

5267--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. MONTGOMERY -- 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 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the social services law, in relation to destitute children; and to repeal certain provisions of the social services law relating thereto

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

1 Section 1. Subdivision (c) of section 115 of the family court act, as
2 amended by section 1 of part A of chapter 3 of the laws of 2005, is
3 amended to read as follows:
4 (c) The family court has such other jurisdiction as is provided by
5 law, including but not limited to: proceedings concerning adoption and
6 custody of children, as set forth in parts two and three of article six
7 of this act; proceedings concerning the uniform interstate family
8 support act, as set forth in article five-B of this act; proceedings
9 concerning children in foster care and care and custody of children, as
10 set forth in sections three hundred fifty-eight-a and three hundred
11 eighty-four-a of the social services law and article ten-A of this act;
12 proceedings concerning DESTITUTE CHILDREN, AS SET FORTH IN ARTICLES
13 TEN-A AND TEN-B OF THIS ACT; PROCEEDINGS CONCERNING guardianship and
14 custody of children by reason of the death of, or abandonment or surren-
15 der by, the parent or parents, as set forth in sections three hundred
16 eighty-three-c, three hundred eighty-four and paragraphs (a) and (b) of
17 subdivision four of section three hundred eighty-four-b of the social
18 services law; proceedings concerning standby guardianship and guardian-
19 ship of the person as set forth in part four of article six of this act

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

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1 and article seventeen of the surrogate's court procedure act; and
2 proceedings concerning the interstate compact on juveniles as set forth
3 in chapter one hundred fifty-five of the laws of nineteen hundred
4 fifty-five, as amended, the interstate compact on the placement of chil-
5 dren, as set forth in section three hundred seventy-four-a of the social
6 services law, and the uniform child custody jurisdiction and enforcement
7 act, as set forth in article five-A of the domestic relations law.

8 S 2. Subdivision (a) of section 249 of the family court act, as
9 amended by chapter 41 of the laws of 2010, is amended to read as
10 follows:

11 (a) In a proceeding under article three, seven, ten [or], ten-A OR
12 TEN-B of this act or where a revocation of an adoption consent is
13 opposed under section one hundred fifteen-b of the domestic relations
14 law or in any proceeding under section three hundred fifty-eight-a,
15 three hundred eighty-three-c, three hundred eighty-four or three hundred
16 eighty-four-b of the social services law or when a minor is sought to be
17 placed in protective custody under section one hundred fifty-eight of
18 this act, the family court shall appoint an attorney to represent a
19 minor who is the subject of the proceeding or who is sought to be placed
20 in protective custody, if independent legal representation is not avail-
21 able to such minor. In any proceeding to extend or continue the place-
22 ment of a juvenile delinquent or person in need of supervision pursuant
23 to section seven hundred fifty-six or 353.3 of this act or any proceed-
24 ing to extend or continue a commitment to the custody of the commission-
25 er of mental health or the commissioner of mental retardation and devel-
26 opmental disabilities pursuant to section 322.2 of this act, the court
27 shall not permit the respondent to waive the right to be represented by
28 counsel chosen by the respondent, respondent's parent, or other person
29 legally responsible for the respondent's care, or by assigned counsel.
30 In any other proceeding in which the court has jurisdiction, the court
31 may appoint an attorney to represent the child, when, in the opinion of
32 the family court judge, such representation will serve the purposes of
33 this act, if independent legal counsel is not available to the child.
34 The family court on its own motion may make such appointment.

35 S 3. Paragraph (iv) of subdivision (a) of section 262 of the family
36 court act, as amended by chapter 437 of the laws of 2006, is amended to
37 read as follows:

38 (iv) the parent, foster parent, or other person having physical or
39 legal custody of the child in any proceeding under article ten [or],
40 ten-A OR TEN-B of this act or section three hundred fifty-eight-a, three
41 hundred eighty-four or three hundred eighty-four-b of the social
42 services law, and a non-custodial parent or grandparent served with
43 notice pursuant to paragraph (e) of subdivision two of section three
44 hundred eighty-four-a of the social services law;

45 S 4. The family court act is amended by adding a new article 10-B to
46 read as follows:

47 ARTICLE 10-B

48 DESTITUTE CHILDREN

49 SECTION 1091. DEFINITIONS.

50 1092. ORIGINATING PROCEEDINGS AND PRELIMINARY PROCEDURE.

51 1093. INITIAL APPEARANCE.

52 1094. FACT FINDING AND DISPOSITION.

