ING DISPOSITION OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLI-
20 CATION, BE ENTITLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE
21 DISPOSITION OF THE PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED
22 TO LIMIT THE AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR
23 HER ASSIGNMENT.

24 S 3. Paragraphs (e) and (f) of subdivision 3 of section 353.2 of the
25 family court act are relettered paragraphs (f) and (g) and a new para-
26 graph (e) is added to read as follows:

27 (E) COOPERATE WITH A PROGRAM OF INTENSIVE SUPERVISION BY THE PROBATION
28 DEPARTMENT DURING THE PERIOD OF PROBATION OR A SPECIFIED PORTION THERE-
29 OF, TO THE EXTENT AVAILABLE IN THE COUNTY, UPON A FINDING ON THE RECORD
30 BY THE COURT THAT, ABSENT COOPERATION WITH SUCH A PROGRAM, PLACEMENT OF
31 THE RESPONDENT WOULD BE NECESSARY. SUCH A PROGRAM SHALL BE CONDUCTED IN
32 ACCORDANCE WITH REGULATIONS TO BE PROMULGATED BY THE DIVISION OF
33 PROBATION AND CORRECTIONAL ALTERNATIVES AND MAY REQUIRE THE RESPONDENT,
34 AMONG OTHER CONDITIONS, TO COMPLY WITH A PROGRAM OF ELECTRONIC MONITOR-
35 ING TO THE EXTENT AVAILABLE IN THE COUNTY, AS PROVIDED BY SUBDIVISION
36 ONE OF SECTION TWO HUNDRED FORTY-THREE OF THE EXECUTIVE LAW;

37 S 4. Subdivision 6 of section 353.2 of the family court act, as added
38 by chapter 920 of the laws of 1982, is amended to read as follows:

39 6. The maximum period of probation shall not exceed two years, WHICH
40 MAY INCLUDE INTENSIVE PROBATION SUPERVISION, IN ACCORDANCE WITH PARA-
41 GRAPH (E) OF SUBDIVISION THREE OF THIS SECTION, TO THE EXTENT AVAILABLE
42 UP TO THE TERM OF PROBATION. If the court finds at the conclusion of the
43 original period and after a hearing that exceptional circumstances
44 require an additional year of probation, the court may continue the
45 probation for an additional year.

46 S 5. Section 353.3 of the family court act is amended by adding a new
47 subdivision 4-a to read as follows:

48 4-A. WHERE THE RESPONDENT IS PLACED WITH A COMMISSIONER OF SOCIAL
49 SERVICES OR THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO THIS
50 SECTION, THE DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPO-
51 RATED BY REFERENCE INTO THE ORDER SHALL INCLUDE:

52 (A) A DESCRIPTION OF THE VISITATION PLAN;

53 (B) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET BEEN
54 DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND DELIV-
55 ERED TO THE PRESENTMENT AGENCY, ATTORNEY, AND PARENT OR PARENTS OR OTHER

PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT, NO LATER THAN NINETY DAYS FROM THE DATE THE DISPOSITION WAS MADE; AND

(C) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION PRESENT AT SUCH CONFERENCES WITH THEM.

A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 6. The opening paragraph and paragraph (ii) of subdivision 4 of section 355.3 of the family court act, as amended by chapter 454 of the laws of 1995, are amended to read as follows:

At the conclusion of the hearing the court may, in its discretion, order an extension of the placement for not more than one year OR MAY ORDER THAT THE PETITION FOR AN EXTENSION OF PLACEMENT BE DISMISSED, OR THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION 353.2 OF THIS PART OR THAT THE RESPONDENT BE CONDITIONALLY DISCHARGED FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION 353.1 OF THIS PART. The court must consider and determine in its order:

(ii) in the case of a respondent who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the child to make the transition from foster care to independent living; and

S 7. The opening paragraph of subdivision 2, the opening paragraph of subdivision 3 and paragraphs (b) and (d) of subdivision 7 of section 355.5 of the family court act, the opening paragraph of subdivision 2 and the opening paragraph of subdivision 3 as amended by chapter 145 of the laws of 2000, paragraph (b) of subdivision 7 as added by chapter 7 of the laws of 1999, and paragraph (d) of subdivision 7 as amended by chapter 181 of the laws of 2000, are amended and a new subdivision 10 is added to read as follows:

