

STATE OF NEW YORK

9613--A

IN ASSEMBLY

January 21, 2026

Introduced by M. of A. TAPIA -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, the social services law and the domestic relations law, in relation to protecting family relationships to ensure that family ties are not severed unnecessarily or counter to children's best interests; and to repeal certain provisions of the family court act and the social services law, in relation thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "family protection act".

3 § 2. Subparagraphs 4, 5 and 6 of paragraph (c) of subdivision 2 of
4 section 352.2 of the family court act, as added by chapter 7 of the laws
5 of 1999, are amended to read as follows:

6 (4) the parent of such respondent has been convicted of assault in the
7 second degree as defined in section 120.05, assault in the first degree
8 as defined in section 120.10 or aggravated assault upon a person less
9 than eleven years old as defined in section 120.12 of the penal law, and
10 the commission of one of the foregoing crimes resulted in serious phys-
11 ical injury to the respondent or another child of the parent; or

12 (5) the parent of such respondent has been convicted in any other
13 jurisdiction of an offense which includes all of the essential elements
14 of any crime specified in subparagraph two, three or four of this para-
15 graph, and the victim of such offense was the respondent or another
16 child of the parent[~~or~~

17 ~~(6) the parental rights of the parent to a sibling of such respondent~~
18 ~~have been involuntarily terminated; unless the court determines that~~
19 ~~providing reasonable efforts would be in the best interests of the~~
20 ~~child, not contrary to the health and safety of the child, and would~~
21 ~~likely result in the reunification of the parent and the child in the~~
22 ~~foreseeable future. The court shall state such findings in its order].~~

23 § 3. The part heading of part 1 of article 6 of the family court act
24 is amended to read as follows:

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

LBD14117-02-6

PERMANENT TERMINATION OF PARENTAL CUSTODY [~~BY REASON OF~~
~~PERMANENT NEGLECT~~]

§ 4. Section 611 of the family court act, as amended by chapter 666 of the laws of 1976, is amended to read as follows:

§ 611. [~~Permanently neglected child, purpose~~] Purpose of part. The purpose of this part is to provide the procedures for proceedings initiated in family court, pursuant to section three hundred eighty-four-b of the social services law, for the commitment of the guardianship and custody of a child upon the ground that the child is an abandoned child or a permanently neglected child, or upon the ground that the parent is unable to presently and for the foreseeable future to provide proper and adequate care for a child by reason of a mental illness or intellectual disability. As used in this part, the terms "abandoned", "permanently neglected child", "mental illness", and "intellectual disability" shall [~~mean permanently neglected child~~] have the same meanings as defined in [~~subdivision seven of~~] section three hundred eighty-four-b of the social services law, and unless the context requires otherwise, the provisions of such section three hundred eighty-four-b shall be deemed applicable requirements in addition to the procedures contained in this part. All references in this part to petitions and proceedings initiated "under this part" shall be deemed references to petitions and proceedings initiated under section three hundred eighty-four-b of the social services law [~~upon the ground that the child is a permanently neglected child~~].

§ 5. Section 614 of the family court act, as amended by chapter 666 of the laws of 1976, paragraphs (d) and (e) of subdivision 1 as amended by section 4 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

§ 614. Originating proceeding for the commitment of the guardianship and custody of a [~~permanently neglected~~] child. 1. A proceeding for the commitment of the guardianship and custody of a child [~~on the ground of permanent neglect~~] is originated by a petition[~~, alleging~~].

2. In the case of a petition for the commitment of the guardianship and custody of a child on the ground of permanent neglect:

(a) the petition shall allege that:

(i) the child is a person under eighteen years of age;

[~~(b)~~] (ii) the child is in the care of an authorized agency;

[~~(c)~~] (iii) the authorized agency has made diligent efforts to encourage and strengthen the parental relationship and specifying the efforts made or that such efforts would be detrimental to the best interests of the child and specifying the reasons therefor;

[~~(d)~~] (iv) the parent or custodian, notwithstanding the agency's efforts, has failed for a period of either at least one year or fifteen out of the most recent twenty-two months following the date such child came into the care of an authorized agency substantially and continuously or repeatedly to maintain contact with or plan for the future of the child, although physically and financially able to do so; and

[~~(e)~~] (v) the best interests of the child require that the guardianship and custody of the child be committed to an authorized agency or to a foster parent authorized to originate this proceeding under section one thousand eighty-nine of this act[~~, and~~]; and

[~~2. Where~~] (b) where the petitioner is not the authorized agency, allegations relating to the efforts of the authorized agency may be made upon information and belief.

