

3867

2009-2010 Regular Sessions

I N S E N A T E

April 2, 2009

Introduced by Sen. MONTGOMERY -- (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, the surrogate's court procedure act and the social services law, in relation to implementation of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 with respect to subsidized kinship guardianship, educational stability, transition plans and sibling visitation and contact

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

1 Section 1. Section 661 of the family court act is amended by adding a  
2 new subdivision (c) to read as follows:  
3 (C) SUBSIDIZED KINSHIP GUARDIANSHIP OF A CHILD. WHERE THE PERMANENCY  
4 GOAL FOR A CHILD WHO IS THE SUBJECT OF A PROCEEDING PURSUANT TO ARTICLE  
5 TEN OR TEN-A OF THIS ACT IS REFERRAL FOR SUBSIDIZED LEGAL GUARDIANSHIP  
6 WITH A FIT AND WILLING RELATIVE, A PETITION UNDER THIS ARTICLE FILED BY  
7 SUCH RELATIVE SHALL BE FILED WITH THE COURT BEFORE WHOM THE MOST RECENT  
8 PROCEEDING PURSUANT TO ARTICLE TEN OR TEN-A OF THIS ACT IS PENDING. THE  
9 COURT PRESIDING OVER THE PROCEEDING PURSUANT TO ARTICLE TEN OR TEN-A MAY  
10 CONSOLIDATE THE HEARING OF A GUARDIANSHIP PETITION FILED BY SUCH RELA-  
11 TIVE WITH THE DISPOSITIONAL HEARING PURSUANT TO ARTICLE TEN OR PERMANEN-  
12 CY HEARING PURSUANT TO ARTICLE TEN-A, AS APPLICABLE. THE COURT MUST MAKE  
13 AND SET FORTH IN ITS ORDER APPOINTING THE GUARDIAN THE FINDINGS ENUMER-  
14 ATED IN SECTION ONE THOUSAND FIFTY-FIVE-C OR ONE THOUSAND EIGHTY-NINE-B  
15 OF THIS ACT, AS APPLICABLE. SUCH AN ORDER OF SUBSIDIZED GUARDIANSHIP MAY  
16 ONLY BE ISSUED UPON THE CONSENT OF THE PROSPECTIVE RELATIVE GUARDIAN,  
17 THE ATTORNEY FOR THE CHILD, THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND,  
18 IN THE CASE OF A YOUTH EIGHTEEN YEARS OF AGE OR OLDER, THE YOUTH TO THE  
19 ISSUANCE OF AN ORDER OF SUBSIDIZED KINSHIP GUARDIANSHIP. YOUTH FOURTEEN  
20 YEARS OF AGE OR OLDER MUST BE CONSULTED REGARDING THE GUARDIANSHIP. AN  
21 ORDER OF SUBSIDIZED KINSHIP GUARDIANSHIP MAY ONLY BE ISSUED ONCE THE

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

LBD10165-01-9

1 LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE PROSPECTIVE RELATIVE GUARDI-  
2 AN HAVE ENTERED INTO A WRITTEN, BINDING KINSHIP GUARDIANSHIP ASSISTANCE  
3 AGREEMENT, A COPY OF WHICH HAS BEEN PROVIDED BY THE LOCAL DEPARTMENT OF  
4 SOCIAL SERVICES TO THE PROSPECTIVE RELATIVE GUARDIAN. THE COURT SHALL  
5 PROVIDE IN ITS ORDER APPOINTING A SUBSIDIZED KINSHIP GUARDIAN THAT THE  
6 LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD MUST  
7 RECEIVE NOTICE OF AND BE MADE PARTIES TO ANY SUBSEQUENT PROCEEDING TO  
8 VACATE OR MODIFY THE ORDER OF GUARDIANSHIP.