53 S 1091. DEFINITIONS. WHEN USED IN THIS ARTICLE UNLESS THE SPECIFIC
54 CONTEXT INDICATES OTHERWISE:

55 (A) "DESTITUTE CHILD" SHALL MEAN A CHILD WITH NO PARENT OR PERSON
56 LEGALLY RESPONSIBLE AVAILABLE TO SAFELY CARE FOR HIM OR HER, WHO MEETS

1 THE DEFINITION OF "DESTITUTE CHILD" AS DEFINED IN PARAGRAPH (B) OR (D)
2 OF SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-ONE OF THE SOCIAL
3 SERVICES LAW.

4 (B) "THE CHILD" SHALL MEAN A DESTITUTE CHILD, OR A CHILD ALLEGED TO BE
5 A DESTITUTE CHILD AS DEFINED IN SUBDIVISION (A) OF THIS SECTION.

6 (C) "PARENT" SHALL MEAN ANY LIVING BIOLOGICAL OR ADOPTIVE PARENT OF
7 THE CHILD WHOSE RIGHTS HAVE NOT BEEN TERMINATED OR SURRENDERED.

8 (D) "PERSON LEGALLY RESPONSIBLE" SHALL MEAN THE CUSTODIAN OR GUARDIAN
9 OF THE DESTITUTE CHILD OR ANY OTHER ADULT RESPONSIBLE FOR THE CARE OF
10 SUCH CHILD AT THE RELEVANT TIME.

11 (E) "PERMANENCY HEARING" SHALL MEAN "PERMANENCY HEARING" AS DEFINED IN
12 SUBDIVISION (K) OF SECTION ONE THOUSAND TWELVE OF THIS ACT.

13 (F) "AGENCY" SHALL MEAN THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR IN
14 A CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE ADMINISTRATION
15 FOR CHILDREN'S SERVICES.

16 (G) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE APPLICABLE AGEN-
17 CY, AS DEFINED IN SUBDIVISION (F) OF THIS SECTION.

18 S 1092. ORIGINATING PROCEEDINGS AND PRELIMINARY PROCEDURE. (A)
19 PROCEEDINGS UNDER THIS ARTICLE SHALL BE ORIGINATED BY AN AGENCY FILING A
20 PETITION CONTAINING AN ALLEGATION THAT THE CHILD IN QUESTION IS A DESTI-
21 TUTE CHILD AS DEFINED BY SECTION ONE THOUSAND NINETY-ONE OF THIS ARTI-
22 CLE.

23 (B) A COMMISSIONER WHO ACCEPTS AS A PUBLIC CHARGE THE CARE OF A CHILD
24 WHO APPEARS TO BE A DESTITUTE CHILD SHALL FORTHWITH FILE A PETITION
25 PURSUANT TO THIS SECTION AFTER ACCEPTING THE CARE OF SUCH CHILD. SUCH
26 PETITION SHALL BE FILED IN THE FAMILY COURT LOCATED IN THE COUNTY WHERE
27 THE AGENCY IS LOCATED.

28 (C) CONTENTS OF THE PETITION. (1) THE PETITION SHALL ALLEGE UPON
29 INFORMATION AND BELIEF:

30 (I) THE MANNER, DATE AND CIRCUMSTANCE UNDER WHICH THE CHILD BECAME
31 KNOWN TO THE AGENCY;

32 (II) THE CHILD'S DATE OF BIRTH;

33 (III) THAT THE CHILD IS A DESTITUTE CHILD AS DEFINED IN SUBDIVISION
34 (A) OF SECTION ONE THOUSAND NINETY-ONE OF THIS ARTICLE;

35 (IV) THE IDENTITY OF THE PARENT OR PARENTS OF THE CHILD IN QUESTION;

36 (V) WHETHER THE PARENT OR PARENTS OF THE CHILD ARE LIVING OR DECEASED;

37 (VI) THE WHEREABOUTS AND LAST KNOWN ADDRESS FOR THE PARENT OR PARENTS;

38 (VII) THE EFFORTS, IF ANY, WHICH WERE MADE PRIOR TO THE FILING OF THE
39 PETITION TO PREVENT THE REMOVAL OF THE CHILD FROM THE HOME AND IF SUCH
40 EFFORTS WERE NOT MADE, THE REASONS WHY; AND

41 (VIII) THE EFFORTS, IF ANY, WHICH WERE MADE PRIOR TO THE FILING OF THE
42 PETITION TO ALLOW THE CHILD TO RETURN SAFELY HOME, AND IF SUCH EFFORTS
43 WERE NOT MADE, THE REASONS WHY.