1 3. In the case of a petition for the commitment of the guardianship
2 and custody of a child on the ground of abandonment, the petition shall
3 allege that:

4 (a) the child is a person under eighteen years of age;

5 (b) the child is in the care of an authorized agency;

6 (c) for the period of six months immediately prior to the date on
7 which the petition is filed in the court, the parent evinced an intent
8 to forego such parent's parental rights and obligations as manifested by
9 such parent's failure to visit the child and communicate with the child
10 or agency;

11 (d) during the period of six months immediately prior to the date on
12 which the petition is filed in the court, the parent was able to visit
13 the child and communicate with the child and agency, and was not
14 prevented or discouraged from doing so by the agency; and

15 (e) the best interests of the child require that the guardianship and
16 custody of the child be committed to an authorized agency or to a foster
17 parent authorized to originate this proceeding under section one thou-
18 sand eighty-nine of this act.

19 4. In the case of a petition for the commitment of the guardianship
20 and custody of a child on the ground that the parent is unable presently
21 and for the foreseeable future to provide proper and adequate care for a
22 child by reason of mental illness or intellectual disability, the peti-
23 tion shall allege that:

24 (i) the child is a person under eighteen years of age;

25 (ii) the child is in the care of an authorized agency;

26 (iii) the parent has a mental illness or intellectual disability, as
27 such terms are defined by subdivision six of section three hundred
28 eighty-four-b of the social services law; and

29 (iv) the best interests of the child require that the guardianship and
30 custody of the child be committed to an authorized agency or to a foster
31 parent authorized to originate this proceeding under section one thou-
32 sand eighty-nine of this act.

33 § 6. Section 616 of the family court act, as amended by chapter 666 of
34 the laws of 1976, is amended to read as follows:

35 § 616. Issuance of summons. On the filing of a petition under this
36 part, the court may cause a copy of the petition and a summons to be
37 issued, requiring the parent to show cause why the court should not
38 enter an order committing the guardianship and custody of the child to
39 the petitioner [~~for the reason that the child is permanently neglected~~].

40 § 7. Section 622 of the family court act, as amended by chapter 123 of
41 the laws of 1982, is amended to read as follows:

42 § 622. Definition of "fact-finding hearing". When used in this part,
43 "fact-finding hearing" means in the case of a petition for the commit-
44 ment of the guardianship and custody of a child based on permanent
45 neglect, a hearing to determine whether [~~the allegations required by~~
46 ~~paragraphs (a), (b), (c), and (d) of subdivision one of section six~~
47 ~~hundred fourteen are supported by clear and convincing proof] such child
48 is permanently neglected, in the case of a petition for the commitment
49 of the guardianship and custody of a child based on abandonment, a hear-
50 ing to determine whether a child is abandoned, and in the case of a
51 petition for the commitment of the guardianship and custody of a child
52 based on mental illness or intellectual disability, a hearing to deter-
53 mine whether the requirements of paragraph (c) of subdivision four of
54 section three hundred eighty-four-b of the social services law are met.~~

55 § 8. Section 631 of the family court act, as amended by chapter 469 of
56 the laws of 2007, is amended to read as follows:

1 § 631. Disposition [~~on adjudication of permanent neglect~~]. 1. At the
2 conclusion of a dispositional hearing on a petition for the commitment
3 of the guardianship and custody of a child, the court shall enter an
4 order of disposition:

5 (a) dismissing the petition in accord with section six hundred thir-
6 ty-two; or

