

STATE OF NEW YORK

5713

2017-2018 Regular Sessions

IN SENATE

April 26, 2017

Introduced by Sen. AVELLA -- (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 permanency planning in juvenile delinquency and persons in need of supervision proceedings in family court

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 parents of the respondent who had
5 not been issued a summons in accordance with subdivision one of this
6 section, provided that the addresses of any such parents have been
7 provided. The probation department and presentment agency shall ask the
8 custodial parent or person legally responsible for information regarding
9 any other parent or parents of the respondent. The notice shall inform
10 the parent or parents of the right to appear and participate in the
11 proceeding and to seek temporary release or, upon disposition, direct
12 placement of the respondent. The presentment agency shall send the
13 notice to the non-custodial parent at least five days before the return
14 date. The failure of a parent entitled to notice to appear shall not be
15 cause for delay of the respondent's initial appearance, as defined by
16 section 320.1 of this article.

17 § 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:

20 2. At the initial appearance the court must appoint an attorney to
21 represent the respondent pursuant to the provisions of section two
22 hundred forty-nine of this act if independent legal representation is
23 not available to such respondent. Whenever an attorney has been

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

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1 appointed by the family court to represent a child in a proceeding under
2 this article, such appointment shall continue without further court
3 order or appointment during the period covered by any order of disposi-
4 tion issued by the court, an adjournment in contemplation of dismissal,
5 or any extension or violation thereof, or during any permanency hearing,
6 other post-dispositional proceeding or appeal. All notices and reports
7 required by law shall be provided to such attorney. Such appointment
8 shall continue unless another appointment of an attorney has been made
9 by the court or unless such attorney makes application to the court to
10 be relieved of his or her appointment. Upon approval of such application
11 to be relieved, the court shall immediately appoint another attorney to
12 whom all notices and reports required by law shall be provided. The
13 attorney for the respondent shall be entitled to compensation pursuant
14 to applicable provisions of law for services rendered up to and includ-
15 ing disposition of the petition. The attorney shall, by separate appli-
16 cation, be entitled to compensation for services rendered after the
17 disposition of the petition. Nothing in this section shall be construed
18 to limit the authority of the court to remove an attorney from his or
19 her assignment.

20 § 3. Section 353.3 of the family court act is amended by adding a new
21 subdivision 4-a to read as follows:

22 4-a. Where the respondent is placed with the office of children and
23 family services or the commissioner of social services pursuant to
24 subdivision two, three or four of this section, the dispositional order
25 or an attachment to the order incorporated by reference into the order
26 shall include:

27 (a) a description of the plan to facilitate visitation, including any
28 plans for visits and/or contact with the respondent's siblings. If the
29 visitation plan has not yet been developed, then the visitation plan
30 must be filed with the court and delivered to the presentment agency,
31 attorney for the respondent and parent or parents or other person or
32 persons legally responsible for the care of the respondent no later than
33 sixty days from the date the disposition was made; and

34 (b) a service plan, if available. If the service plan has not yet been
35 developed, then the service plan must be filed with the court and deliv-
36 ered to the presentment agency, attorney for the respondent and parent
37 or parents or other person or persons legally responsible for the care
38 of the respondent no later than sixty days from the date the disposition
39 was made; and

40 (c) a direction that the parent or parents or other person or persons
41 legally responsible for the respondent shall be notified of any planning
42 conferences to be held pursuant to subdivision three of section four
43 hundred nine-e of the social services law, of their right to attend the
44 conferences, and of their right to have counsel or another represen-
45 tative or companion with them; and, further, that the respondent, if
46 fourteen years of age or older, be involved in the development of plans
47 as required by federal law.

48 A copy of the court's order and attachments shall be given to the
49 parent or parents or other person or persons legally responsible for the
50 care of the respondent. The order shall also contain a notice that if
51 the respondent remains in placement for fifteen of the most recent twen-
52 ty-two months, the agency with which the child is placed may be required
53 by law to file a petition to terminate the parental rights of the parent
54 or parents of the respondent.

55 § 4. Paragraphs (a), (b) and (c) of subdivision 7 of section 353.3 of
56 the family court act, paragraphs (a) and (b) as amended by section 6 of

1 part G of chapter 58 of the laws of 2010, and paragraph (c) as amended
2 by section 16 of part L of chapter 56 of the laws of 2015, are amended
3 to read as follows:

4 (a) Where the respondent is placed pursuant to subdivision two ~~[or]~~,
5 two-a, three or four of this section and where the agency is not seeking
6 an extension of the placement pursuant to section 355.3 of this part,
7 such report shall be submitted not later than thirty days prior to the
8 conclusion of the placement.

