S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

May 14, 2013

Introduced by Sen. FELDER -- (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

AN ACT to amend the family court act, in relation to non-respondent parents in child protective, destitute child and permanency proceedings in family court

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

Section 1. Section 1012 of the family court act is amended by adding three new subdivisions (l), (m) and (n) to read as follows:

(L) "PARENT" MEANS A PERSON WHO IS RECOGNIZED UNDER THE LAWS OF THE STATE OF NEW YORK TO BE THE CHILD'S LEGAL PARENT.

(M) "RELATIVE" MEANS ANY PERSON WHO IS RELATED TO THE CHILD BY BLOOD, MARRIAGE OR ADOPTION AND WHO IS NOT A PARENT, PUTATIVE PARENT OR RELATIVE OF A PUTATIVE PARENT OF THE CHILD.

(N) "SUITABLE PERSON" MEANS ANY PERSON WHO PLAYS OR HAS PLAYED A SIGNIFICANT POSITIVE ROLE IN THE CHILD'S LIFE OR IN THE LIFE OF THE CHILD'S FAMILY.

S 2. Subdivision 1, paragraph (a) of subdivision 2 and subdivision 3 of section 1017 of the family court act, subdivision 1 and paragraph (a) of subdivision 2 as amended by section 10 of part A of chapter 3 of the laws of 2005, the opening paragraph of subdivision 1 as separately amended by chapter 671 of the laws of 2005, subparagraphs (i) and (ii) of paragraph a of subdivision 2 as amended and subdivision 3 as added by chapter 519 of the laws of 2008, are amended to read as follows:

1. In any proceeding under this article, when the court determines that a child must be removed from his or her home, pursuant to part two of this article, or placed, pursuant to section one thousand fifty-five of this article[,]:

(A) the court shall direct the local commissioner of social services to conduct an immediate investigation to locate any non-respondent

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

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parent of the child and any relatives of the child, including all of the child's grandparents, all [suitable] relatives OR SUITABLE PERSONS identified by any respondent parent or any non-respondent parent and any relative OR SUITABLE PERSON identified by a child over the age of five as a [relative] PERSON who plays or has played a significant positive role in his or her life[, and]. THE LOCAL COMMISSIONER SHALL inform them of the pendency of the proceeding and of the opportunity for [becoming foster parents or for seeking custody or care] NON-RESPONDENT PARENTS TO SEEK TEMPORARY RELEASE of the child[, and that the child may be adopted by foster parents if attempts at reunification with the birth parent are not required or are unsuccessful] UNDER THIS ARTICLE OR CUSTODY UNDER ARTICLE SIX OF THIS ACT OR FOR RELATIVES OR SUITABLE PERSONS TO SEEK TO BECOME FOSTER PARENTS OR TO PROVIDE FREE CARE UNDER THIS ARTICLE OR CUSTODY UNDER ARTICLE SIX OF THIS ACT. RULES OF COURT SHALL SPECIFY THE CONTENTS OF THE NOTICE. The local commissioner of social services shall record the results of such investigation, including, but not limited to, the name, last known address, social security number, employer's address and any other identifying information to the extent known regarding any non-respondent parent, in the uniform case record maintained pursuant to section four hundred nine-f of the social services law. [For the purpose of this section, "non-respondent parent" shall include a person entitled to notice of the pendency of the proceeding and of the right to intervene as an interested party pursuant to subdivision (d) of section one thousand thirty-five of this article, and a non-custodial parent entitled to notice and the right to enforce visitation rights pursuant to subdivision (e) of section one thousand thirty-five of this article.]