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to section 353.3 of this [article] PART for a period of twelve or fewer months and resides in a foster home or IN A non-secure OR LIMITED SECURE facility;

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to section 353.3 of this [article] PART for a period in excess of twelve months and resides in a foster home or in a non-secure OR LIMITED SECURE facility;

(b) in the case of a respondent who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the respondent to make the transition from foster care to independent living;

(d) with regard to the completion of placement ordered by the court pursuant to section 353.3 or 355.3 of this [article] PART: whether and when the respondent: (i) will be returned to the parent OR PARENTS; (ii) should be placed for adoption with the local commissioner of social services filing a petition for termination of parental rights; (iii) should be referred for legal guardianship; (iv) should be placed permanently with a fit and willing relative; or (v) should be placed in another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD

1 if the office of children and family services or the local commissioner
2 of social services has documented to the court a compelling reason for
3 determining that it would not be in the best interest of the respondent
4 to return home, be referred for termination of parental rights and
5 placed for adoption, placed with a fit and willing relative, or placed
6 with a legal guardian; and

7 10. IF THE ORDER RESULTING FROM THE PERMANENCY HEARING EXTENDS THE
8 RESPONDENT'S PLACEMENT PURSUANT TO SECTION 355.3 OF THIS PART IN A
9 FOSTER HOME OR NON-SECURE OR LIMITED SECURE FACILITY OR IF THE RESPOND-
10 ENT CONTINUES IN SUCH PLACEMENT UNDER A PRIOR ORDER, THE ORDER OR AN
11 ATTACHMENT TO THE ORDER INCORPORATED INTO THE ORDER BY REFERENCE SHALL
12 INCLUDE:

13 (A) A DESCRIPTION OF THE VISITATION PLAN;

14 (B) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

15 (C) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS
16 LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING
17 CONFERENCES, INCLUDING THOSE HELD PURSUANT TO SUBDIVISION THREE OF
18 SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT
19 TO ATTEND THE CONFERENCES, AND THEIR RIGHT TO HAVE COUNSEL OR ANOTHER
20 REPRESENTATIVE OR COMPANION WITH THEM.

21 A COPY OF THE COURT'S ORDER AND THE ATTACHMENTS SHALL BE GIVEN TO THE
22 PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE
23 RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT
24 REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS,
25 THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE
26 PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

27 S 8. Section 736 of the family court act is amended by adding a new
28 subdivision 4 to read as follows:

29 (4) IN ANY PROCEEDING UNDER THIS ARTICLE, THE COURT SHALL CAUSE A COPY
30 OF THE PETITION AND NOTICE OF THE TIME AND PLACE TO BE HEARD TO BE
31 SERVED UPON ANY NON-CUSTODIAL PARENT OF THE CHILD, PROVIDED THAT THE
32 ADDRESS OF SUCH PARENT IS KNOWN TO OR IS ASCERTAINABLE BY THE COURT.
33 SERVICE SHALL BE MADE BY ORDINARY FIRST CLASS MAIL AT SUCH PARENT'S LAST
34 KNOWN RESIDENCE. THE FAILURE OF SUCH NOTICED PARENT TO APPEAR SHALL NOT
35 BE CAUSE FOR DELAY OF THE PROCEEDINGS.

36 S 9. Subdivision (a) of section 741 of the family court act, as
37 amended by chapter 41 of the laws of 2010, is amended and a new subdivi-
38 sion (d) is added to read as follows:

39 (a) At the initial appearance of a respondent in a proceeding and at
40 the commencement of any hearing under this article, the respondent and
41 [his or her] THE RESPONDENT'S parent or other person legally responsible
42 for his or her care shall be advised of the respondent's right to remain
43 silent and of the respondent's right to be represented by counsel chosen
44 by him or her or his or her parent or other person legally responsible
45 for his or her care, or by an attorney assigned by the court under part
46 four of article two OF THIS CHAPTER. [Provided, however, that in] IN
47 the event of the failure of the respondent's parent or other person
48 legally responsible for his or her care to appear, after reasonable and
49 substantial effort has been made to notify such parent or responsible
50 person of the commencement of the proceeding and such initial appear-
51 ance, the court shall appoint an attorney for the respondent and shall,
52 unless inappropriate also appoint a guardian ad litem for such respond-
53 ent, and in such event, shall inform the respondent of such rights in
54 the presence of such attorney and any guardian ad litem.