9 S 2. Subdivision (a) and subparagraph (A) of paragraph (i) of subdivi-  
10 sion (b) of section 1052 of the family court act, subdivision (a) as  
11 amended by chapter 519 of the laws of 2008, subparagraph (A) of para-  
12 graph (i) of subdivision (b) as amended by chapter 7 of the laws of  
13 1999, the opening paragraph and clause 7 as amended by section 7 of part  
14 B of chapter 327 of the laws of 2007 and the closing paragraph as  
15 amended by chapter 671 of the laws of 2005, are amended to read as  
16 follows:

17 (a) At the conclusion of a dispositional hearing under this article,  
18 the court shall enter an order of disposition directing one or more of  
19 the following:

20 (i) suspending judgment in accord with section one thousand fifty-  
21 three of this part; or

22 (ii) releasing the child to the custody of his parents or other person  
23 legally responsible in accord with section one thousand fifty-four of  
24 this part; or

25 (iii) placing the child in accord with section one thousand fifty-five  
26 of this part; or

27 (iv) making an order of protection in accord with section one thousand  
28 fifty-six of this part; or

29 (v) placing the respondent under supervision in accord with section  
30 one thousand fifty-seven of this part; or

31 (vi) granting custody of the child to relatives or suitable persons  
32 pursuant to section one thousand fifty-five-b of this part; OR

33 (VII) GRANTING SUBSIDIZED GUARDIANSHIP TO A FIT AND WILLING RELATIVE  
34 PURSUANT TO SECTION ONE THOUSAND FIFTY-FIVE-C OF THIS PART.

35 However, the court shall not enter an order of disposition combining  
36 placement of the child under paragraph (iii) of this subdivision with a  
37 disposition under paragraph (i) or (ii) of this subdivision. An order  
38 granting custody of the child pursuant to paragraph (vi) OR SUBSIDIZED  
39 GUARDIANSHIP OF A CHILD PURSUANT TO PARAGRAPH (VII) of this subdivision  
40 shall not be combined with any other disposition under this subdivision.

41 (A) whether continuation in the child's home would be contrary to the  
42 best interests of the child and where appropriate, that reasonable  
43 efforts were made prior to the date of the dispositional hearing held  
44 pursuant to this article to prevent or eliminate the need for removal of  
45 the child from his or her home and if the child was removed from the  
46 home prior to the date of such hearing, that such removal was in the  
47 child's best interests and, where appropriate, reasonable efforts were  
48 made to make it possible for the child to safely return home. If the  
49 court determines that reasonable efforts to prevent or eliminate the  
50 need for removal of the child from the home were not made but that the  
51 lack of such efforts was appropriate under the circumstances, the court  
52 order shall include such a finding, or if the permanency plan for the  
53 child is adoption, guardianship or another permanent living arrangement  
54 other than reunification with the parent or parents of the child, the  
55 court order shall include a finding that reasonable efforts, including

1 consideration of appropriate in-state and out-of-state placements, are  
2 being made to make and finalize such alternate permanent placement.

3 For the purpose of this section, reasonable efforts to prevent or  
4 eliminate the need for removing the child from the home of the child or  
5 to make it possible for the child to return safely to the home of the  
6 child shall not be required where, upon motion with notice by the social  
7 services official, the court determines that:

8 (1) the parent of such child has subjected the child to aggravated  
9 circumstances, as defined in subdivision (j) of section one thousand  
10 twelve of this article;

11 (2) the parent of such child has been convicted of (i) murder in the  
12 first degree as defined in section 125.27 or murder in the second degree  
13 as defined in section 125.25 of the penal law and the victim was another  
14 child of the parent; or (ii) manslaughter in the first degree as defined  
15 in section 125.20 or manslaughter in the second degree as defined in  
16 section 125.15 of the penal law and the victim was another child of the  
17 parent, provided, however, that the parent must have acted voluntarily  
18 in committing such crime;

19 (3) the parent of such child has been convicted of an attempt to  
20 commit any of the foregoing crimes, and the victim or intended victim  
21 was the child or another child of the parent; or has been convicted of  
22 criminal solicitation as defined in article one hundred, conspiracy as  
23 defined in article one hundred five or criminal facilitation as defined  
24 in article one hundred fifteen of the penal law for conspiring, solicit-  
25 ing or facilitating any of the foregoing crimes, and the victim or  
26 intended victim was the child or another child of the parent;

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

33 (5) the parent of such child has been convicted in any other jurisdic-  
34 tion of an offense which includes all of the essential elements of any  
35 crime specified in clause two, three or four of this subparagraph, and  
36 the victim of such offense was the child or another child of the parent;  
37 or

38 (6) the parental rights of the parent to a sibling of such child have  
39 been involuntarily terminated;

40 [unless the court determines that providing reasonable efforts would be  
41 in the best interests of the child, not contrary to the health and safe-  
42 ty of the child, and would likely result in the reunification of the  
43 parent and the child in the foreseeable future. The court shall state  
44 such findings in its order.]