(B) THE COURT SHALL ALSO DIRECT THE LOCAL COMMISSIONER OF SOCIAL SERVICES TO CONDUCT AN INVESTIGATION TO LOCATE ANY PERSON WHO IS NOT RECOGNIZED TO BE THE CHILD'S LEGAL PARENT AND DOES NOT HAVE THE RIGHTS OF A LEGAL PARENT UNDER THE LAWS OF THE STATE OF NEW YORK BUT WHO (I) HAS FILED WITH A PUTATIVE FATHER REGISTRY, OR (II) HAS A PENDING PATERNITY PETITION, OR (III) WAS MARRIED TO THE CHILD'S PARENT WITHIN SIX MONTHS AFTER THE CHILD'S BIRTH, OR (IV) HAS BEEN IDENTIFIED BY THE CHILD'S PARENT IN A WRITTEN SWORN STATEMENT. THE LOCAL COMMISSIONER OF SOCIAL SERVICES SHALL RECORD THE RESULTS OF SUCH INVESTIGATION, INCLUDING, BUT NOT LIMITED TO, THE NAME, LAST KNOWN ADDRESS, SOCIAL SECURITY NUMBER, EMPLOYER'S ADDRESS AND ANY OTHER IDENTIFYING INFORMATION TO THE EXTENT KNOWN REGARDING ANY PERSON IDENTIFIED IN THE INVESTIGATION, IN THE UNIFORM CASE RECORD MAINTAINED PURSUANT TO SECTION FOUR HUNDRED NINE-F OF THE SOCIAL SERVICES LAW.

(C) The court shall determine:

[(a)] (I) whether there is a [suitable] non-respondent parent [or other person related to the child], RELATIVE OR SUITABLE PERSON with whom such child may appropriately reside; and

[(b)] (II) in the case of a relative OR SUITABLE PERSON, whether such [relative] INDIVIDUAL seeks approval as a foster parent pursuant to the social services law for the purposes of providing care for such child, or wishes to provide free care [and custody] for the child during the pendency of any orders pursuant to this article.

(a) where the court determines that the child may APPROPRIATELY reside with a [suitable] non-respondent parent or other relative or [other] suitable person, either:

(i) grant [an] A TEMPORARY order of custody or guardianship to such non-respondent parent, [other] relative or [other] suitable person pursuant to A PETITION FILED UNDER ARTICLE SIX OF THIS ACT PENDING

FURTHER ORDER OF THE COURT, OR AT DISPOSITION OF THE PROCEEDING, GRANT A FINAL ORDER OF CUSTODY OR GUARDIANSHIP TO SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON PURSUANT TO ARTICLE SIX OF THIS ACT AND section one thousand fifty-five-b of this article; or

(ii) [place] TEMPORARILY RELEASE the child directly [in] TO the custody of such non-respondent parent[, other] OR TEMPORARILY PLACE THE CHILD IN THE CUSTODY OF A relative or [other] suitable person pursuant to this article during the pendency of the proceeding or until further order of the court, whichever is earlier and conduct such other and further investigations as the court deems necessary. THE COURT MAY DIRECT THE COMMISSIONER OF SOCIAL SERVICES, PURSUANT TO REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO COMMENCE AN INVESTIGATION OF THE HOME OF SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON WITHIN TWENTY-FOUR HOURS AND, IN THE CASE OF A RELATIVE OR SUITABLE PERSON, THEREAFTER APPROVE SUCH RELATIVE OR SUITABLE PERSON, IF QUALIFIED, AS A FOSTER PARENT. IF SUCH PERSON IS QUALIFIED AS A FOSTER PARENT, THE COURT MAY MAKE AN ORDER PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH. IF SUCH PERSON IS FOUND TO BE UNQUALIFIED AS A FOSTER PARENT OR IF A NON-RESPONDENT PARENT IS FOUND UNQUALIFIED AS A RESOURCE FOR THE TEMPORARY RELEASE OF THE CHILD UNDER THIS ARTICLE, THE LOCAL COMMISSIONER SHALL REPORT SUCH FACT TO THE COURT FORTHWITH; or

(iii) remand or place the child, as applicable, with the local commissioner of social services and direct such commissioner to have the child reside with such relative or [other] suitable person [and further direct such commissioner pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours 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.]