55 (D) WHENEVER AN ATTORNEY HAS BEEN APPOINTED BY THE FAMILY COURT TO
56 REPRESENT A RESPONDENT IN A PROCEEDING UNDER THIS ARTICLE PURSUANT TO

1 SUBDIVISION (A) OF THIS SECTION, SUCH APPOINTMENT SHALL CONTINUE WITHOUT
2 FURTHER COURT ORDER OR APPOINTMENT DURING AN ORDER OF DISPOSITION ISSUED
3 BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR ANY
4 EXTENSION OR VIOLATION THEREOF, OR ANY PERMANENCY HEARING, OTHER
5 POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS
6 REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT
7 SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE
8 BY THE COURT OR UNLESS SUCH ATTORNEY MAKES APPLICATION TO THE COURT TO
9 BE RELIEVED OF HIS OR HER APPOINTMENT. UPON APPROVAL OF SUCH APPLICATION
10 TO BE RELIEVED, THE COURT SHALL IMMEDIATELY APPOINT ANOTHER ATTORNEY TO
11 WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE
12 ATTORNEY SHALL BE ENTITLED TO COMPENSATION PURSUANT TO APPLICABLE
13 PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUDING DISPOSITION
14 OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLICATION, BE ENTI-
15 TLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE DISPOSITION OF THE
16 PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
17 AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR HER ASSIGNMENT.

18 S 10. Subdivision (a) of section 756 of the family court act is
19 amended by adding two new paragraphs (iii) and (iv) to read as follows:

20 (III) THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR THE PERSON WITH
21 WHOM THE RESPONDENT HAS BEEN PLACED UNDER THIS SECTION SHALL SUBMIT A
22 REPORT TO THE COURT, THE ATTORNEY FOR THE RESPONDENT AND THE PRESENTMENT
23 AGENCY, IF ANY, NOT LATER THAN THIRTY DAYS PRIOR TO THE CONCLUSION OF
24 THE PLACEMENT PERIOD; PROVIDED, HOWEVER, THAT WHERE THE LOCAL COMMIS-
25 SIONER OF SOCIAL SERVICES OR PERSON WITH WHOM THE RESPONDENT HAS BEEN
26 PLACED FILES A PETITION FOR AN EXTENSION OF THE PLACEMENT AND A PERMAN-
27 ENCY HEARING PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART,
28 SUCH REPORT SHALL BE SUBMITTED NOT LATER THAN SIXTY DAYS PRIOR TO THE
29 DATE ON WHICH THE PERMANENCY HEARING MUST BE HELD AND SHALL BE ANNEXED
30 TO THE PETITION.

31 (IV) THE REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH (III) OF THIS
32 SUBDIVISION SHALL INCLUDE RECOMMENDATIONS AND SUCH SUPPORTING DATA AS IS
33 APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, A PLAN FOR THE RELEASE OF
34 THE RESPONDENT TO THE CUSTODY OF HIS OR HER PARENT OR PARENTS OR OTHER
35 PERSON OR PERSONS LEGALLY RESPONSIBLE, OR TO ANOTHER PERMANENCY ALTERNA-
36 TIVE AS PROVIDED IN PARAGRAPH (IV) OF SUBDIVISION (D) OF SECTION SEVEN
37 HUNDRED FIFTY-SIX-A OF THIS PART. THE RELEASE PLAN SHALL PROVIDE AS
38 FOLLOWS:

39 (1) IF THE RESPONDENT IS SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCA-
40 TION LAW OR ELECTS TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A
41 HIGH SCHOOL DIPLOMA FOLLOWING RELEASE, SUCH PLAN SHALL INCLUDE, BUT NOT
42 BE LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE RESPONDENT IS
43 PLACED HAS TAKEN AND WILL BE TAKING IN CONJUNCTION WITH THE LOCAL EDUCA-
44 TION AGENCY TO ENSURE THE IMMEDIATE ENROLLMENT OF THE RESPONDENT IN AN
45 APPROPRIATE SCHOOL OR EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL
46 DIPLOMA AND THE TRANSFER OF NECESSARY RECORDS IN ADVANCE OF OR IMME-
47 DIATELY UPON RELEASE OR, IF SUCH RELEASE OCCURS DURING THE SUMMER
48 RECESS, IMMEDIATELY UPON THE COMMENCEMENT OF THE NEXT SCHOOL TERM.

