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

2588

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. CLARK -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to service of summonses upon parents in juvenile delinquency cases

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

Section 1. Section 312.1 of the family court act is amended by adding a new subdivision 4 to read as follows:

4. UPON THE FILING OF A PETITION UNDER THIS ARTICLE, THE COURT SHALL ISSUE A SUMMONS TO EACH PARENT OF THE RESPONDENT, INCLUDING A NON-CUSTODIAL PARENT, APART FROM THE PARENT OR PERSON LEGALLY RESPONSIBLE NAMED IN SUBDIVISION ONE OF THIS SECTION, PROVIDED THAT THE ADDRESS OF SUCH NOTICED PARENT HAS BEEN PROVIDED BY THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES OR PRESENTMENT AGENCY. THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES AND PRESENTMENT AGENCY SHALL ASK THE CUSTODIAL PARENT OR PERSON LEGALLY RESPONSIBLE FOR INFORMATION REGARDING ANY OTHER PARENT OR PARENTS OF THE RESPONDENT. THE SUMMONS SHALL PROVIDE NOTICE TO THE PARENT OR PARENTS OF THE RIGHT TO APPEAR AND PARTICIPATE IN THE PROCEEDING AND TO SEEK TEMPORARY RELEASE OR, UPON DISPOSITION, DIRECT PLACEMENT, OF THE RESPONDENT. THE PRESENTMENT AGENCY SHALL PERSONALLY SERVE THE SUMMONS AND PETITION AT LEAST TWENTY-FOUR HOURS BEFORE THE TIME STATED IN SUCH SUMMONS AND PETITION FOR APPEARANCE, OR MAY SERVE THE SUMMONS AND PETITION BY MAIL AT LEAST FIVE DAYS BEFORE SUCH DATE. THE FAILURE OF SUCH NOTICED PARENT TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE RESPONDENT'S INITIAL APPEARANCE, AS DEFINED BY SECTION 320.1 OF THIS ARTICLE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law, and shall apply to any juvenile who is the subject of a juvenile delinquency petition filed on or after such effective date.

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

LBD04969-01-9