7 (b) suspending judgment in accord with section six hundred thirty-
8 three; or

9 (c) committing the guardianship and custody of the child in accord
10 with section six hundred thirty-four; provided, however, that an order
11 of disposition committing the guardianship and custody of the child may
12 not be entered after the child's eighteenth birthday, unless the child
13 consents[+]; or

14 (d) granting custody or guardianship of the child to a relative or
15 other suitable person; or

16 (e) where the court finds that it would be in the child's best inter-
17 ests to grant an order of kinship guardianship of the child to a rela-
18 tive or other suitable person who would be eligible for kinship guardi-
19 anship assistance, but the prospective guardian and the social services
20 district have not yet entered into an agreement to provide kinship guar-
21 dianship assistance payments for the child under title ten of article
22 six of the social services law, ordering the petitioner to assist the
23 prospective guardian to file the necessary paperwork for kinship guardi-
24 anship, and setting a date certain for a hearing to ensure that the
25 necessary paperwork has been completed and the case is progressing.

26 2. (a) An order of disposition shall be made, pursuant to this
27 section, solely on the basis of the best interests of the child, and
28 [there shall be no presumption that such interests will be promoted by
29 any particular disposition] an order committing the guardianship and
30 custody of a child pursuant to this section shall be granted only upon a
31 finding by clear and convincing evidence that it is in the best inter-
32 ests of the child. In determining the best interests of the child, the
33 court shall consider:

34 (i) the child's interest in growing up in a permanent home;

35 (ii) the child's interests in continuing connection to parents,
36 siblings, extended family, and the child's community, and whether a
37 termination of parental rights would jeopardize such connections; and

38 (iii) whether the child is likely to be adopted if parental rights are
39 terminated.

40 (b) The court shall not terminate parental rights unless it has
41 considered and eliminated less drastic alternatives, including but not
42 limited to, an order of custody or guardianship to a relative or other
43 suitable person, and the court has found that termination of parental
44 rights is strictly necessary to ensure the best interests of the child.

45 § 9. Subparagraphs (iv), (v) and (vi) of paragraph (b) of subdivision
46 2 of section 754 of the family court act, as added by chapter 7 of the
47 laws of 1999, are amended to read as follows:

48 (iv) the parent of such child has been convicted of assault in the
49 second degree as defined in section 120.05, assault in the first degree
50 as defined in section 120.10 or aggravated assault upon a person less
51 than eleven years old as defined in section 120.12 of the penal law, and
52 the commission of one of the foregoing crimes resulted in serious phys-
53 ical injury to the child or another child of the parent; or

54 (v) the parent of such child has been convicted in any other jurisdic-
55 tion of an offense which includes all of the essential elements of any
56 crime specified in subparagraph (ii), (iii) or (iv) of this paragraph,

1 and the victim of such offense was the child or another child of the
2 parent[~~, or~~

3 ~~(vi) the parental rights of the parent to a sibling of such child have~~
4 ~~been involuntarily terminated,~~
5 ~~unless the court determines that providing reasonable efforts would be~~
6 ~~in the best interests of the child, not contrary to the health and safe-~~
7 ~~ty of the child, and would likely result in the reunification of the~~
8 ~~parent and the child in the foreseeable future. The court shall state~~
9 ~~such findings in its order].~~

10 § 10. Paragraphs 4, 5 and 6 of subdivision (b) of section 1039-b of
11 the family court act, as added by chapter 7 of the laws of 1999, are
12 amended to read as follows:

13 (4) the parent of such child has been convicted of assault in the
14 second degree as defined in section 120.05, assault in the first degree
15 as defined in section 120.10 or aggravated assault upon a person less
16 than eleven years old as defined in section 120.12 of the penal law, and
17 the commission of one of the foregoing crimes resulted in serious phys-
18 ical injury to the child or another child of the parent; or

19 (5) the parent of such child has been convicted in any other jurisdic-
20 tion of an offense which includes all of the essential elements of any
21 crime specified in paragraph two, three or four of this subdivision, and
22 the victim of such offense was the child or another child of the
23 parent[~~, or~~