49 (2) IF THE AGENCY HAS REASON TO BELIEVE THAT THE RESPONDENT MAY HAVE A
50 DISABILITY OR IF THE RESPONDENT HAD BEEN FOUND ELIGIBLE TO RECEIVE
51 SPECIAL EDUCATION SERVICES PRIOR TO OR DURING THE PLACEMENT, IN ACCORD-
52 ANCE WITH ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, SUCH PLAN SHALL
53 INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE
54 RESPONDENT IS PLACED HAS TAKEN AND WILL BE TAKING TO ENSURE THAT THE
55 LOCAL EDUCATION AGENCY MAKES ANY NECESSARY REFERRALS OR ARRANGES FOR
56 SPECIAL EDUCATIONAL EVALUATIONS OR SERVICES, AS APPROPRIATE, AND

1 PROVIDES NECESSARY RECORDS IMMEDIATELY IN ACCORDANCE WITH STATE AND
2 FEDERAL LAW.

3 (3) IF THE RESPONDENT IS NOT SUBJECT TO ARTICLE SIXTY-FIVE OF THE
4 EDUCATION LAW AND ELECTS NOT TO PARTICIPATE IN AN EDUCATIONAL PROGRAM
5 LEADING TO A HIGH SCHOOL DIPLOMA, SUCH PLAN SHALL INCLUDE, BUT NOT BE
6 LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE RESPONDENT IS
7 PLACED HAS TAKEN AND WILL BE TAKING TO ASSIST THE RESPONDENT TO BECOME
8 GAINFULLY EMPLOYED OR ENROLLED IN A VOCATIONAL PROGRAM IMMEDIATELY UPON
9 RELEASE.

10 S 11. Section 756 of the family court act is amended by adding a new
11 subdivision (d) to read as follows:

12 (D) WHERE THE RESPONDENT IS PLACED PURSUANT TO THIS SECTION, THE
13 DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED BY REFER-
14 ENCE INTO THE ORDER SHALL INCLUDE:

15 (I) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR
16 VISITS AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

17 (II) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET
18 BEEN DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND
19 DELIVERED TO THE PRESENTMENT AGENCY, ATTORNEY FOR THE RESPONDENT AND
20 PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE
21 CARE OF THE RESPONDENT NO LATER THAN NINETY DAYS FROM THE DATE THE
22 DISPOSITION WAS MADE; AND

23 (III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR
24 PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY
25 PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION
26 FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND
27 THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

28 A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE
29 PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE
30 CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF
31 THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO
32 TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.
33 ENT.

34 S 12. The opening paragraph and paragraphs (ii), (iii) and (iv) of
35 subdivision (d) of section 756-a of the family court act, as amended by
36 section 4 of part B of chapter 327 of the laws of 2007, are amended and
37 a new paragraph (v) is added to read as follows:

38 At the conclusion of the permanency hearing, the court may, in its
39 discretion, order an extension of the placement for not more than one
40 year OR MAY ORDER THAT THE PETITION FOR AN EXTENSION OF PLACEMENT BE
41 DISMISSED, OR THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE
42 THAN ONE YEAR, PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SEVEN OF THIS
43 PART. The court must consider and determine in its order:

44 (ii) in the case of a [child] RESPONDENT who has attained the age of
45 [sixteen] FOURTEEN, the services needed, if any, to assist the [child]
46 RESPONDENT to make the transition from foster care to independent
47 living;

48 (iii) in the case of a [child] RESPONDENT placed outside New York
49 state, whether the out-of-state placement continues to be appropriate
50 and in the best interests of the [child] RESPONDENT; [and]