9 (b) Where the respondent is placed pursuant to subdivision two ~~[or]~~,
10 two-a, three or four of this section and where the agency is seeking an
11 extension of the placement pursuant to section 355.3 of this part and a
12 permanency hearing pursuant to section 355.5 of this part, such report
13 shall be submitted not later than sixty days prior to the date on which
14 the permanency hearing must be held and shall be annexed to the petition
15 for a permanency hearing and extension of placement.

16 (c) Where the respondent is placed pursuant to subdivision two ~~[or]~~,
17 two-a, three or four of this section, such report shall contain a plan
18 for the release, or conditional release (pursuant to section five
19 hundred ten-a of the executive law), of the respondent to the custody of
20 his or her parent or other person legally responsible, or to another
21 permanency alternative as provided in paragraph (d) of subdivision seven
22 of section 355.5 of this part. For purposes of this paragraph, "place-
23 ment agency" shall refer to the office of children and family services,
24 the commissioner of social services or the authorized agency under
25 contract with the office of children and family services or commissioner
26 of social services with whom the respondent has been placed. The release
27 or conditional release plan shall provide as follows:

28 (i) If the respondent is subject to article sixty-five of the educa-
29 tion law or elects to participate in an educational program leading to a
30 high school diploma, such plan shall include, but not be limited to, the
31 steps that the agency with which the respondent is placed has taken and
32 will be taking in conjunction with the local education agency to ~~[facil-~~
33 ~~itate]~~ ensure the immediate enrollment of the respondent in ~~[a]~~ an
34 appropriate school or educational program leading to a high school
35 diploma ~~[following]~~ within five days of release, or, if such release
36 occurs during the summer recess, immediately upon the commencement of
37 the next school term. The placement agency shall ascertain the school
38 calendar from the school district and shall, to the extent possible,
39 work with the school district so that the timing of the respondent's
40 release from the program and enrollment in school are minimally disrup-
41 tive for the respondent and further his or her best interests. Not less
42 than fourteen days prior to the respondent's release, the placement
43 agency shall notify the school district where the respondent will be
44 attending school and transfer all necessary records, including, but not
45 limited to, the respondent's course of study, credits earned and academ-
46 ic record.

47 (ii) If the placement agency has reason to believe that the respondent
48 may have a disability or if the respondent had been found eligible to
49 receive special education services prior to or during the placement, in
50 accordance with article eighty-nine of the education law, such plan
51 shall include, but not be limited to, the steps that the placement agen-
52 cy has taken and will be taking to ensure that the local education agen-
53 cy makes any necessary referrals or arranges for special educational
54 evaluations or services, as appropriate, and provides necessary records
55 immediately in accordance with state and federal law.

1 (iii) If the respondent is not subject to article sixty-five of the
2 education law and does not elect to participate in an educational
3 program leading to a high school diploma, such plan shall include, but
4 not be limited to, the steps that the agency with which the respondent
5 is placed has taken and will be taking to assist the respondent to
6 become gainfully employed or enrolled in a vocational program following
7 release.

8 § 5. The opening paragraph of subdivision 2, the opening paragraph of
9 subdivision 3, subdivisions 5 and 6, and paragraph (d) of subdivision 7
10 of section 355.5 of the family court act, the opening paragraph of
11 subdivision 2 and the opening paragraph of subdivision 3 as amended by
12 chapter 145 of the laws of 2000, subdivision 5 as added by chapter 7 of
13 the laws of 1999, subdivision 6 as amended by section 1 of part B of
14 chapter 327 of the laws of 2007, and paragraph (d) of subdivision 7 as
15 amended by section 18 of part L of chapter 56 of the laws of 2015, are
16 amended and a new subdivision 10 is added to read as follows:

17 Where a respondent is placed with a commissioner of social services or
18 the office of children and family services pursuant to subdivision two,
19 two-a, three or four of section 353.3 of this ~~[article]~~ part for a peri-
20 od of twelve or fewer months and resides in a foster home or in a non-
21 secure or limited secure facility;