44 (2) THE PETITION SHALL CONTAIN A NOTICE IN CONSPICUOUS PRINT PROVIDING
45 THAT IF THE CHILD REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT
46 TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION
47 TO TERMINATE PARENTAL RIGHTS.

48 (D) NOTICE. (1) ON THE FILING OF A PETITION UNDER THIS ARTICLE IF A
49 PARENT OR PERSON LEGALLY RESPONSIBLE FOR THE CHILD IS IDENTIFIED IN THE
50 PETITION, THE COURT SHALL CAUSE A COPY OF THE PETITION AND A SUMMONS TO
51 BE ISSUED THE SAME DAY THE PETITION IS FILED, REQUIRING SUCH PARENT OR
52 PERSON LEGALLY RESPONSIBLE FOR THE CHILD TO APPEAR IN COURT ON THE
53 RETURN DATE TO ANSWER THE PETITION. SERVICE OF A SUMMONS AND PETITION
54 UNDER THIS ARTICLE SHALL BE MADE BY DELIVERY OF A TRUE COPY THEREOF TO
55 THE PERSON SUMMONED AT LEAST TWENTY-FOUR HOURS BEFORE THE TIME STATED
56 THEREIN FOR APPEARANCE. THE COURT MAY SEND PROCESS WITHOUT THE STATE IN

1 THE SAME MANNER AND WITH THE SAME EFFECT AS PROCESS SENT WITHIN THE
2 STATE IN THE EXERCISE OF PERSONAL JURISDICTION OVER ANY PERSON SUBJECT
3 TO THE JURISDICTION OF THE COURT UNDER SECTION THREE HUNDRED ONE OR
4 THREE HUNDRED TWO OF THE CIVIL PRACTICE LAW AND RULES, NOTWITHSTANDING
5 THAT SUCH PERSON IS NOT A RESIDENT OR DOMICILIARY OF THE STATE, WHERE
6 THE ALLEGEDLY DESTITUTE CHILD WAS FOUND WITHIN THE STATE. WHERE SERVICE
7 IS EFFECTED ON AN OUT OF STATE RESPONDENT AND THE RESPONDENT DEFAULTS
8 BY FAILING TO APPEAR TO ANSWER THE PETITION, THE COURT MAY ON ITS OWN
9 MOTION, OR UPON APPLICATION OF ANY PARTY OR THE LAW GUARDIAN PROCEED TO
10 A FACT FINDING HEARING THEREON. IF AFTER REASONABLE EFFORT, PERSONAL
11 SERVICE IS NOT MADE, THE COURT MAY AT ANY STAGE IN THE PROCEEDINGS MAKE
12 AN ORDER PROVIDING FOR SUBSTITUTED SERVICE IN THE MANNER PROVIDED FOR
13 SUBSTITUTED SERVICE IN CIVIL PROCESS IN COURTS OF RECORD. IF THE PARENT
14 OR PARENTS OF THE CHILD IS OR ARE DECEASED AND NO PERSON LEGALLY RESPON-
15 SIBLE FOR THE CHILD HAS BEEN IDENTIFIED, THEN NOTICE OF THE PROCEEDING
16 AND A COPY OF THE PETITION SHALL BE MADE UPON SUCH PERSONS AND IN SUCH
17 MANNER AS THE COURT MAY DIRECT.

18 (2) THE SUMMONS SHALL CONTAIN A STATEMENT IN CONSPICUOUS PRINT INFORM-
19 ING THE PARENT OR OTHER PERSONS LEGALLY RESPONSIBLE THAT IF THE CHILD
20 REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS,
21 THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE
22 PARENTAL RIGHTS.

23 S 1093. INITIAL APPEARANCE. (A) AT THE INITIAL APPEARANCE THE COURT
24 SHALL:

25 (1) APPOINT A LAW GUARDIAN TO REPRESENT THE CHILD;

26 (2) (I) DETERMINE WHETHER PLACEMENT OF THE CHILD IN THE TEMPORARY CARE
27 AND CUSTODY OF THE COMMISSIONER IS IN THE BEST INTERESTS OF THE CHILD.