24 ~~(6) the parental rights of the parent to a sibling of such child have~~
25 ~~been involuntarily terminated,~~
26 ~~unless the court determines that providing reasonable efforts would be~~
27 ~~in the best interests of the child, not contrary to the health and safe-~~
28 ~~ty of the child, and would likely result in the reunification of the~~
29 ~~parent and the child in the foreseeable future. The court shall state~~
30 ~~such findings in its order].~~

31 § 11. Clauses 4, 5 and 6 of subparagraph (A) of paragraph (i) of
32 subdivision (b) of section 1052 of the family court act, as amended by
33 chapter 7 of the laws of 1999, are amended to read as follows:

34 (4) the parent of such child has been convicted of assault in the
35 second degree as defined in section 120.05, assault in the first degree
36 as defined in section 120.10 or aggravated assault upon a person less
37 than eleven years old as defined in section 120.12 of the penal law, and
38 the commission of one of the foregoing crimes resulted in serious phys-
39 ical injury to the child or another child of the parent; or

40 (5) the parent of such child has been convicted in any other jurisdic-
41 tion of an offense which includes all of the essential elements of any
42 crime specified in clause two, three or four of this subparagraph, and
43 the victim of such offense was the child or another child of the
44 parent[~~, or~~

45 ~~(6) the parental rights of the parent to a sibling of such child have~~
46 ~~been involuntarily terminated,~~
47 ~~unless the court determines that providing reasonable efforts would be~~
48 ~~in the best interests of the child, not contrary to the health and safe-~~
49 ~~ty of the child, and would likely result in the reunification of the~~
50 ~~parent and the child in the foreseeable future. The court shall state~~
51 ~~such findings in its order].~~

52 § 12. Subparagraph (iii) of paragraph 4 and subparagraph (viii) of
53 paragraph 5 of subdivision (c) and subparagraphs (iii) and (iv) of para-
54 graph 2 of subdivision (d) of section 1089 of the family court act,
55 subparagraph (iii) of paragraph 4 of subdivision (c) as amended by
56 section 9, subparagraph (viii) of paragraph 5 of subdivision (c) as

1 amended by section 10, clause (B) of subparagraph (iii) and subparagraph
2 (iv) of paragraph 2 of subdivision (d) as amended by section 12 of part
3 B of chapter 327 of the laws of 2007, and subparagraph (iii) of para-
4 graph 2 of subdivision (d) as added by section 27 of part A of chapter 3
5 of the laws of 2005, are amended to read as follows:

6 (iii) where return home of the child is not likely, the reasonable
7 efforts that have been made by the local social services district or
8 agency to evaluate and plan for another permanent plan, including:

9 (A) consideration of appropriate in-state and out-of-state place-
10 ments[.];

11 (B) consideration of guardianship or custody as potential permanent
12 options for the child;

13 (C) efforts made to develop a permanent plan for the child that would
14 maintain the child's connection to their family and community; and

15 (D) any other steps taken to further a permanent plan other than
16 return to the child's parent; or

17 (viii) where return home of the child is not likely, the efforts that
18 will be made to evaluate or plan for another permanent plan, including:

19 (A) consideration of appropriate in-state and out-of-state placements;

20 (B) consideration of guardianship or custody as potential permanent
21 options for the child; and

22 (C) efforts that will be made to develop a permanent plan for the
23 child that would maintain the child's connection to their family and
24 community; and

25 (iii) determining whether reasonable efforts have been made to effec-
26 tuate the child's permanency plan as follows:

27 (A) unless the child is freed for adoption or there has been a deter-
28 mination by a court that such efforts are not required pursuant to
29 section one thousand thirty-nine-b of this act, whether reasonable
30 efforts have been made to eliminate the need for placement of the child
31 and to enable the child to safely return home; or

32 (B) where the permanency plan is adoption, guardianship, placement
33 with a fit and willing relative or another planned permanent living
34 arrangement other than return to parent, whether reasonable efforts have
35 been made to make and finalize such alternate permanent placement,
36 including:

37 (I) consideration of appropriate in-state and out-of-state placements;

38 (II) consideration of guardianship or custody as potential permanent
39 options for the child; and

40 (III) efforts made to develop a permanent plan for the child that
41 would maintain the child's connection to their family and community;

42 (iv) where return home of the child is not likely, what efforts should
43 be made to evaluate or plan for another permanent plan, including:

44 (A) consideration of appropriate in-state and out-of-state placements;

45 (B) consideration of guardianship or custody as potential permanent
46 options for the child; and

47 (C) efforts to develop a permanent plan for the child that would main-
48 tain the child's connection to their family and community;

49 § 13. Subparagraphs (vi), (vii) and (viii) of paragraph 2 of subdivi-
50 sion (d) of section 1089 of the family court act are relettered subpara-
51 graphs (vii), (viii) and (ix) and a new subparagraph (vi) is added to
52 read as follows:

53 (vi) unless it finds such efforts would be detrimental to the best
54 interests of the child or there has been a prior court order finding
55 that such efforts are not required, the court shall make an order
56 directing a local social services district or agency to undertake dili-

1 gent efforts to encourage and strengthen the parental relationship. Such
2 efforts shall include encouraging and facilitating visitation with the
3 child by the parent or other person legally responsible for the child's
4 care. Such order may include a specific plan of action for the local
5 social services district or agency including, but not limited to,
6 requirements that such agency assist the parent or other person legally
7 responsible for the child's care in obtaining adequate housing, employ-
8 ment, counseling, medical care or psychiatric treatment. If a parent
9 known to the agency has not established legal parentage with regard to
10 the child, such order shall include explaining the process of establish-
11 ing parentage to the child's parent and assisting the parent with that
12 process if the parent wishes to undertake it. Such order shall also
13 include encouraging and facilitating visitation with the child by the
14 noncustodial parent and grandparents who have the right to visitation
15 pursuant to section one thousand eighty-one of this act. Such order may
16 also include encouraging and facilitating regular visitation and commu-
17 nication with the child by the child's siblings and may incorporate an
18 order, if any, issued pursuant to this section or section one thousand
19 twenty-seven-a or section one thousand eighty-one of this act, or pursu-
20 ant to section three hundred fifty-eight-a of the social services law or
21 section seventy-one of the domestic relations law. For purposes of this
22 subparagraph, "siblings" shall include half-siblings and those who would
23 be deemed siblings or half-siblings but for the surrender, termination
24 of parental rights or death of a parent. Nothing in this subparagraph
25 shall be deemed to limit the authority of the court to make an order
26 pursuant to section two hundred fifty-five of this act. If the court
27 directs the local social services district or agency to provide a
28 service required by section four hundred nine-d of the social services
29 law and its implementing regulations and such agency fails to provide
30 that service, the court shall enter a finding that the agency has not
31 made reasonable efforts at the next permanency hearing unless it finds
32 good cause for the agency's failure. For purposes of this subparagraph,
33 good cause shall not be established by a claim that the service is
34 unavailable;

35 § 14. Clause (F) of subparagraph (ix) of paragraph 2 of subdivision
36 (d) of section 1089 of the family court act, subparagraph (ix) as relet-
37 tered by section thirteen of this act, is REPEALED.

38 § 15. Subparagraphs 4, 5 and 6 of paragraph (b) of subdivision 3 of
39 section 358-a of the social services law, as added by chapter 7 of the
40 laws of 1999, are amended to read as follows:

41 (4) the parent of such child has been convicted of assault in the
42 second degree as defined in section 120.05, assault in the first degree
43 as defined in section 120.10 or aggravated assault upon a person less
44 than eleven years old as defined in section 120.12 of the penal law, and
45 the commission of one of the foregoing crimes resulted in serious phys-
46 ical injury to the child or another child of the parent; or

47 (5) the parent of such child has been convicted in any other jurisdic-
48 tion of an offense which includes all of the essential elements of any
49 crime specified in subparagraph two, three or four of this paragraph,
50 and the victim of such offense was the child or another child of the
51 parent[~~, or~~