22 Where a respondent is placed with a commissioner of social services or
23 the office of children and family services pursuant to subdivision two,
24 two-a, three or four of section 353.3 of this ~~[article]~~ part for a peri-
25 od in excess of twelve months and resides in a foster home or in a non-
26 secure or limited secure facility;

27 5. A petition for an initial or subsequent permanency hearing shall be
28 filed by the office of children and family services or by the commis-
29 sioner of social services with whom the respondent was placed. Such
30 petition shall be filed no later than sixty days prior to the end of the
31 month in which an initial or subsequent permanency hearing must be held,
32 as directed in subdivision two of this section. The petition shall be
33 accompanied by a permanency hearing report that contains the information
34 required by subdivision seven of section 353.3 of this part and subdivi-
35 sion (c) of section one thousand eighty-nine of this act regarding the
36 determinations that the court must make in accordance with subdivision
37 seven of this section.

38 6. The respondent and his or her attorney shall be notified of the
39 hearing and of the respondent's right to be heard and a copy of the
40 permanency petition and accompanying report filed in accordance with
41 subdivision five of this section shall be served on the respondent's
42 attorney. The foster parent caring for the respondent or any pre-adop-
43 tive parent or relative providing care for the respondent, as well as
44 the respondent's parents and other persons legally responsible for the
45 respondent's care, shall be provided with notice of any permanency hear-
46 ing held pursuant to this section by the office of children and family
47 services or the commissioner of social services with whom the respondent
48 was placed. Such foster parent, pre-adoptive parent and relative shall
49 have the right to be heard at any such hearing; provided, however, no
50 such foster parent, pre-adoptive parent or relative shall be construed
51 to be a party to the hearing solely on the basis of such notice and
52 right to be heard. The failure of the foster parent, pre-adoptive
53 parent, or relative caring for the ~~[child]~~ respondent to appear at a
54 permanency hearing shall constitute a waiver of the right to be heard
55 and such failure to appear shall not cause a delay of the permanency

1 hearing nor shall such failure to appear be a ground for the invali-
2 dation of any order issued by the court pursuant to this section.

3 (d) with regard to the completion of placement ordered by the court
4 pursuant to section 353.3 or 355.3 of this part: whether and when the
5 respondent: (i) will be returned to the parent or parents or other
6 persons legally responsible for the respondent's care; (ii) should be
7 placed for adoption with the local commissioner of social services
8 filing a petition for termination of parental rights; (iii) should be
9 referred for legal guardianship; (iv) should be placed permanently with
10 a fit and willing relative; or (v) should be placed in another planned
11 permanent living arrangement with a significant connection to an adult
12 willing to be a permanency resource for the respondent if the respondent
13 is age sixteen or older and (A) the office of children and family
14 services or the local commissioner of social services has documented to
15 the court: (1) the intensive, ongoing, and, as of the date of the hear-
16 ing, unsuccessful efforts made to return the respondent home or secure a
17 placement for the respondent with a fit and willing relative including
18 adult siblings, a legal guardian, or an adoptive parent, including
19 through efforts that utilize search technology including social media to
20 find biological family members for children, (2) the steps being taken
21 to ensure that (I) the respondent's foster family home or child care
22 facility is following the reasonable and prudent parent standard in
23 accordance with guidance provided by the United States department of
24 health and human services, and (II) the respondent has regular, ongoing
25 opportunities to engage in age or developmentally appropriate activities
26 including by consulting with the respondent in an age-appropriate manner
27 about the opportunities of the respondent to participate in activities;
28 and (B) the office of children and family services or the local commis-
29 sioner of social services has documented to the court and the court has
30 determined that there are compelling reasons for determining that it
31 continues to not be in the best interest of the respondent to return
32 home, be referred for termination of parental rights and placed for
33 adoption, placed with a fit and willing relative, or placed with a legal
34 guardian; and (C) the court has made a determination explaining why, as
35 of the date of this hearing, another planned living arrangement with a
36 significant connection to an adult willing to be a permanency resource
37 for the respondent is the best permanency plan for the respondent; and

38 10. (a) If the order resulting from the permanency hearing extends the
39 respondent's placement pursuant to section 355.3 of this part in a
40 foster home or non-secure or limited secure facility or if the respond-
41 ent continues in such placement under a prior order of placement or an
42 extension thereof, the order or an attachment to the order incorporated
43 into the order by reference shall include:

44 (i) a description of the plan to facilitate visitation, including any
45 plans for visits and/or contact with the respondent's siblings;

46 (ii) a service plan aimed at effectuating the permanency goal; and

47 (iii) a direction that the parent or parents or other person or
48 persons legally responsible for the respondent's care shall be notified
49 of any planning conferences, including those held pursuant to subdivi-
50 sion three of section four hundred nine-e of the social services law, of
51 their right to attend the conferences, and their right to have counsel
52 or another representative or companion with them and, further, that the
53 respondent, if fourteen years of age or older, be involved in the devel-
54 opment of plans as required by paragraph (b) of subdivision seven of
55 this section.