45 (7) If the court determines that reasonable efforts are not to be  
46 required because of one of the grounds set forth above, a permanency  
47 hearing shall be held within thirty days of the finding of the court  
48 that such efforts are not required. At the permanency hearing, the court  
49 shall determine the appropriateness of the permanency plan prepared by  
50 the social services official which shall include whether or when the  
51 child: (i) will be returned to the parent; (ii) should be placed for  
52 adoption with the social services official filing a petition for termi-  
53 nation of parental rights; (iii) should be referred for legal guardian-  
54 ship WHICH MAY INCLUDE SUBSIDIZED KINSHIP GUARDIANSHIP; (iv) should be  
55 placed permanently with a fit and willing relative; or (v) should be  
56 placed in another planned permanent living arrangement that includes a

1 significant connection to an adult who is willing to be a permanency  
2 resource for the child, if the social services official has documented  
3 to the court a compelling reason for determining that it would not be in  
4 the best interest of the child to return home, be referred for termi-  
5 nation of parental rights and placed for adoption, placed with a fit and  
6 willing relative, or placed with a legal guardian. The social services  
7 official shall thereafter make reasonable efforts to place the child in  
8 a timely manner, including consideration of appropriate in-state and  
9 out-of-state placements, and to complete whatever steps are necessary to  
10 finalize the permanent placement of the child as set forth in the  
11 permanency plan approved by the court. If reasonable efforts are deter-  
12 mined by the court not to be required because of one of the grounds set  
13 forth in this paragraph, the social services official may file a peti-  
14 tion for termination of parental rights in accordance with section three  
15 hundred eighty-four-b of the social services law.

16 IF THE COURT FINDS THAT ONE OF THE GROUNDS SET FORTH IN THIS PARAGRAPH  
17 EXIST, THE COURT SHALL FIND THAT REASONABLE EFFORTS ARE NOT REQUIRED  
18 UNLESS THE COURT DETERMINES THAT PROVIDING REASONABLE EFFORTS WOULD BE  
19 IN THE BEST INTERESTS OF THE CHILD, WOULD NOT BE CONTRARY TO THE HEALTH  
20 AND SAFETY OF THE CHILD AND WOULD LIKELY RESULT IN THE REUNIFICATION OF  
21 THE PARENT AND CHILD IN THE FORESEEABLE FUTURE. THE COURT SHALL STATE  
22 SUCH FINDINGS IN ITS ORDER.

23 For the purpose of this section, in determining reasonable effort to  
24 be made with respect to a child, and in making such reasonable efforts,  
25 the child's health and safety shall be the paramount concern.

26 For the purpose of this section, a sibling shall include a half-si-  
27 bling;

28 S 3. The family court act is amended by adding a new section 1055-c to  
29 read as follows:

30 S 1055-C. SUBSIDIZED GUARDIANSHIP WITH A FIT AND WILLING RELATIVE. (A)  
31 AT THE CONCLUSION OF A DISPOSITIONAL HEARING PURSUANT TO THIS ARTICLE,  
32 WHERE THE PERMANENCY PLAN IS SUBSIDIZED GUARDIANSHIP WITH A FIT AND  
33 WILLING RELATIVE, THE COURT MAY ISSUE AN ORDER OF SUBSIDIZED GUARDIAN-  
34 SHIP IN RESPONSE TO A PETITION FILED WITH THE COURT BY A RELATIVE PURSU-  
35 ANT TO ARTICLE SIX OF THIS ACT OR ARTICLE SEVENTEEN OF THE SURROGATE'S  
36 COURT PROCEDURE ACT. IF THE COURT GRANTS THE GUARDIANSHIP PETITION, IT  
37 SHALL TERMINATE JURISDICTION OVER THE CHILD PROTECTIVE PROCEEDING AND  
38 TERMINATE ANY PENDING ORDERS PURSUANT TO THIS ARTICLE OTHER THAN ASSIGN-  
39 MENT OF COUNSEL. THE COURT MAY GRANT THE GUARDIANSHIP PETITION ONLY IF  
40 THE COURT MAKES THE FOLLOWING FINDINGS AND SETS FORTH THE FINDINGS IN  
41 ITS ORDER:

42 (I) THAT GRANTING SUBSIDIZED GUARDIANSHIP OF THE CHILD TO THE RELATIVE  
43 IS IN THE BEST INTERESTS OF THE CHILD AND THAT NEITHER A PERMANENCY GOAL  
44 OF RETURN TO THE CHILD'S BIRTH PARENTS NOR ADOPTION WOULD BE IN THE  
45 CHILD'S BEST INTERESTS AND ARE THEREFORE NOT APPROPRIATE PERMANENCY  
46 GOALS FOR THE CHILD;

47 (II) THAT THE TERMINATION OF ORDERS ISSUED PURSUANT TO THIS ARTICLE  
48 WILL NOT JEOPARDIZE THE SAFETY OF THE CHILD; AND THAT GRANTING SUBSI-  
49 DIZED GUARDIANSHIP OF THE CHILD TO THE RELATIVE WILL PROVIDE THE CHILD  
50 WITH A SAFE AND PERMANENT HOME;

51 (III) THAT THE CHILD DEMONSTRATES A STRONG ATTACHMENT TO THE RELATIVE  
52 AND THE RELATIVE DEMONSTRATES A STRONG COMMITMENT TO CARING PERMANENTLY  
53 FOR THE CHILD;

54 (IV) THAT THE RELATIVE HAS BEEN APPROVED OR CERTIFIED AS A FOSTER  
55 PARENT PURSUANT TO REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY

1 SERVICES AND HAS BEEN SCREENED IN ACCORDANCE WITH SECTION THREE HUNDRED  
2 SEVENTY-EIGHT-A OF THE SOCIAL SERVICES LAW;

3 (V) THAT THE CHILD HAS BEEN IN FOSTER CARE FOR A PERIOD OF NOT LESS  
4 THAN FOURTEEN MONTHS AND HAS BEEN IN FOSTER CARE IN THE CARE OF THE  
5 PROPOSED GUARDIAN FOR A PERIOD OF NOT LESS THAN SIX CONSECUTIVE MONTHS  
6 PRECEDING THE FILING OF THE GUARDIANSHIP PETITION;

7 (VI) THAT THE RELATIVE, THE ATTORNEY FOR THE CHILD AND THE LOCAL  
8 DEPARTMENT OF SOCIAL SERVICES CONSENT TO THE ISSUANCE OF AN ORDER OF  
9 SUBSIDIZED GUARDIANSHIP PURSUANT TO ARTICLE SIX OF THIS ACT OR ARTICLE  
10 SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT AND THE TERMINATION OF  
11 ANY ORDERS ISSUED PURSUANT TO THIS ARTICLE;

12 (VII) THAT THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE PROSPECTIVE  
13 RELATIVE GUARDIAN HAVE ENTERED INTO A WRITTEN BINDING KINSHIP GUARDIAN-  
14 SHIP ASSISTANCE AGREEMENT, A COPY OF WHICH HAS BEEN PROVIDED BY THE  
15 LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE PROSPECTIVE RELATIVE GUARDI-  
16 AN; AND

17 (VIII) THAT IF THE YOUTH IS FOURTEEN YEARS OF AGE OR OLDER, HE OR SHE  
18 HAS INDICATED HIS OR HER POSITION REGARDING THE PROPOSED GUARDIANSHIP  
19 EITHER IN PERSON OR THROUGH HIS OR HER ATTORNEY AND IF THE YOUTH IS  
20 EIGHTEEN YEARS OF AGE OR OLDER, HE OR SHE HAS CONSENTED TO THE GUARDIAN-  
21 SHIP.