52 ~~(6) the parental rights of the parent to a sibling of such child have~~
53 ~~been involuntarily terminated,~~
54 ~~unless the court determines that providing reasonable efforts would be~~
55 ~~in the best interests of the child, not contrary to the health and safe-~~
56 ~~ty of the child, and would likely result in the reunification of the~~

~~parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 16. Subdivision 3 of section 383 of the social services law, as amended by chapter 141 of the laws of 1985, is amended to read as follows:

3. Any adult [~~husband and his adult wife and~~] married couple or any adult unmarried person, who, as foster parent or parents, have cared for a child continuously for a period of twelve months or more, may apply to such authorized agency for the placement of said child with them for the purpose of adoption, and if said child is eligible for adoption, the agency shall give preference and first consideration to their application over all other applications by non-relatives of the child for adoption placements. However, final determination of the propriety of said adoption of such foster child shall be within the sole discretion of the court, as otherwise provided herein and under section one hundred eleven of the domestic relations law.

~~[Foster parents having had continuous care of a child, for more than twelve months, through an authorized agency, shall be permitted as a matter of right, as an interested party to intervene in any proceeding involving the custody of the child. Such intervention may be made anonymously or in the true name of said foster parents.]~~

§ 17. Subdivision 1 of section 384-b of the social services law, as amended by chapter 312 of the laws of 2002, is amended to read as follows:

1. Statement of legislative findings and intent.

(a) The legislature recognizes that the health and safety of children is of paramount importance. To the extent it is consistent with the health and safety of the child, the legislature further hereby finds that:

(i) it is desirable for children to grow up with a [~~normal~~] family life in a permanent home and that such circumstance offers the best opportunity for children to develop and thrive;

(ii) it is generally desirable for the child to remain with or be returned to the birth parent because the child's need for a [~~normal~~] family life will usually best be met in the home of its birth parent, and that parents are entitled to bring up their own children unless the best interests of the child would be thereby endangered;

(iii) the state's first obligation is to help the family with services to prevent its break-up or to reunite it if the child has already left home; and

(iv) when it is clear that the birth parent cannot or will not provide a [~~normal~~] safe family home for the child and when continued foster care is not an appropriate plan for the child, then a permanent alternative home should be sought for the child;

(v) when a child cannot grow up in the home of a parent, the child's family and community connections remain important to the child's well-being, including connections to their parents, siblings, extended family members, and members of communities into which the child was born; and

(vi) permanently severing a child's legal relationship to a parent is an extreme measure that should only be taken when it has been determined that there is no alternative that would serve the interests of the child.

(b) The legislature further finds that many children who have been placed in foster care experience unnecessarily protracted stays in such care [~~without being adopted or returned to their parents or other custodians~~]. Such unnecessary stays may deprive these children of positive,

1 nurturing family relationships and have deleterious effects on their
2 development into responsible, productive citizens. The legislature
3 further finds that when children are unable to return home to their
4 parents, provision of a timely procedure for [~~the termination, in appro-~~
5 ~~priate cases, of the rights of the birth parents~~] developing alternative
6 permanency plans could reduce such unnecessary stays.

7 It is the intent of the legislature in enacting this section to
8 provide procedures not only assuring that the rights of the birth parent
9 are protected, but also, where positive, nurturing parent-child
10 relationships no longer exist, furthering the best interests, needs, and
11 rights of the child by place the child in the custody or guardianship of
12 a relative or other suitable person or terminating parental rights and
13 freeing the child for adoption.

14 § 18. Paragraph (i) of subdivision 3 of section 384-b of the social
15 services law is REPEALED.

