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

5617

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. ERRIGO, McDONOUGH, TOBACCO, FINCH -- Multi-Sponsored by -- M. of A. BOYLAND, BUTLER, CORWIN, McKEVITT, SALADINO, SPANO -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to the temporary removal of a child with consent

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

Section 1. Section 1021 of the family court act, as amended by section 12 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1021. Temporary removal with consent. (A) A peace officer, acting pursuant to his or her special duties, or a police officer or an agent of a duly authorized agency, association, society or institution may temporarily remove a child from the place where he or she is residing with the written consent of his or her parent or other person legally responsible for his or her care, if the child is suspected to be an abused or neglected child under this article PROVIDED THAT: (I) THE PARENT OR LEGALLY RESPONSIBLE PERSON IS INFORMED OF THE RIGHT NOT TO CONSENT TO REMOVAL; AND (II) THE CONSENT OF THE PARENT OR LEGALLY RESPONSIBLE PERSON IS NOT OBTAINED BY COERCION. The officer or agent shall, coincident with consent or removal, give written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this article, and of the right to be represented by counsel and the procedures for those who are indigent to obtain counsel in proceedings brought pursuant to this article. Such notice shall also include the name, title, organization, address and telephone number of the person removing the child; the name, address and telephone number of the authorized agency to which the child will be

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

taken, if available; and the telephone number of the person to be contacted for visits with the child.

(B) A copy of the instrument whereby the parent or legally responsible person has given such consent to such removal shall be appended to the petition alleging abuse or neglect of the removed child and made a part of the permanent court record of the proceeding. A copy of such instrument and notice of the telephone number of the child protective agency to contact to ascertain the date, time and place of the filing of the petition and of the hearing that will be held pursuant to section one thousand twenty-seven of this article shall be given to the parent or legally responsible person. Unless the child is returned sooner, a petition shall be filed within three court days from the date of removal. In such a case, a hearing shall be held no later than the next court day after the petition is filed and findings shall be made as required pursuant to section one thousand twenty-seven of this article.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.