22 (B) AS PART OF THE ORDER GRANTING SUBSIDIZED GUARDIANSHIP TO THE RELA-  
23 TIVE PURSUANT TO ARTICLE SIX OF THIS ACT OR ARTICLE SEVENTEEN OF THE  
24 SURROGATE'S COURT PROCEDURE ACT, THE COURT SHALL REQUIRE THAT THE LOCAL  
25 DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD RECEIVE  
26 NOTICE OF AND BE MADE PARTIES TO ANY SUBSEQUENT PROCEEDING TO VACATE OR  
27 MODIFY THE ORDER OF SUBSIDIZED GUARDIANSHIP.

28 (C) AN ORDER ENTERED PURSUANT TO THIS SECTION SHALL RESULT IN THE  
29 TERMINATION OF ANY ORDERS IN EFFECT PURSUANT TO THIS ARTICLE AND SHALL  
30 CONCLUDE THE COURT'S JURISDICTION OVER THE PROCEEDING PURSUANT TO THIS  
31 ARTICLE.

32 S 4. Subdivision (c) of section 1089 of the family court act, as added  
33 by section 27 of part A of chapter 3 of the laws of 2005, subparagraphs  
34 (ii) and (iii) of paragraph 4 as amended by section 9 and subparagraph  
35 (viii) of paragraph 5 as amended by section 10 of part B of chapter 327  
36 of the laws of 2007, is amended to read as follows:

37 (c) Content of the permanency hearing report. The permanency hearing  
38 report shall include, but need not be limited to, up-to-date and accu-  
39 rate information regarding:

40 (1) the child's current permanency goal, which may be:

41 (i) return to the parent or parents;

42 (ii) placement for adoption with the local social services official  
43 filing a petition for termination of parental rights;

44 (iii) referral for legal guardianship, WHICH MAY INCLUDE SUBSIDIZED  
45 KINSHIP GUARDIANSHIP;

46 (iv) permanent placement with a fit and willing relative; or

47 (v) placement in another planned permanent living arrangement that  
48 includes a significant connection to an adult who is willing to be a  
49 permanency resource for the child, including documentation of the  
50 compelling reason for determining that it would not be in the best  
51 interests of the child to be returned home, placed for adoption, placed  
52 with a legal guardian, or placed with a fit and willing relative;

53 (2) the health, well-being, and status of the child since the last  
54 hearing including:

55 (i) a description of the child's health and well-being;

56 (ii) information regarding the child's current placement;

1 (iii) an update on the educational and other progress the child has  
2 made since the last hearing including a description of the steps that  
3 have been taken by the local social services district or agency to  
4 ENSURE EDUCATIONAL STABILITY FOR THE CHILD AND TO enable prompt delivery  
5 of appropriate educational and vocational services to the child, includ-  
6 ing, but not [be] limited to:

7 (A) where the child is subject to article sixty-five of the education  
8 law or elects to participate in an educational program leading to a high  
9 school diploma, the steps that the local social services district or  
10 agency has taken to promptly enable the child to be enrolled or to  
11 continue enrollment in an appropriate school or educational program  
12 leading to a high school diploma;

13 (B) where the child is eligible to be enrolled in a pre-kindergarten  
14 program pursuant to section thirty-six hundred two-e of the education  
15 law, the steps that the local social services district or agency has  
16 taken to promptly enable the child to be enrolled in an appropriate  
17 pre-kindergarten program, if available;

18 (C) where the child is under three years of age and is involved in an  
19 indicated case of child abuse or neglect, or where the local social  
20 services district suspects that the child may have a disability as  
21 defined in subdivision five of section twenty-five hundred forty-one of  
22 the public health law or if the child has been found eligible to receive  
23 early intervention or special educational services prior to or during  
24 the foster care placement, in accordance with title two-A of article  
25 twenty-five of the public health law or article eighty-nine of the  
26 education law, the steps that the local social services district or  
27 agency has taken to make any necessary referrals of the child for early  
28 intervention, pre-school special educational or special educational  
29 evaluations or services, as appropriate, and any available information  
30 regarding any evaluations and services which are being provided or are  
31 scheduled to be provided in accordance with applicable law; and

32 (D) where the child is at least sixteen and not subject to article  
33 sixty-five of the education law and elects not to participate in an  
34 educational program leading to a high school diploma, the steps that the  
35 local social services district has taken to assist the child to become  
36 gainfully employed or enrolled in a vocational program;