28 (II) IF THE COURT PLACES THE CHILD IN THE TEMPORARY CARE AND CUSTODY
29 OF THE COMMISSIONER PURSUANT TO THIS PARAGRAPH THE COURT SHALL SET A
30 DATE CERTAIN FOR THE FACT FINDING AND DISPOSITION HEARING PURSUANT TO
31 SECTION ONE THOUSAND NINETY-FOUR OF THIS ARTICLE AND THE INITIAL PERMAN-
32 ENCY HEARING PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ONE
33 THOUSAND EIGHTY-NINE OF THIS ACT. THE DATE CERTAIN FOR THE INITIAL
34 PERMANENCY HEARING SHALL BE NO LATER THAN EIGHT MONTHS FROM THE DATE THE
35 SOCIAL SERVICES OFFICIAL ACCEPTED CARE OF THE CHILD;

36 (3) DETERMINE WHETHER IT WOULD BE CONTRARY TO THE WELFARE OF THE CHILD
37 TO CONTINUE IN HIS OR HER OWN HOME;

38 (4) DETERMINE WHETHER REASONABLE EFFORTS WERE MADE PRIOR TO THE PLACE-
39 MENT OF THE CHILD INTO FOSTER CARE TO PREVENT OR ELIMINATE THE NEED FOR
40 REMOVAL OF THE CHILD FROM HIS OR HER HOME, AND IF SUCH EFFORTS WERE NOT
41 MADE WHETHER THE LACK OF SUCH EFFORTS WERE APPROPRIATE UNDER THE CIRCUM-
42 STANCES;

43 (5) DETERMINE, WHERE APPROPRIATE, IF REASONABLE EFFORTS WERE MADE TO
44 MAKE IT POSSIBLE FOR THE CHILD TO RETURN SAFELY HOME; AND

45 (6) INCLUDED THE FINDINGS MADE PURSUANT TO PARAGRAPHS ONE THROUGH FIVE
46 OF THIS SUBDIVISION IN A WRITTEN ORDER.

47 (B) IF THE COURT PLACES THE CHILD IN THE TEMPORARY CUSTODY OF THE
48 COMMISSIONER PURSUANT TO SUBDIVISION (A) OF THIS SECTION THE COURT MAY
49 ORDER THE AGENCY TO CONDUCT AN INVESTIGATION OF THE FAMILY CIRCUMSTANCES
50 OF THE CHILD, INCLUDING, BUT NOT LIMITED TO:

51 (1) WHETHER THE CHILD MAY BE AN ABUSED OR MALTREATED CHILD;

52 (I) IF THE COURT HAS REASONABLE CAUSE TO SUSPECT THE CHILD IS ABUSED
53 OR MALTREATED THE COURT MAY REQUEST THE AGENCY TO CAUSE A CALL TO BE
54 MADE TO THE STATEWIDE CENTRAL REGISTER FOR CHILD ABUSE AND MALTREATMENT
55 PURSUANT TO SECTION FOUR HUNDRED FOURTEEN OF THE SOCIAL SERVICES LAW; OR

(II) IF THE COURT HAS REASONABLE CAUSE TO SUSPECT THE CHILD MAY BE AN ABUSED CHILD AS DEFINED IN SUBDIVISION (E) OF SECTION ONE THOUSAND TWELVE OF THIS ACT OR A NEGLECTED CHILD AS DEFINED IN SUBDIVISION (F) OF SECTION ONE THOUSAND TWELVE OF THIS ACT, THE COURT MAY REQUEST THE AGENCY TO FILE A PETITION IN REGARDS TO THE CHILD PURSUANT TO ARTICLE TEN OF THIS ACT; AND

(2) (I) THE IDENTITY OR WHEREABOUTS OF ANY RELATIVES WHO MAY BE WILLING TO CARE FOR THE CHILD; OR

(II) IF A RELATIVE OR OTHER SUITABLE PERSON WILLING TO CARE FOR THE CHILD IS KNOWN TO THE COURT, THE COURT MAY DIRECT THAT THE COMMISSIONER HAVE THE CHILD LIVE WITH SUCH RELATIVE OR OTHER SUITABLE PERSON, AND COMMENCE AN INVESTIGATION INTO THE HOME OF SUCH RELATIVE AND THEREAFTER APPROVE SUCH RELATIVE OR OTHER SUITABLE PERSON, IF QUALIFIED, AS A FOSTER PARENT. IF SUCH HOME IS FOUND TO BE UNQUALIFIED FOR APPROVAL, THE LOCAL COMMISSIONER SHALL REPORT SUCH FACT TO THE COURT FORTHWITH.