51 (iv) whether and when the [child] RESPONDENT: (A) will be returned to
52 the parent; (B) should be placed for adoption with the social services
53 official filing a petition for termination of parental rights; (C)
54 should be referred for legal guardianship; (D) should be placed perma-
55

1 nently with a fit and willing relative; or (E) should be placed in
2 another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT
3 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE
4 RESPONDENT if the social services official has documented to the court a
5 compelling reason for determining that it would not be in the best
6 interest of the [child] RESPONDENT to return home, be referred for
7 termination of parental rights and placed for adoption, placed with a
8 fit and willing relative, or placed with a legal guardian; and where the
9 [child] RESPONDENT will not be returned home, consideration of appropri-
10 ate in-state and out-of-state placements[.]; AND

11 (V) WITH REGARD TO THE COMPLETION OR EXTENSION OF PLACEMENT ORDERED BY
12 THE COURT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART, THE
13 STEPS THAT MUST BE TAKEN BY THE AGENCY WITH WHICH THE RESPONDENT IS
14 PLACED TO IMPLEMENT THE PLAN FOR RELEASE SUBMITTED PURSUANT TO PARA-
15 GRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SUCH SECTION, THE ADEQUACY
16 OF SUCH PLAN AND ANY MODIFICATIONS THAT SHOULD BE MADE TO SUCH PLAN.

17 S 13. Subdivisions (e) and (f) of section 756-a of the family court
18 act are relettered subdivisions (f) and (g) and a new subdivision (e) is
19 added to read as follows:

20 (E) IF THE ORDER FROM THE PERMANENCY HEARING EXTENDS THE RESPONDENT'S
21 PLACEMENT OR IF THE RESPONDENT CONTINUES IN PLACEMENT UNDER A PRIOR
22 ORDER, THE ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED INTO THE
23 ORDER BY REFERENCE SHALL INCLUDE:

24 (I) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR
25 VISITATION AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

26 (II) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

27 (III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR
28 PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY
29 PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION
30 FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND
31 THE CONFERENCES AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

32 A COPY OF THE COURT'S ORDER AND THE SERVICE PLAN SHALL BE GIVEN TO THE
33 PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE
34 RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT
35 REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS,
36 THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE
37 PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

38 S 14. Subdivision (b) of section 757 of the family court act, as
39 amended by chapter 920 of the laws of 1982, is amended and a new subdivi-
40 sion (e) is added to read as follows:

41 (b) The maximum period of probation shall not exceed one year, WHICH
42 MAY INCLUDE INTENSIVE PROBATION SUPERVISION, IN ACCORDANCE WITH SUBDIVI-
43 SION (E) OF THIS SECTION, TO THE EXTENT AVAILABLE, DURING ALL OR PART OF
44 THE TERM OF PROBATION. If the court finds at the conclusion of the
45 original period that exceptional circumstances require an additional
46 year of probation, the court may continue probation for an additional
47 year.

48 (E) IF THE RESPONDENT HAS BEEN FOUND TO BE A PERSON IN NEED OF SUPER-
49 VISION, AND IF THE COURT FURTHER FINDS THAT, ABSENT INTENSIVE PROBATION
50 SUPERVISION, THE RESPONDENT WOULD BE PLACED PURSUANT TO SECTION SEVEN
51 HUNDRED FIFTY-SIX OF THIS PART, THE COURT MAY DIRECT THE RESPONDENT TO
52 COOPERATE WITH A PROGRAM OF INTENSIVE PROBATION SUPERVISION DURING ALL
53 OR PART OF THE TERM OF PROBATION. THE LOCAL PROBATION DEPARTMENT MAY
54 PROVIDE INTENSIVE PROBATION SUPERVISION TO RESPONDENTS SO DIRECTED
55 PURSUANT TO THIS SUBDIVISION IN ACCORDANCE WITH REGULATIONS TO BE
56

PROMULGATED BY THE STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-THREE OF THE EXECUTIVE LAW.