37 (iv) a description of the visitation plan or plans describing the  
38 persons with whom the child visits, including any siblings, and the  
39 frequency, duration and quality of the visits;

40 (v) where a child has attained the age of fourteen, a description of  
41 the services and assistance that are being provided to enable the child  
42 to learn independent living skills; [and]

43 (vi) WHERE THE PERMANENCY GOAL FOR A CHILD AGING OUT OF FOSTER CARE IS  
44 ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT INCLUDES A SIGNIFICANT  
45 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD  
46 AND IT IS ANTICIPATED THAT THE CHILD'S DISCHARGE OR TRIAL DISCHARGE MAY  
47 OCCUR WITHIN THE EARLIER OF THE NEXT SCHEDULED PERMANENCY HEARING OR ONE  
48 YEAR, A DESCRIPTION OF THE TRANSITION PLAN FOR THE YOUTH AND THE  
49 PROGRESS MADE IN DEVELOPING AND IMPLEMENTING THE TRANSITION PLAN; AND

50 (VII) a description of any other services being provided to the child;

51 (3) the status of the parent, including:

52 (i) the services that have been offered to the parent to enable the  
53 child to safely return home;

54 (ii) the steps the parent has taken to use the services;

55 (iii) any barriers encountered to the delivery of such services;

56 (iv) the progress the parent has made toward reunification; and

- 1 (v) a description of any other steps the parent has taken to comply  
2 with and achieve the permanency [plan] GOAL, if applicable[.];
- 3 (4) a description of the reasonable efforts to achieve the child's  
4 permanency [plan] GOAL that have been taken by the local social services  
5 district or agency since the last hearing. The description shall  
6 include:
- 7 (i) unless the child is freed for adoption or there has been a deter-  
8 mination by a court that such efforts are not required pursuant to  
9 section one thousand thirty-nine-b of this act, the reasonable efforts  
10 that have been made by the local social services district or agency to  
11 eliminate the need for placement of the child and to enable the child to  
12 safely return home, including a description of any services that have  
13 been provided;
- 14 (ii) where the permanency [plan] GOAL is adoption, guardianship  
15 (INCLUDING SUBSIDIZED KINSHIP GUARDIANSHIP), placement with a fit and  
16 willing relative or another planned permanent living arrangement other  
17 than return to parent, the reasonable efforts that have been made by the  
18 local social services district or agency to make and finalize such  
19 alternate permanent placement, including a description of any services  
20 that have been provided and a description of the consideration of appro-  
21 priate in-state and out-of-state placements;
- 22 (iii) where return home of the child is not likely, the reasonable  
23 efforts that have been made by the local social services district or  
24 agency to evaluate and plan for another permanent plan, including  
25 consideration of appropriate in-state and out-of-state placements, and  
26 any steps taken to further a permanent plan other than return to the  
27 child's parent; or
- 28 (iv) where a child has been freed for adoption, a description of the  
29 reasonable efforts that will be taken to facilitate the adoption of the  
30 child; and
- 31 (5) the recommended permanency [plan] GOAL including:
- 32 (i) a recommendation regarding whether the child's current permanency  
33 goal should be continued or modified, the reasons therefor, and the  
34 anticipated date for meeting the goal;
- 35 (ii) a recommendation regarding whether the child's placement should  
36 be extended and the reasons for the recommendation;
- 37 (iii) any proposed changes in the child's current placement, trial  
38 discharge or discharge that may occur before the next permanency hear-  
39 ing;
- 40 (iv) a description of the steps that will be taken by the local social  
41 services district or agency to PROVIDE FOR EDUCATIONAL STABILITY FOR THE  
42 CHILD AND TO continue to enable prompt delivery of appropriate educa-  
43 tional and vocational services to the child in his or her current place-  
44 ment and during any potential change in the child's foster care place-  
45 ment, during any trial discharge, and after discharge of the child in  
46 accordance with the plans for the child's placement until the next  
47 permanency hearing;
- 48 (v) whether any modification to the visitation plan or plans is recom-  
49 mended and the reasons therefor, INCLUDING ANY PLANS FOR VISITS AND/OR  
50 CONTACTS WITH SIBLINGS;
- 51 (vi) where a child has attained the age of fourteen or will attain the  
52 age of fourteen before the next permanency hearing, a description of the  
53 services and assistance that will be provided to enable the child to  
54 learn independent living skills;
- 55 (vii) WHAT STEPS, IF ANY, WILL BE TAKEN FOR THE DEVELOPMENT AND IMPLE-  
56 MENTATION OF A TRANSITION PLAN FOR ANY CHILD WHOSE PERMANENCY GOAL IS