3. An order [placing] TEMPORARILY RELEASING a child [with] TO THE CUSTODY OF A NON-RESPONDENT PARENT OR PARENTS, OR TEMPORARILY PLACING A CHILD IN THE CUSTODY OF a relative or RELATIVES OR other suitable person OR PERSONS pursuant to SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF this section OR REMANDING OR PLACING A CHILD WITH A LOCAL COMMISSIONER OF SOCIAL SERVICES TO RESIDE WITH A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS AS FOSTER PARENTS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION may not be granted unless the [relative or other suitable] person [consents] OR PERSONS TO WHOM THE CHILD IS RELEASED, REMANDED OR PLACED SUBMITS to the jurisdiction of the court WITH RESPECT TO THE CHILD. The [court] ORDER SHALL SET FORTH THE TERMS AND CONDITIONS APPLICABLE TO SUCH PERSON OR PERSONS AND CHILD PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY WITH RESPECT TO THE CHILD AND may [place the person with whom the child has been directly placed under supervision during the pendency of the proceeding. Such supervision shall be provided by a] INCLUDE, BUT IS NOT LIMITED TO, A DIRECTION FOR SUCH PERSON OR PERSONS TO COOPERATE IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED VISITATION WITH RESPONDENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS WITH THE CHILD'S ATTORNEY, child protective agency, social services official [or], duly authorized agency, CLINICIAN OR OTHER INDIVIDUAL OR PROGRAM PROVIDING SERVICES TO THE CHILD DURING THE PENDENCY OF THE PROCEEDING. The court also may issue a temporary order of protection under subdivision (f) of section one thousand twenty-two, section one thousand twenty-three or section one thousand twenty-nine of this article. [An order of supervision issued pursuant to this subdivision shall set forth the

terms and conditions that the relative or suitable person must meet and the actions that the child protective agency, social services official or duly authorized agency must take to exercise such supervision.]

S 3. Section 1022-a of the family court act, as added by chapter 336 of the laws of 1990, is amended to read as follows:

S 1022-a. Preliminary orders; notice and appointment of counsel. At a hearing held pursuant to section [ten hundred] ONE THOUSAND twenty-two of this act at which the respondent is present, the court shall advise the respondent AND ANY NON-RESPONDENT PARENT WHO IS PRESENT of the allegations in the application and shall appoint counsel for [the respondent pursuant to] EACH IN ACCORDANCE WITH section two hundred sixty-two of this act [where the respondent is indigent], UNLESS WAIVED.

S 4. Subdivision (d) of section 1027 of the family court act, as added by chapter 962 of the laws of 1970, is amended to read as follows:

(d) Upon such hearing, the court may, for good cause shown, release the child to [the custody of] his OR HER parent or other person legally responsible for his OR HER care, pending a final order of disposition, in accord with SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF section one thousand [fifty-four] SEVENTEEN OF THIS ARTICLE.

S 5. The opening paragraph of subdivision (d) of section 1035 of the family court act, as amended by chapter 526 of the laws of 2003, is amended to read as follows:

Where the respondent is not the child's parent, service of the summons and petition shall also be ordered on both of the child's parents; where only one of the child's parents is the respondent, service of the summons and petition shall also be ordered on the child's other parent. The summons and petition shall be accompanied by a notice of pendency of the child protective proceeding advising the parents or parent of the right to appear and participate in the proceeding as an interested party intervenor for the purpose of seeking temporary and permanent RELEASE OF THE CHILD UNDER THIS ARTICLE OR custody of the child UNDER ARTICLE SIX OF THIS ACT, and to participate thereby in all arguments and hearings insofar as they affect the temporary RELEASE OR custody of the child during fact-finding proceedings, and in all phases of dispositional proceedings. The notice shall also ADVISE THE PARENT OR PARENTS OF THE RIGHT TO COUNSEL, INCLUDING ASSIGNED COUNSEL IF INDIGENT, AND ALSO indicate that:

S 6. Paragraphs (ii), (v) and (vi) of subdivision (a) of section 1052 of the family court act, paragraphs (ii) and (v) as amended and paragraph (vi) as added by chapter 519 of the laws of 2008, are amended to read as follows:

(ii) releasing the child to the custody of [his] A PARENT OR parents or [other person legally responsible] LEGAL CUSTODIAN OR CUSTODIANS OR GUARDIAN OR GUARDIANS, WHO IS NOT OR ARE NOT RESPONDENTS IN THE PROCEEDING, in accord with section one thousand fifty-four of this part; or

(v) RELEASING THE CHILD TO THE CUSTODY OF THE RESPONDENT OR RESPONDENTS OR placing the respondent OR RESPONDENTS under supervision, OR BOTH, in accord with section one thousand fifty-seven of this part; or

(vi) granting custody of the child to A NON-RESPONDENT PARENT OR PARENTS, A RELATIVE OR relatives or A suitable PERSON OR persons pursuant to section one thousand fifty-five-b AND ARTICLE SIX of this [part] ACT.

S 7. Section 1054 of the family court act, as amended by chapter 1039 of the laws of 1973, subdivision (a) as amended by chapter 41 of the laws of 2010 and subdivision (b) as amended by chapter 458 of the laws of 1989, is amended to read as follows:

S 1054. Release to custody of NON-RESPONDENT parent or [other person responsible for care] LEGAL CUSTODIAN OR GUARDIAN; [supervision or] order of protection. (a) [If the] AN order of disposition [releases] MAY RELEASE the child FOR A DESIGNATED PERIOD OF UP TO ONE YEAR to the custody of [his or her] A NON-RESPONDENT parent or [other] PARENTS OR A person [legally responsible for his or her care] OR PERSONS WHO HAD BEEN THE CHILD'S LEGAL CUSTODIAN OR GUARDIAN at the time of the filing of the petition, [the] AND WHO IS NOT OR ARE NOT RESPONDENTS IN THE PROCEEDING UNDER THIS ARTICLE. AN ORDER UNDER THIS SECTION MAY BE EXTENDED UPON A HEARING FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

(B) THE court may [place] REQUIRE the person OR PERSONS to [whose custody] WHOM the child is released under [supervision of a] THIS SECTION TO SUBMIT TO THE JURISDICTION OF THE COURT WITH RESPECT TO THE CHILD FOR THE PERIOD OF THE DISPOSITION OR ANY EXTENSION THEREOF. THE ORDER MAY INCLUDE, BUT IS NOT LIMITED TO, A DIRECTION FOR SUCH PERSON OR PERSONS TO COOPERATE IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED VISITATION WITH RESPONDENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS WITH THE CHILD'S ATTORNEY, child protective agency [or of a], social services official or duly authorized agency, CLINICIAN OR OTHER INDIVIDUAL OR PROGRAM PROVIDING SERVICES TO THE CHILD. THE ORDER SHALL SET FORTH THE TERMS AND CONDITIONS APPLICABLE TO SUCH NON-RESPONDENT AND CHILD PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY WITH RESPECT TO THE CHILD.

(C) IN CONJUNCTION WITH AN ORDER RELEASING THE CHILD TO A NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON UNDER THIS SUBDIVISION, THE COURT MAY ALSO ISSUE ANY OR ALL OF THE FOLLOWING ORDERS: AN ORDER OF SUPERVISION OF A RESPONDENT PARENT UNDER SECTION ONE THOUSAND FIFTY-SEVEN, AN ORDER DIRECTING THAT SERVICES BE PROVIDED TO THE RESPONDENT PARENT UNDER SECTION ONE THOUSAND FIFTEEN-A or [may enter] an order of protection under section one thousand fifty-six OF THIS PART[, or both. An order of supervision entered under this section shall set forth the terms and conditions of such supervision that the respondent must meet and the actions that the child protective agency, social services official or duly authorized agency must take to exercise such supervision].