16 § 19. Subparagraph (ii) of paragraph (1) of subdivision 3 of section
17 384-b of the social services law, as amended by chapter 145 of the laws
18 of 2000, is amended to read as follows:

19 (ii) For the purposes of this section, a compelling reason whereby a
20 social services official is not required to file a petition for termi-
21 nation of parental rights in accordance with subparagraph (i) of this
22 paragraph includes, but is not limited to, where:

23 (A) the child was placed into foster care pursuant to article three or
24 seven of the family court act and a review of the specific facts and
25 circumstances of the child's placement demonstrate that the appropriate
26 permanency goal for the child is either to:

27 (1) return such child to [~~his or her~~] such child's parent or guardian
28 [~~or~~];

29 (2) discharge such child to the custody or guardian of a relative or
30 other suitable person; or

31 (3) discharge such child to independent living;

32 (B) the child has a permanency goal other than adoption;

33 (C) the child is fourteen years of age or older and will not consent
34 to [~~his or her~~] such child's adoption;

35 (D) a potential adoptive parent has not been identified and there is
36 not a basis to find that it is likely a potential adoptive parent will
37 be identified;

38 (E) the agency has not yet met with the caregiver for the child to
39 discuss guardianship as an alternative to adoption;

40 (F) there are insufficient grounds for filing a petition to terminate
41 parental rights; [~~or~~

42 (E)] (G) the child is the subject of a pending disposition under arti-
43 cle ten of the family court act, except where such child is already in
44 the custody of the commissioner of social services as a result of a
45 proceeding other than the pending article ten proceeding, and a review
46 of the specific facts and circumstances of the child's placement demon-
47 strate that the appropriate permanency goal for the child is discharge
48 to [~~his or her~~] such child's parent or guardian; or

49 (H) the respondent is in foster care or was in foster care at the time
50 that the child entered the care of the authorized agency.

51 § 20. Paragraph (b) of subdivision 5 of section 384-b of the social
52 services law, as added by chapter 666 of the laws of 1976, is amended to
53 read as follows:

54 (b) The subjective intent of the parent, whether expressed or other-
55 wise, unsupported by evidence of the foregoing parental acts manifesting
56 such intent, shall not preclude a determination that such parent has

1 abandoned [~~his or her~~] such parent's child. In making such determi-
2 nation, the court shall [~~not~~] require a showing [~~of diligent efforts, if~~
3 ~~any, by an authorized agency to encourage the parent to perform the acts~~
4 ~~specified in paragraph (a) of this subdivision~~] that the authorized
5 agency made affirmative efforts to locate and contact the parent within
6 the six-month abandonment period.

7 § 21. Subdivision 6 of section 384-b of the social services law is
8 amended by adding a new paragraph (c-1) to read as follows:

9 (c-1) In every proceeding upon a ground set forth in paragraph (c) of
10 subdivision four of this section, the agency shall demonstrate that it
11 has made diligent efforts to encourage and strengthen the parental
12 relationship, including efforts to rehabilitate the respondent, when
13 such efforts will not be detrimental to the best interests of the child,
14 and such efforts have been unsuccessful and are unlikely to be success-
15 ful in the foreseeable future. Where a court has previously determined
16 in accordance with this chapter or the family court act that reasonable
17 efforts to make it possible for the child to return safely to such
18 child's home are not required, the agency shall not be required to
19 demonstrate diligent efforts as set forth in this section.

20 § 22. Paragraphs (e) and (f) of subdivision 7 of section 384-b of the
21 social services law, as amended by chapter 911 of the laws of 1983 and
22 subparagraph (i) of paragraph (e) and subparagraphs 4 and 5 of paragraph
23 (f) as amended and subparagraph 6 of paragraph (f) as added by chapter
24 113 of the laws of 2010, are amended to read as follows:

25 (e) Notwithstanding the provisions of paragraph (a) of this subdivi-
26 sion, evidence of diligent efforts by an agency to encourage and
27 strengthen the parental relationship shall not be required when:

28 (i) The parent has failed for a period of six months to keep the agen-
29 cy apprised of [~~his or her~~] their location, provided that the court may
30 consider the particular delays or barriers an incarcerated parent or
31 parents, [~~or~~] a parent or parents participating in a residential
32 substance abuse treatment program, or a parent or parents with limited
33 financial resources and access to technology may experience in keeping
34 the agency apprised of [~~his or her~~] their location; or

35 (ii) An incarcerated parent has regularly failed [~~on more than one~~
36 ~~occasion~~] while incarcerated to cooperate with an authorized agency in
37 its efforts to assist such parent to plan for the future of the child,
38 as such phrase is defined in paragraph (c) of this subdivision, or in
39 such agency's efforts to plan and arrange visits with the child as
40 described in subparagraph [~~five~~] six of paragraph (f) of this subdivi-
41 sion.