(b) Where the court determines that reasonable efforts in the form of services or assistance to the respondent and his or her family would further the respondent's needs and best interests and the need for protection of the community and would make it possible for the respondent to safely return home or to make the transition from foster care to successful adulthood, the court may include in its order a direction for a local social services, mental health or probation official or an official of the office of children and family services or office of mental health, as applicable, to provide or arrange for the provision of services or assistance to the respondent and his or her family. Such order regarding a local social services official shall not include the provision of any service or assistance to the respondent and his or her family that is not authorized or required to be made available pursuant to the county child and family services plan then in effect. In any order issued pursuant to this section, the court may require the official to make periodic progress reports to the court on the implementation of such order. Violation of such order shall be subject to punishment pursuant to section seven hundred fifty-three of the judiciary law.

(c) A copy of the court's order and the attachments shall be given to the respondent and his or her attorney and to the respondent's parent or parents or other person or persons legally responsible for the respondent's care. The order shall also contain a notice that if the respondent remains in foster care for fifteen of the most recent twenty-two months, the agency with which the respondent is placed may be required by law to file a petition to terminate the parental rights of the parent or parents of the respondent.

§ 6. Section 736 of the family court act is amended by adding a new subdivision 4 to read as follows:

(4) In any proceeding under this article, the court shall cause a copy of the petition and notice of the time and place to be heard to be served upon any non-custodial parent of the child, provided that the address of such parent is known to or is ascertainable by the court. Service shall be made by ordinary first class mail at such parent's last known residence. The failure of such parent to appear shall not be cause for delay of the proceedings.

§ 7. Subdivision (a) of section 741 of the family court act, as amended by chapter 41 of the laws of 2010, is amended and a new subdivision (d) is added to read as follows:

(a) At the initial appearance of a respondent in a proceeding and at the commencement of any hearing under this article, the respondent and his or her parent or other person legally responsible for his or her care shall be advised of the respondent's right to remain silent and of the respondent's right to be represented by counsel chosen by him or her or his or her parent or other person legally responsible for his or her care, or by an attorney assigned by the court under part four of article two. ~~[Provided, however, that in]~~ In the event of the failure of the respondent's parent or other person legally responsible for his or her care to appear, after reasonable and substantial effort has been made to notify such parent or responsible person of the commencement of the proceeding and such initial appearance, the court shall appoint an attorney for the respondent and shall, unless inappropriate also appoint a guardian ad litem for such respondent, and in such event, shall inform the respondent of such rights in the presence of such attorney and any guardian ad litem.

(d) Whenever an attorney has been appointed by the family court to 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 post-
5 dispositional proceeding or appeal. All notices and reports required by
6 law shall be provided to such attorney. Such appointment shall continue
7 unless another appointment of an attorney has been made by the court or
8 unless such attorney makes application to the court to be relieved of
9 his or her appointment. Upon approval of such application to be
10 relieved, the court shall immediately appoint another attorney to whom
11 all notices and reports required by law shall be provided. The attorney
12 shall be entitled to compensation pursuant to applicable provisions of
13 law for services rendered up to and including disposition of the peti-
14 tion. The attorney shall, by separate application, be entitled to
15 compensation for services rendered after the disposition of the peti-
16 tion. Nothing in this section shall be construed to limit the authority
17 of the court to remove an attorney from his or her assignment.