(D) Except as provided for herein, in any order issued pursuant to this section, the court may require the child protective agency to make progress reports to the court, the parties, and the child's attorney on the implementation of such order. [Where the order of disposition is issued upon the consent of the parties and the child's attorney, such] UNLESS OTHERWISE ORDERED BY THE COURT, THE agency shall report to the court, the parties and the child's attorney no later than ninety days after the issuance of the order[, unless] AND NO LATER THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF the [court determines that the facts and circumstances of the case do not require such report to be made] ORDER.

[(b) Rules of court shall define permissible terms and conditions of supervision under this section. The duration of any period of supervision shall be for an initial period of no more than one year and the court may at the expiration of that period, upon a hearing and for good cause shown, make successive extensions of such supervision of up to one year each.]

S 8. The section heading and subdivision (a) of section 1055-b of the family court act, as amended by section 7 of part F of chapter 58 of the laws of 2010, are amended to read as follows:

Custody or guardianship with A PARENT OR PARENTS, relatives or suitable persons pursuant to article six of this act or guardianship with [such a person] RELATIVES OR SUITABLE PERSONS pursuant to article seven-

teen of the surrogate's court procedure act. (a) At the conclusion of the dispositional hearing under this article, the court may enter an order of disposition granting custody or guardianship of the child to a PARENT OR PARENTS, AS DEFINED IN SUBDIVISION (1) OF SECTION ONE THOUSAND TWELVE OF THIS ARTICLE, OR A relative OR RELATIVES or other suitable person OR PERSONS under article six of this act or an order of guardianship of the child to [such] a RELATIVE OR RELATIVES OR SUITABLE person OR PERSONS under article seventeen of the surrogate's court procedure act if THE FOLLOWING CONDITIONS HAVE BEEN MET:

(i) the PARENT OR PARENTS, relative OR RELATIVES or suitable person OR PERSONS has OR HAVE filed a petition for custody or guardianship of the child pursuant to article six of this act or, IN THE CASE OF A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS, a petition for guardianship of the child under article seventeen of the surrogate's court procedure act; and

(ii) the court [finds] HAS DETERMINED that granting custody or guardianship of the child to [the relative or suitable] SUCH person OR PERSONS is in the best interests of the child and that the safety of the child will not be jeopardized if the respondent or respondents under the child protective proceeding are no longer under supervision or receiving services. In determining whether the best interests of the child will be promoted by the granting of guardianship of the child to a relative who has cared for the child as a foster parent, the court shall give due consideration to the permanency goal of the child, the relationship between the child and the relative, and whether the relative and the social services district have entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, and, if so, whether the fact-finding hearing pursuant to section one thousand fifty-one of this part and a permanency hearing pursuant to section one thousand eighty-nine of this chapter [has] HAVE occurred and whether compelling reasons exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are, therefore, not appropriate permanency options; and

(iii) the court [finds] HAS DETERMINED that granting custody or guardianship of the child to the PARENT, relative or suitable person under article six of this act or granting guardianship of the child to the relative or [other] suitable person under article seventeen of the surrogate's court procedure act will provide the child with a safe and permanent home; and

(iv) all parties to the child protective proceeding consent to the granting of custody or guardianship under article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure ACT; or [(v)], IF ANY OF THE PARTIES OBJECT TO THE GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS MADE THE FOLLOWING FINDINGS after a [consolidated] JOINT dispositional hearing on the child protective petition and the petition under article six of this act or under article seventeen of the surrogate's court procedure act[;]:

(A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents [fail to consent] OBJECT to the granting of [custody or guardianship under article six of this act or] the [granting of guardianship under article seventeen of the surrogate's court procedure act] PETITION, the court [finds] HAS DETERMINED that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE DEMONSTRATED THAT extraordinary circumstances exist that support granting an order of custody or guardianship TO THE

RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE THE CHILD'S BEST INTERESTS; or

(B) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A party other than the parent or parents [fail] OBJECTS to [consent to] the granting of [custody or guardianship under article six of this act or] the PETITION [granting of guardianship under article seventeen of the surrogate's court procedure act], the court [finds] HAS DETERMINED that granting custody or guardianship of the child to the relative OR RELATIVES or suitable person OR PERSONS is in the best interests of the child; OR

(C) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED EITHER THAT THE OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR, IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT GRANTING CUSTODY TO THE PETITIONING PARENT WOULD NONETHELESS BE IN THE CHILD'S BEST INTERESTS; OR

(D) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND THE OTHER PARENT OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED THAT GRANTING CUSTODY TO THE PETITIONING PARENT IS IN THE CHILD'S BEST INTERESTS.