S 15. Subdivisions 1 and 2 of section 112 of the education law, as amended by section 62 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

1. The department shall establish and enforce standards of instruction, personnel qualifications and other requirements for education services or programs, as determined by rules of the regents and regulations of the commissioner, with respect to the individual requirements of children who are in full-time residential care in facilities or homes operated or supervised by any state department or agency or political subdivision. The department shall cooperate with the office of children and family services, the department of mental hygiene and local departments of social services with respect to educational and vocational training programs for children placed with, committed to or under the supervision of such agencies. The department shall promulgate regulations requiring the cooperation of local school districts in facilitating the prompt enrollment of children who are released or conditionally released from residential facilities operated by or under contract with the office of children and family services, the department of mental hygiene and local departments of social services and in implementing plans for release or conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 AND PARAGRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of the family court act and the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act. Such regulations regarding the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act shall be developed in conjunction with the office of children and family services. SUCH REGULATIONS SHALL FACILITATE THE RETENTION OF CHILDREN PLACED OR REMANDED INTO FOSTER CARE IN THEIR ORIGINAL SCHOOLS AND, IF THAT IS NOT FEASIBLE OR DETERMINED TO BE IN THE CHILD'S BEST INTERESTS, THE IMMEDIATE ENROLLMENT OF THE CHILDREN IN SCHOOL AND TRANSFER OF NECESSARY RECORDS. Nothing herein contained shall be deemed to apply to responsibility for the provision or payment of care, maintenance or other services subject to the provisions of the executive law, mental hygiene law, social services law or any other law.

2. The commissioner shall prepare a report and submit it to the governor, the speaker of the assembly and the temporary president of the senate by December thirty-first, nineteen hundred ninety-six and on December thirty-first of each successive year. Such report shall contain, for each facility operated by or under contract with the office of children and family services that provides educational programs, an assessment of each facility's compliance with the rules of the board of regents, the regulations of the commissioner, and this chapter. Such report shall include, but not be limited to: the number of youth receiving services under article eighty-nine of this chapter; the office's activities undertaken as required by subdivisions one, two, four and eight of section forty-four hundred three of this chapter; the number of youth receiving bilingual education services; the number of youth eligible to receive limited English proficient services; interviews with facility residents conducted during site visits; library services; the ratio of teachers to students; the curriculum; the length of stay of each youth and the number of hours of instruction provided; instruc-

1 tional technology utilized; the educational services provided following
2 the release and conditional release of the youth, including, but not
3 limited to, the implementation of requirements for the PROMPT enrollment
4 of such youth in school contained in plans for release and conditional
5 release submitted to the family court pursuant to paragraph (c) of
6 subdivision seven of section 353.3 AND PARAGRAPHS (III) AND (IV) OF
7 SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of the family court
8 act and in the educational components of permanency hearing reports
9 submitted pursuant to section one thousand eighty-nine of the family
10 court act and the compliance by local school districts with the regu-
11 lations promulgated pursuant to subdivision one of this section; and any
12 recommendations to ensure compliance with the rules of regents, regu-
13 lations of the commissioner, and this chapter.

14 S 16. The opening paragraph of subdivision 1 of section 409-e of the
15 social services law, as amended by section 60 of part A of chapter 3 of
16 the laws of 2005, is amended to read as follows:

17 With respect to each child who is identified by a local social
18 services district as being considered for placement in foster care as
19 defined in section one thousand eighty-seven of the family court act by
20 a social services district, such district, within thirty days from the
21 date of such identification, shall perform an assessment of the child
22 and his or her family circumstances. Where a child has been removed from
23 his or her home INTO FOSTER CARE AS DEFINED IN SECTION ONE THOUSAND
24 EIGHTY-SEVEN OF THE FAMILY COURT ACT, DETENTION OR PLACEMENT PURSUANT TO
25 ARTICLE SEVEN OF THE FAMILY COURT ACT OR NONSECURE OR LIMITED SECURE
26 PLACEMENT PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT, within
27 thirty days of such removal, DETENTION OR PLACEMENT, the local social
28 services district shall perform an assessment of the child and his or
29 her family circumstances, or update any assessment performed when the
30 child was considered for placement. Any assessment shall be in accord-
31 ance with such uniform procedures and criteria as the office of children
32 and family services shall by regulation prescribe. Such assessment shall
33 include the following:

34 S 17. Subdivision 1 of section 243 of the executive law, as amended by
35 chapter 134 of the laws of 1985, is amended to read as follows:

36 1. The director shall exercise general supervision over the adminis-
37 tration of probation services throughout the state, including probation
38 in family courts and shall collect statistical and other information and
39 make recommendations regarding the administration of probation services
40 in the courts. He OR SHE shall endeavor to secure the effective applica-
41 tion of the probation system and the enforcement of the probation laws
42 and the laws relating to family courts throughout the state. After
43 consultation with the state probation commission, he OR SHE shall adopt
44 general rules which shall regulate methods and procedure in the adminis-
45 tration of probation services, including investigation of defendants
46 prior to sentence, and children prior to adjudication, supervision, case
47 work, record keeping, and accounting, program planning and research so
48 as to secure the most effective application of the probation system and
49 the most efficient enforcement of the probation laws throughout the
50 state. SUCH RULES SHALL PERMIT THE ESTABLISHMENT OF A PROGRAM OF INTEN-
51 SIVE PROBATION SUPERVISION FOR JUVENILES DIRECTED TO RECEIVE SUCH
52 SERVICES PURSUANT TO PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION 353.2
53 OR SUBDIVISION (E) OF SECTION SEVEN HUNDRED FIFTY-SEVEN OF THE FAMILY
54 COURT ACT AND SHALL INCLUDE, BUT NOT BE LIMITED TO: SPECIFICATION OF THE
55 MAXIMUM CASELOAD LEVELS AND TRAINING REQUIRED FOR INTENSIVE PROBATION
56 SUPERVISION OFFICERS; THE FREQUENCY AND NATURE OF PROBATION CONTACTS

1 WITH JUVENILES IN THE PROGRAM, SCHOOLS AND OTHER AGENCIES; AND SUPER-
2 VISION, TREATMENT AND OTHER SERVICES TO BE PROVIDED TO SUCH JUVENILES.
3 SUCH RULES SHALL FURTHER PROVIDE FOR THE ESTABLISHMENT OF A PROGRAM OF
4 ELECTRONIC MONITORING FOR ACCUSED JUVENILE DELINQUENTS WHO WOULD OTHER-
5 WISE BE DETAINED PRIOR TO DISPOSITION PURSUANT TO SUBDIVISION THREE OF
6 SECTION 320.5 OF THE FAMILY COURT ACT AND FOR ADJUDICATED JUVENILE
7 DELINQUENTS PLACED ON PROBATION ON CONDITION OF COOPERATION WITH A
8 PROGRAM OF ELECTRONIC MONITORING PURSUANT TO PARAGRAPH (E) OF SUBDIVI-
9 SION THREE OF SECTION 353.2 OF THE FAMILY COURT ACT. Such rules shall
10 provide that the probation investigations ordered by the court in desig-
11 nated felony act cases under subdivision one of section 351.1 of the
12 family court act shall have priority over other cases arising under
13 articles three and seven of such act. Such rules shall be binding upon
14 all probation officers and when duly adopted shall have the force and
15 effect of law, but shall not supersede rules that may be adopted pursu-
16 ant to the family court act. He OR SHE shall keep [himself] informed as
17 to the work of all probation officers and shall from time to time
18 inquire into and report upon their conduct and efficiency. He OR SHE may
19 investigate the work of any probation bureau or probation officer and
20 shall have access to all records and probation offices. He OR SHE may
21 issue subpoenas to compel the attendance of witnesses or the production
22 of books and papers. He OR SHE may administer oaths and examine persons
23 under oath. He OR SHE may recommend to the appropriate authorities the
24 removal of any probation officer. He OR SHE shall transmit to the gover-
25 nor not later than February first of each year an annual report of the
26 work of the division of probation and correctional alternatives for the
27 preceding calendar year, which shall include such information relative
28 to the administration of probation and correctional alternatives
29 throughout the state as may be appropriate. He OR SHE may from time to
30 time publish reports regarding probation including probation in family
31 courts, and the operation of the probation system including probation in
32 family courts and any other information regarding probation as he OR SHE
33 may determine provided expenditures for such purpose are within amounts
34 appropriated therefor.

35 S 18. This act shall take effect on the ninetieth day after it shall
36 have become a law.