S 1094. FACT FINDING AND DISPOSITION. (A) THE COURT SHALL SUSTAIN THE PETITION AND MAKE A FINDING THAT A CHILD IS DESTITUTE IF BASED ON A PREPONDERANCE OF EVIDENCE PRESENTED, THE COURT FINDS THAT THE CHILD MEETS THE DEFINITION OF A DESTITUTE CHILD AS DESCRIBED IN SUBDIVISION (A) OF SECTION ONE THOUSAND NINETY-ONE OF THIS ARTICLE. IF THE COURT SUSTAINS THE PETITION PURSUANT TO THIS SUBDIVISION, IT SHALL ISSUE A WRITTEN ORDER WHICH:

(1) PLACES THE CHILD IN THE CARE AND CUSTODY OF THE COMMISSIONER;

(2) LISTS THE DATE CERTAIN FOR THE NEXT SCHEDULED PERMANENCY HEARING; AND

(3) STATES THE GROUNDS FOR THE COURT'S FINDING PURSUANT TO THIS SUBDIVISION.

(B) IF THE COURT FINDS THAT BASED ON THE EVIDENCE PRESENTED THE CHILD DOES NOT MEET THE DEFINITION OF A DESTITUTE CHILD AS DESCRIBED IN SUBDIVISION (A) OF SECTION ONE THOUSAND NINETY-ONE OF THIS ARTICLE, THE COURT SHALL DISMISS THE PETITION.

(C) IF THE COURT FINDS THAT BASED ON THE EVIDENCE PRESENTED THE CHILD DOES NOT MEET THE DEFINITION OF A DESTITUTE CHILD AS DESCRIBED IN SUBDIVISION (A) OF SECTION ONE THOUSAND NINETY-ONE OF THIS ARTICLE, BUT THE COURT FINDS THAT IT APPEARS THAT THE CHILD MEETS THE DEFINITION OF AN ABUSED CHILD PURSUANT TO SUBDIVISION (E) OF SECTION ONE THOUSAND TWELVE OF THIS ACT OR A NEGLECTED CHILD PURSUANT TO SUBDIVISION (F) OF SECTION ONE THOUSAND TWELVE OF THIS ACT, THE COURT MAY REQUEST THE AGENCY TO FILE A PETITION REGARDING THE CHILD FORTHWITH PURSUANT TO ARTICLE TEN OF THIS ACT, PRIOR TO DISMISSING THE PETITION PURSUANT TO SUBDIVISION (B) OF THIS SECTION.

S 5. Section 1086 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1086. Purpose. The purpose of this article is to establish uniform procedures for permanency hearings for all children who are placed in foster care pursuant to section three hundred fifty-eight-a, three hundred eighty-four or three hundred eighty-four-a of the social services law or pursuant to section one thousand twenty-two, one thousand twenty-seven, [or] one thousand fifty-two, ONE THOUSAND NINETY-THREE OR ONE THOUSAND NINETY-FOUR of this act; children who are directly placed with a relative pursuant to section one thousand seventeen or one thousand fifty-five of this act; and children who are freed for adoption. It is meant to provide children placed out of their homes timely and effective judicial review that promotes permanency, safety and well-being in their lives.

1 S 6. Subdivision (a) of section 1087 of the family court act, as added
2 by section 27 of part A of chapter 3 of the laws of 2005, is amended to
3 read as follows:

4 (a) "Child" shall mean a person under the age of eighteen who is
5 placed in foster care pursuant to section three hundred fifty-eight-a,
6 three hundred eighty-four or three hundred eighty-four-a of the social
7 services law or pursuant to section one thousand twenty-two, one thou-
8 sand twenty-seven, [or] one thousand fifty-two, ONE THOUSAND
9 NINETY-THREE OR ONE THOUSAND NINETY-FOUR of this act; or directly placed
10 with a relative pursuant to section one thousand seventeen or one thou-
11 sand fifty-five of this act; or who has been freed for adoption or a
12 person between the ages of eighteen and twenty-one who has consented to
13 continuation in foster care.