S 9. Section 1057 of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

S 1057. [Supervision] RELEASE OF THE CHILD TO THE RESPONDENT OR RESPONDENTS; SUPERVISION OF THE RESPONDENT OR RESPONDENTS.

(A) The court may RELEASE THE CHILD TO THE RESPONDENT OR RESPONDENTS FOR A PERIOD OF UP TO ONE YEAR, WHICH MAY BE EXTENDED PURSUANT TO SUBDIVISION (D) OF THIS SECTION.

(B) IN CONJUNCTION WITH AN ORDER RELEASING A CHILD UNDER THIS SECTION OR AN ORDER UNDER PARAGRAPH (II), (III) OR (IV) OF SUBDIVISION (A) OF SECTION ONE THOUSAND FIFTY-TWO OF THIS PART, THE COURT MAY place the respondent OR RESPONDENTS under supervision of a child protective agency or of a social services official or duly authorized agency. An order of supervision entered under this section shall set forth the terms and conditions of such supervision that the respondent OR RESPONDENTS must meet and the actions that the child protective agency, social services official or duly authorized agency must take to exercise such supervision.

(C) Except as provided for herein, in any order issued pursuant to SUBDIVISION (A) OR (B) OF this section, the court may require the child protective agency to make progress reports to the court, the parties, and the child's attorney on the implementation of such order. [Where the order of disposition is issued upon the consent of the parties and the child's attorney] UNLESS OTHERWISE ORDERED BY THE COURT, such agency shall report to the court, the parties and the child's attorney no later than ninety days after the issuance of the order[, unless] AND NO LATER THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF the [court determines that the facts and circumstances of the case do not require such report to be made] ORDER. Rules of court shall define permissible terms and conditions of supervision OF THE RESPONDENT OR RESPONDENTS under this section.

(D) The duration of any period of RELEASE OF THE CHILD TO THE RESPONDENT OR RESPONDENTS OR supervision OF THE RESPONDENT OR RESPONDENTS OR BOTH shall be for an initial period of no more than one year [and the]. THE court may at the expiration of that period, upon a hearing and for

good cause shown, make successive extensions of such RELEASE OR supervision OR BOTH of up to one year each.

S 10. The section heading and subdivisions (a) and (c) of section 1089-a of the family court act, as amended by section 8 of part F of chapter 58 of the laws of 2010, are amended to read as follows:

Custody or guardianship with A PARENT OR PARENTS, A RELATIVE OR relatives or A suitable PERSON OR persons pursuant to article six of this act or guardianship OF A RELATIVE OR RELATIVES OR A SUITABLE PERSON OR PERSONS pursuant to article seventeen of the surrogate's court procedure act. (a) Where the permanency plan is placement with a fit and willing relative, the court may issue an order of custody or guardianship in response to a petition filed by a relative or suitable person seeking custody or guardianship of the child under article six of this act or an order of guardianship of the child under article seventeen of the surrogate's court procedure act [at]. WHERE THE PERMANENCY PLAN IS CUSTODY UNDER ARTICLE SIX OF THIS ACT WITH A PARENT OR PARENTS WHO HAD NOT BEEN RESPONDENTS IN THE PROCEEDING IN WHICH THE CHILD HAD BEEN PLACED UNDER ARTICLE TEN OR TEN-C OF THIS ACT OR SECTION THREE HUNDRED FIFTY-EIGHT-A OF THE SOCIAL SERVICES LAW, THE COURT MAY ISSUE AN ORDER OF CUSTODY UNDER ARTICLE SIX OF THIS ACT IN RESPONSE TO A PETITION FILED BY SUCH PARENT OR PARENTS. A PETITION FOR CUSTODY OR GUARDIANSHIP UNDER THIS SUBDIVISION MAY BE HEARD JOINTLY WITH a permanency hearing held pursuant to this article [and terminate]. AN ORDER OF CUSTODY OR GUARDIANSHIP ISSUED IN ACCORDANCE WITH THIS SUBDIVISION WILL RESULT IN TERMINATION OF all pending orders issued pursuant to article ten OR TEN-C of this act if THE FOLLOWING CONDITIONS HAVE BEEN MET:

(i) the court [finds] HAS DETERMINED that granting custody TO THE PARENT OR PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardianship of the child to the relative OR RELATIVES or suitable person OR PERSONS is in the best interests of the child and that the termination of the order placing the child pursuant to article ten OR TEN-C of this act will not jeopardize the safety of the child. In determining whether the best interests of the child will be promoted by the granting of guardianship of the child to a relative who has cared for the child as a foster parent, the court shall give due consideration to the permanency goal of the child, the relationship between the child and the relative, and whether the relative and the local department of social services have entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, and, if so, whether a fact-finding hearing pursuant to section one thousand fifty-one of this chapter has occurred, and whether compelling reasons exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are, therefore, not appropriate permanency options; and

(ii) the court [finds] HAS DETERMINED that granting custody TO THE PARENT OR PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardianship of the child to the relative or RELATIVES OR suitable person OR PERSONS will provide the child with a safe and permanent home; and

(iii) the parents, the attorney for the child, the local department of social services, and the foster parent of the child who has been the foster parent for the child for one year or more consent to the issuance of an order of custody or guardianship under article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure act and the termination of the order of placement pursu-

ant to article ten of this act; or [(iv)], IF ANY OF THE PARTIES OBJECT TO THE GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS MADE THE FOLLOWING FINDINGS after a [consolidated] JOINT hearing on the permanency of the child and the petition under article six of this act or article seventeen of the surrogate's court procedure act[;]:

(A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents [fail to consent] OBJECTS to the granting of [custody or guardianship under article six of this act or] the [granting of guardianship under article seventeen of the surrogate's court procedure act] PETITION, the court [finds] HAS DETERMINED that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE DEMONSTRATED THAT extraordinary circumstances exist that support granting an order of custody or guardianship under article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure act TO THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE THE CHILD'S BEST INTERESTS; or

(B) if [the local department of social services, the attorney for the child, or the foster parent of the child who has been the foster parent for the child for one year or more fail to consent] A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A PARTY OTHER THAN THE PARENT OR PARENTS OBJECTS to the granting of [custody or guardianship under article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure act] THE PETITION, the court [finds] HAS DETERMINED that granting custody or guardianship of the child to the relative OR RELATIVES or suitable person OR PERSONS is in the best interests of the child; OR

(C) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED EITHER THAT THE OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR, IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT GRANTING CUSTODY TO THE PETITIONING PARENT WOULD NONETHELESS BE IN THE CHILD'S BEST INTERESTS; OR

(D) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND THE OTHER PARENT OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED THAT GRANTING CUSTODY TO THE PETITIONING PARENT IS IN THE CHILD'S BEST INTERESTS; OR

(E) IF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE ATTORNEY FOR THE CHILD, OR THE FOSTER PARENT OF THE CHILD WHO HAS BEEN THE FOSTER PARENT FOR THE CHILD FOR ONE YEAR OR MORE OBJECTS TO THE GRANTING OF CUSTODY OR GUARDIANSHIP UNDER ARTICLE SIX OF THIS ACT OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT, THE COURT HAS DETERMINED THAT GRANTING CUSTODY OR GUARDIANSHIP OF THE CHILD TO THE PARENT, RELATIVE OR SUITABLE PERSON IS IN THE BEST INTERESTS OF THE CHILD.