18 § 8. Section 756 of the family court act is amended by adding three
19 new subdivisions (d), (e) and (f) to read as follows:

20 (d) Where the respondent is placed pursuant to this section, the
21 dispositional order or an attachment to the order incorporated by refer-
22 ence into the order shall include:

23 (i) a description of the visitation plan, including any plans for
24 visits and/or contact with the respondent's siblings. If the visitation
25 plan has not yet been developed, then the visitation plan must be filed
26 with the court and delivered to the presentment agency, attorney for the
27 respondent and parent or parents or other person or persons legally
28 responsible for the care of the respondent no later than sixty days from
29 the date the disposition was made;

30 (ii) a service plan, if available. If the service plan has not yet
31 been developed, then the service plan must be filed with the court and
32 delivered to the presentment agency, attorney for the respondent and
33 parent or parents or other person or persons legally responsible for the
34 care of the respondent no later than sixty days from the date the dispo-
35 sition was made; and

36 (iii) a direction that the parent or parents or other person or
37 persons legally responsible for care of the respondent shall be notified
38 of any planning conferences to be held pursuant to subdivision three of
39 section four hundred nine-e of the social services law, of their right
40 to attend the conferences, and of their right to have counsel or another
41 representative or companion with them and, further, that the respondent,
42 if fourteen years of age or older, be involved in the development of
43 plans as required by paragraph (ii) of subdivision (d) of section seven
44 hundred fifty-six-a of this part.

45 A copy of the court's order and attachments shall be given to the
46 respondent and his or her attorney and to the respondent's parent or
47 parents or other person or persons legally responsible for the care of
48 the respondent. The order shall also contain a notice that if the
49 respondent remains in placement for fifteen of the most recent twenty-
50 two months, the agency with which the respondent is placed may be
51 required by law to file a petition to terminate the parental rights of
52 the parent or parents of the respondent.

53 (e) Where the respondent has been placed pursuant to this section, the
54 local commissioner of social services or the relative or suitable person
55 with whom the respondent has been placed shall submit a report to the
56 court, the attorney for the respondent and the presentment agency, if

1 any, not later than thirty days prior to the conclusion of the placement
2 period, which, among other information, contains a plan for the release
3 of the respondent to the custody of his or her parent or parents or
4 other person or persons legally responsible for the respondent's care.
5 The plan for the respondent's release shall provide as follows:

6 (i) If the respondent is subject to article sixty-five of the educa-
7 tion law or elects to participate in an educational program leading to a
8 high school diploma following release, such plan shall include, but not
9 be limited to, the steps that the placement agency has taken and will be
10 taking in conjunction with the local education agency to ensure the
11 immediate enrollment of the respondent in an appropriate school or
12 educational program leading to a high school diploma within five busi-
13 ness days of release or, if such release occurs during the summer
14 recess, immediately upon the commencement of the next school term. The
15 placement agency shall ascertain the school calendar from the school
16 district and shall, to the extent possible, work with the school
17 district so that the timing of the respondent's release from the program
18 and enrollment in school are minimally disruptive for the respondent and
19 further his or her best interests. Not less than fourteen days prior to
20 the respondent's release, the placement agency shall notify the school
21 district where the respondent will be attending school and transfer all
22 necessary records, including, but not limited to the respondent's course
23 of study, credits earned and academic record.

24 (ii) If the placement agency has reason to believe that the respondent
25 may have a disability or if the respondent had been found eligible to
26 receive special education services prior to or during the placement, in
27 accordance with article eighty-nine of the education law, such plan
28 shall include, but not be limited to, the steps that the placement agen-
29 cy has taken and will be taking to ensure that the local education agen-
30 cy makes any necessary referrals or arranges for special educational
31 evaluations or services, as appropriate, and provides necessary records
32 immediately in accordance with state and federal law.

33 (iii) If the respondent is not subject to article sixty-five of the
34 education law and elects not to participate in an educational program
35 leading to a high school diploma, such plan shall include, but not be
36 limited to, the steps that the placement agency has taken and will be
37 taking to assist the respondent to become gainfully employed or to be
38 enrolled in a vocational program immediately upon release.

39 (f) Where the local commissioner of social services or the relative or
40 suitable person with whom the respondent has been placed files a peti-
41 tion for an extension of the placement and a permanency hearing pursuant
42 to section seven hundred fifty-six-a of this part, such report shall be
43 submitted not later than sixty days prior to the date on which the
44 permanency hearing must be held, shall be annexed to the petition and
45 shall contain the information required by section seven hundred fifty-
46 six-a of this part.