14 S 7. Section 1088 of the family court act, as amended by chapter 41 of
15 the laws of 2010, is amended to read as follows:

16 S 1088. Continuing court jurisdiction. If a child is placed pursuant
17 to section three hundred fifty-eight-a, three hundred eighty-four, or
18 three hundred eighty-four-a of the social services law, or pursuant to
19 section one thousand seventeen, one thousand twenty-two, one thousand
20 twenty-seven [or], one thousand fifty-two, ONE THOUSAND NINETY-THREE OR
21 ONE THOUSAND NINETY-FOUR of this act, or directly placed with a relative
22 pursuant to section one thousand seventeen or one thousand fifty-five of
23 this act; or if the child is freed for adoption pursuant to section
24 three hundred eighty-three-c, three hundred eighty-four or three hundred
25 eighty-four-b of the social services law, the case shall remain on the
26 court's calendar and the court shall maintain jurisdiction over the case
27 until the child is discharged from placement and all orders regarding
28 supervision, protection or services have expired. The court shall rehear
29 the matter whenever it deems necessary or desirable, or upon motion by
30 any party entitled to notice in proceedings under this article, or by
31 the attorney for the child, and whenever a permanency hearing is
32 required by this article. While the court maintains jurisdiction over
33 the case, the provisions of section one thousand thirty-eight of this
34 act shall continue to apply.

35 S 8. Paragraph 2 of subdivision (a) of section 1089 of the family
36 court act, as amended by chapter 437 of the laws of 2006, is amended to
37 read as follows:

38 (2) All other permanency hearings. At the conclusion of the hearing
39 pursuant to section one thousand twenty-two, one thousand twenty-seven,
40 [or] one thousand fifty-two, ONE THOUSAND NINETY-THREE OR ONE THOUSAND
41 NINETY-FOUR of this act at which the child was remanded or placed and
42 upon the court's approval of a voluntary placement instrument pursuant
43 to section three hundred fifty-eight-a of the social services law, the
44 court shall set a date certain for an initial permanency hearing, advise
45 all parties in court of the date set and include the date in the order.
46 Orders issued in subsequent court hearings prior to the permanency hear-
47 ing, including, but not limited to, the order of placement issued pursu-
48 ant to section one thousand fifty-five of this act, shall include the
49 date certain for the permanency hearing. The initial permanency hearing
50 shall be commenced no later than six months from the date which is sixty
51 days after the child was removed from his or her home; provided, howev-
52 er, that if a sibling or half-sibling of the child has previously been
53 removed from the home and has a permanency hearing date certain sched-
54 uled within the next eight months, the permanency hearing for each child
55 subsequently removed from the home shall be scheduled on the same date
56 certain that has been set for the first child removed from the home,

1 unless such sibling or half-sibling has been removed from the home
2 pursuant to article three or seven of this act. The permanency hearing
3 shall be completed within thirty days of the scheduled date certain.

4 S 9. Subdivision (a) of section 1090 of the family court act, as
5 amended by chapter 41 of the laws of 2010, is amended to read as
6 follows:

7 (a) If an attorney for the child has been appointed by the family
8 court in a proceeding pursuant to section three hundred fifty-eight-a,
9 three hundred eighty-three-c, three hundred eighty-four, or three
10 hundred eighty-four-b of the social services law, or article ten OR
11 TEN-B of this act, the appointment of the attorney for the child shall
12 continue without further court order or appointment, unless another
13 appointment of an attorney for the child has been made by the court,
14 until the child is discharged from placement and all orders regarding
15 supervision, protection or services have expired. All notices, reports
16 and motions required by law shall be provided to the child's attorney.
17 The child's attorney may be relieved of his or her representation upon
18 application to the court for termination of the appointment. Upon
19 approval of the application, the court shall immediately appoint another
20 attorney to whom all notices, reports, and motions required by law shall
21 be provided.

22 S 10. Subdivision 1 of section 398 of the social services law is
23 amended to read as follows:

24 1. As to destitute children: Assume charge of and provide support for
25 any destitute child who cannot be properly cared for in his home, AND IF
26 IT IS NECESSARY FOR THE COMMISSIONER TO TAKE CUSTODY OF THE CHILD, FILE
27 A PETITION PURSUANT TO SECTION ONE THOUSAND NINETY-TWO OF THE FAMILY
28 COURT ACT.

29 S 11. Paragraph (i) of subdivision 6 of section 398 of the social
30 services law is REPEALED.

31 S 12. This act shall take effect immediately; provided, however, that
32 local social services districts may wait up to ninety days subsequent to
33 the effective date of this act to file petitions in accordance with
34 subdivision (b) of section one thousand ninety-two of the family court
35 act as added by section four of this act, for children who were in the
36 care of such district on the effective date of this act who meet the
37 definition of destitute child as described in subdivision (a) of section
38 one thousand ninety-one of the family court act as added by section four
39 of this act.