42 (f) As used in this subdivision, "diligent efforts" shall mean
43 [~~reasonable~~] affirmative, repeated, and meaningful attempts by an
44 authorized agency to assist, develop and encourage a meaningful
45 relationship between the parent and child, including but not limited to:

46 (1) consultation and cooperation with the parents in developing a plan
47 for appropriate services to the child and [~~his~~] such child's family;

48 (2) making suitable arrangements for the parents to visit the child
49 except that with respect to an incarcerated parent, arrangements for the
50 incarcerated parent to visit the child outside the correctional facility
51 shall not be required unless reasonably feasible and in the best inter-
52 est of the child;

53 (3) provision of services and other assistance to the parents,
54 [~~except~~] including incarcerated parents to the extent services can be
55 made available to the incarcerated parent, so that problems preventing
56 the discharge of the child from care may be resolved or ameliorated;

1 (4) informing the parents at regular and appropriate intervals of the
2 child's progress, development and health;

3 (5) encouraging the parents' involvement with the child's education
4 and medical care and supporting the parents in exercising their educa-
5 tional and medical decision-making rights as to the child unless a court
6 has appointed an educational or medical surrogate for the child;

7 (6) making suitable arrangements with a correctional facility and
8 other appropriate persons for an incarcerated parent to visit the child
9 within the correctional facility, [~~if~~] unless such visiting is [~~in~~]
10 contrary to the best interests of the child. When no visitation between
11 child and incarcerated parent has been arranged for or permitted by the
12 authorized agency because such visitation is determined not to be in the
13 best interest of the child, then no permanent neglect proceeding under
14 this subdivision shall be initiated on the basis of the lack of such
15 visitation. Such arrangements shall include, but shall not be limited
16 to, the transportation of the child to the correctional facility, and
17 providing or suggesting social or rehabilitative services to resolve or
18 correct the problems other than incarceration itself which impair the
19 incarcerated parent's ability to maintain contact with the child. When
20 the parent is incarcerated in a correctional facility located outside
21 the state, the provisions of this subparagraph shall be construed to
22 require that an authorized agency make such arrangements with the
23 correctional facility only if reasonably feasible and permissible in
24 accordance with the laws and regulations applicable to such facility;
25 and

26 [~~(6)~~] (7) providing information which the authorized agency shall
27 obtain from the office of children and family services, outlining the
28 legal rights and obligations of a parent who is incarcerated or in a
29 residential substance abuse treatment program whose child is in custody
30 of an authorized agency, and on social or rehabilitative services avail-
31 able in the community, including family visiting services, to aid in the
32 development of a meaningful relationship between the parent and child.
33 Wherever possible, such information shall include transitional and fami-
34 ly support services located in the community to which an incarcerated
35 parent or parent participating in a residential substance abuse treat-
36 ment program shall return.

37 § 23. Paragraph (d) of subdivision 1 of section 111 of the domestic
38 relations law, as amended by chapter 828 of the laws of 2022, is amended
39 to read as follows:

40 (d) Of any person or authorized agency having lawful custody or guar-
41 dianship of the adoptive child, unless, in the case of the adoption of a
42 child transferred to the custody and guardianship of an authorized agen-
43 cy pursuant to section three hundred eighty-four-b of the social
44 services law or section three hundred eighty-three-c of the social
45 services law, the court finds that it would be in the child's best
46 interests to be adopted by an individual or couple other than the adop-
47 tive resource approved by the agency, in which case the court may order
48 the child's adoption by that individual or couple over the agency's
49 objection;

50 § 24. This act shall take effect immediately.