47 § 9. Subdivision (a), subdivision (b) and the opening paragraph and
48 paragraphs (iv) and (v) of subdivision (d) of section 756-a of the fami-
49 ly court act, subdivision (a) as amended by chapter 309 of the laws of
50 1996, subdivision (b) and the opening paragraph of subdivision (d) as
51 amended by section 4 of part B of chapter 327 of the laws of 2007 and
52 paragraphs (iv) and (v) of subdivision (d) as amended by section 23 of
53 part L of chapter 56 of the laws of 2015, are amended and a new para-
54 graph (vi) is added to subdivision (d) to read as follows:

55 (a) In any case in which the [child] respondent has been placed pursu-
56 ant to section seven hundred fifty-six of this part, the [child]

1 respondent, the person with whom the [~~child~~] respondent has been placed
2 or the commissioner of social services may petition the court to extend
3 such placement. Such petition shall be filed at least sixty days prior
4 to the expiration of the period of placement, except for good cause
5 shown, but in no event shall such petition be filed after the original
6 expiration date. The petition shall be accompanied by a permanency hear-
7 ing report.

8 (i) The permanency hearing report shall contain the information
9 required by subdivision (c) of section one thousand eighty-nine of this
10 act and shall contain recommendations and such supporting data as is
11 appropriate regarding the determinations that the court must make in
12 accordance with subdivision (d) of this section. The permanency hearing
13 report shall include, but is not limited to, a plan for the release of
14 the respondent to the custody of his or her parent or parents or other
15 person or persons legally responsible for the respondent's care, or to
16 another permanency alternative as provided in paragraph (iv) of subdivi-
17 sion (d) of this section. For purposes of this paragraph, "placement
18 agency" shall refer to the commissioner of social services or an author-
19 ized agency under contract with the commissioner of social services with
20 whom the respondent has been placed. The release plan shall provide as
21 follows:

22 (1) If the respondent is subject to article sixty-five of the educa-
23 tion law or elects to participate in an educational program leading to a
24 high school diploma following release, such plan shall include, but not
25 be limited to, the steps that the placement agency has taken and will be
26 taking in conjunction with the local education agency to ensure the
27 immediate enrollment of the respondent in an appropriate school or
28 educational program leading to a high school diploma within five busi-
29 ness days of release or, if such release occurs during the summer
30 recess, immediately upon the commencement of the next school term. The
31 placement agency shall ascertain the school calendar from the school
32 district and shall, to the extent possible, work with the school
33 district so that the timing of the respondent's release from the program
34 and enrollment in school are minimally disruptive for the respondent and
35 further his or her best interests. Not less than fourteen days prior to
36 the respondent's release, the placement agency shall notify the school
37 district where the respondent will be attending school and transfer all
38 necessary records, including, but not limited to the respondent's course
39 of study, credits earned and academic record.

40 (2) If the placement agency has reason to believe that the respondent
41 may have a disability or if the respondent had been found eligible to
42 receive special education services prior to or during the placement, in
43 accordance with article eighty-nine of the education law, such plan
44 shall include, but not be limited to, the steps that the placement agen-
45 cy has taken and will be taking to ensure that the local education agen-
46 cy makes any necessary referrals or arranges for special educational
47 evaluations or services, as appropriate, and provides necessary records
48 immediately in accordance with state and federal law.

49 (3) If the respondent is not subject to article sixty-five of the
50 education law and elects not to participate in an educational program
51 leading to a high school diploma, such plan shall include, but not be
52 limited to, the steps that the placement agency has taken and will be
53 taking to assist the respondent to become gainfully employed or to be
54 enrolled in a vocational program immediately upon release.

55 (b) The court shall conduct a permanency hearing concerning the need
56 for continuing the placement. The [~~child~~] respondent, the person with

1 whom the [child] respondent has been placed and the commissioner of
2 social services shall be notified of such hearing and shall have the
3 right to be heard thereat. A copy of the petition and accompanying
4 permanency hearing report shall be served on the respondent's attorney
5 and upon the respondent's parent or parents.