(c) As part of the order granting custody or guardianship [to the relative or suitable person] IN ACCORDANCE WITH THIS SECTION pursuant to article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure act, the court may require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding; provided, however, if the guardian and the local department of social services have entered into an agreement to

provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, the order must require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any such subsequent proceeding involving custody or guardianship of the child.

S 11. Paragraph 2 of subdivision (d) of section 1095 of the family court act, as amended by chapter 3 of the laws of 2012, is amended to read as follows:

(2) granting an order of custody [or guardianship] to PARENTS, relatives or suitable persons OR GUARDIANSHIP TO RELATIVES OR SUITABLE PERSONS pursuant to a petition under article six of this act or guardianship of the child to a relative or suitable person under article seventeen of the surrogate's court procedure act and in accordance with section one thousand ninety-six of this article.

S 12. The section heading and subdivision (a) of section 1096 of the family court act, as added by chapter 3 of the laws of 2012, are amended to read as follows:

Custody or guardianship with PARENTS, relatives or suitable persons pursuant to article six of this act or article seventeen of the surrogate's court procedure act. (a) At the conclusion of a hearing held pursuant to section one thousand ninety-five of this article, the court may enter an order of disposition granting custody [or guardianship] of the child to a PARENT, relative or suitable person under article six of this act or guardianship of the child to a relative or suitable person under article SIX OF THIS ACT OR ARTICLE seventeen of the surrogate's court procedure act if THE FOLLOWING CONDITIONS HAVE BEEN MET:

(1) the PARENT, relative or suitable person has filed a petition for custody [or guardianship] of the child pursuant to article six of this act or guardianship of the child pursuant to article SIX OF THIS ACT OR ARTICLE seventeen of the surrogate's court procedure act; and

(2) the court finds that granting custody [or guardianship] of the child to the PARENT, relative or suitable person OR GUARDIANSHIP OF THE CHILD TO THE RELATIVE OR SUITABLE PERSON is in the best interests of the child; and

(3) the court finds that granting custody [or guardianship] of the child to the PARENT, relative or suitable person under article six of this act or guardianship of the child to a relative or suitable person under article SIX OF THIS ACT OR ARTICLE seventeen of the surrogate's court procedure act will provide the child with a safe and permanent home; and

(4) all parties to the destitute child proceeding consent to the granting of custody or guardianship under article six of this act or article seventeen of the surrogate's court procedure act; or [(5)] after a consolidated fact finding and dispositional hearing on the destitute child petition [and] HEARD JOINTLY WITH the petition under article six of this act or article seventeen of the surrogate's court procedure act:

(i) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents [fail to consent] OBJECTS to the granting of custody or guardianship under article six of this act or guardianship under article seventeen of the surrogate's court procedure act, the court [finds] HAS DETERMINED that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE DEMONSTRATED THAT extraordinary circumstances exist that support granting an order of custody or guardianship under article six of this act or guardianship under article seventeen of the surrogate's court procedure act

TO THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE THE CHILD'S BEST INTERESTS; or

(ii) if [the] A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A PARTY OTHER THAN A parent or parents [consent and a party other than a parent fails to consent] OBJECTS to the granting of [custody or guardianship under article six of this act or guardianship under article seventeen of the surrogate's court procedure act] THE PETITION, the court [finds] HAS DETERMINED that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child; OR

(III) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED EITHER THAT THE OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR, IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT GRANTING CUSTODY TO THE PETITIONING PARENT WOULD NONETHELESS BE IN THE CHILD'S BEST INTERESTS; OR

(IV) IF A PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND THE OTHER PARENT OBJECTS TO THE GRANTING OF THE PETITION, THE COURT HAS DETERMINED THAT GRANTING CUSTODY TO THE PETITIONING PARENT IS IN THE CHILD'S BEST INTERESTS.

S 13. This act shall take effect on the ninetieth day after it shall have become a law.