6 At the conclusion of the permanency hearing the court may, in its
7 discretion, order an extension of the placement for not more than one
8 year, which may include a period of post-release supervision and after-
9 care, or may direct that the respondent be placed on probation for not
10 more than one year, pursuant to section seven hundred fifty-seven of
11 this part, or may order that the petition for an extension of placement
12 be dismissed. The court must consider and determine in its order:

13 (iv) whether and when the [child] respondent: (A) will be returned to
14 the parent; (B) should be placed for adoption with the social services
15 official filing a petition for termination of parental rights; (C)
16 should be referred for legal guardianship; (D) should be placed perma-
17 nently with a fit and willing relative; or (E) should be placed in
18 another planned permanent living arrangement with a significant
19 connection to an adult willing to be a permanency resource for the child
20 if the child is age sixteen or older and (1) the social services offi-
21 cial has documented to the court: (I) intensive, ongoing, and, as of the
22 date of the hearing, unsuccessful efforts made by the social services
23 district to return the child home or secure a placement for the child
24 with a fit and willing relative including adult siblings, a legal guard-
25 ian, or an adoptive parent, including through efforts that utilize
26 search technology including social media to find biological family
27 members for children, (II) the steps the social services district is
28 taking to ensure that (A) the child's foster family home or child care
29 facility is following the reasonable and prudent parent standard in
30 accordance with guidance provided by the United States department of
31 health and human services, and (B) the child has regular, ongoing oppor-
32 tunities to engage in age or developmentally appropriate activities
33 including by consulting with the child in an age-appropriate manner
34 about the opportunities of the child to participate in activities; and
35 (2) the social services district has documented to the court and the
36 court has determined that there are compelling reasons for determining
37 that it continues to not be in the best interest of the child to return
38 home, be referred for termination of parental rights and placed for
39 adoption, placed with a fit and willing relative, or placed with a legal
40 guardian; and (3) the court has made a determination explaining why, as
41 of the date of the hearing, another planned living arrangement with a
42 significant connection to an adult willing to be a permanency resource
43 for the child is the best permanency plan for the child; [and]

44 (v) where the child will not be returned home, consideration of appro-
45 priate in-state and out-of-state placements[-]; and

46 (vi) with regard to the placement or extension of placement ordered by
47 the court pursuant to section seven hundred fifty-six-a of this part,
48 the steps that must be taken by the agency with which the respondent is
49 placed to implement the plan for release submitted pursuant to paragraph
50 (i) of subdivision (a) of this section, the adequacy of such plan and
51 any modifications that should be made to such plan.

52 § 10. Subdivisions (e) and (f) of section 756-a of the family court
53 act are relettered subdivisions (h) and (i) and three new subdivisions
54 (e), (f) and (g) are added to read as follows:

55 (e) If the order from the permanency hearing extends the respondent's
56 placement or if the respondent continues in placement under a prior

1 order, the order or an attachment to the order incorporated into the
2 order by reference shall include:

3 (i) a description of the plan to facilitate visitation, including any
4 plans for visits and/or contact with the respondent's siblings;

5 (ii) a service plan aimed at effectuating the permanency goal; and

6 (iii) a direction that the parent or parents or other person or
7 persons legally responsible for the respondent's care shall be notified
8 of any planning conferences, including those held pursuant to subdivi-
9 sion three of section four hundred nine-e of the social services law, of
10 their right to attend the conferences, and their right to have counsel
11 or another representative or companion with them and, further, that the
12 respondent, if fourteen years of age or older, be involved in the devel-
13 opment of plans as required by paragraph (ii) of subdivision (d) of this
14 section.

15 (f) Where the court determines that reasonable efforts in the form of
16 services or assistance to the respondent and his or her family would
17 further the respondent's needs and best interests and would make it
18 possible for the respondent to safely return home or to make the transi-
19 tion from foster care to successful adulthood, the court may include in
20 its order a direction for a local social services, mental health or
21 probation official or an official of the office of children and family
22 services or office of mental health, as applicable, to provide or
23 arrange for the provision of services or assistance to the respondent
24 and his or her family. Such order regarding a local social services
25 official shall not include the provision of any service or assistance to
26 the respondent and his or her family that is not authorized or required
27 to be made available pursuant to the county child and family services
28 plan then in effect. In any order issued pursuant to this section, the
29 court may require the official to make periodic progress reports to the
30 court on the implementation of such order. Violation of such order shall
31 be subject to punishment pursuant to section seven hundred fifty-three
32 of the judiciary law.

33 (g) A copy of the court's order and the attachments shall be given to
34 the respondent and his or her attorney and to the respondent's parent or
35 parents or other person or persons legally responsible for the respond-
36 ent's care. The order shall also contain a notice that if the respondent
37 remains in foster care for fifteen of the most recent twenty-two months,
38 the agency with which the respondent is placed may be required by law to
39 file a petition to terminate the parental rights of the parent or
40 parents of the respondent.

41 § 11. This act shall take effect on the ninetieth day after it shall
42 have become a law.