1 ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT INCLUDES A SIGNIFICANT  
2 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD  
3 AND WHEN DISCHARGE OR TRIAL DISCHARGE TO SUCH ARRANGEMENT IS ANTICIPATED  
4 TO TAKE PLACE;

5 (VIII) where a child has been placed outside this state, whether the  
6 out-of-state placement continues to be appropriate, necessary and in the  
7 best interests of the child;

8 [(viii)] (IX) where return home of the child is not likely, the  
9 efforts that will be made to evaluate or plan for another permanent  
10 plan, including consideration of appropriate in-state and out-of-state  
11 placements; and

12 [(ix)] (X) in the case of a child who has been freed for adoption:

13 (A) a description of services and assistance that will be provided to  
14 the child and the prospective adoptive parent to expedite the adoption  
15 of the child;

16 (B) information regarding the child's eligibility for adoption subsidy  
17 pursuant to title nine of article six of the social services law; and

18 (C) if the child is over age fourteen and has voluntarily withheld his  
19 or her consent to an adoption, the facts and circumstances regarding the  
20 child's decision to withhold consent and the reasons therefor.

21 S 5. Subparagraphs (i), (iii), (v) and (vii) of paragraph 2 of subdi-  
22 vision (d) of section 1089 of the family court act, as added by section  
23 27 of part A of chapter 3 of the laws of 2005, clause (B) of subpara-  
24 graph (iii) as amended by section 12 of part B of chapter 327 of the  
25 laws of 2007, are amended to read as follows:

26 (i) whether the permanency goal for the child should be approved or  
27 modified and the anticipated date for achieving the goal. The permanency  
28 goal may be determined to be:

29 (A) return to parent;

30 (B) placement for adoption with the local social services official  
31 filing a petition for termination of parental rights;

32 (C) referral for legal guardianship, WHICH MAY INCLUDE SUBSIDIZED  
33 KINSHIP GUARDIANSHIP;

34 (D) permanent placement with a fit and willing relative; or

35 (E) placement in another planned permanent living arrangement that  
36 includes a significant connection to an adult willing to be a permanency  
37 resource for the child if the local social services official has docu-  
38 mented to the court a compelling reason for determining that it would  
39 not be in the best interests of the child to return home, be referred  
40 for termination of parental rights and placed for adoption, placed with  
41 a fit and willing relative, or placed with a legal guardian;

42 (iii) determining whether reasonable efforts have been made to effec-  
43 tuate the child's permanency [plan] GOAL as follows:

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

49 (B) where the permanency [plan] GOAL is adoption, guardianship, place-  
50 ment with a fit and willing relative or another planned permanent living  
51 arrangement other than return to parent, whether reasonable efforts have  
52 been made to make and finalize such alternate permanent placement,  
53 including consideration of appropriate in-state and out-of-state place-  
54 ments;

55 (v) the steps that must be taken by the local social services official  
56 or agency to implement the educational and vocational program components

1 of the permanency hearing report submitted pursuant to subdivision (c)  
2 of this section, INCLUDING STEPS TO ENSURE EDUCATIONAL STABILITY FOR THE  
3 CHILD and any modifications that should be made to such plan;

4 (vii) where placement of the child is extended, such order shall also  
5 include:

6 (A) a description of the visitation plan or plans, INCLUDING ANY PLANS  
7 FOR VISITS AND/OR CONTACT WITH THE CHILD'S SIBLINGS;

8 (B) where the child is not freed for adoption, a direction that the  
9 child's parent or parents, including any non-respondent parent or other  
10 person legally responsible for the child's care shall be notified of the  
11 planning conference or conferences to be held pursuant to subdivision  
12 three of section four hundred nine-e of the social services law and  
13 notification of their right to attend such conference or conferences and  
14 their right to have counsel or another representative with them;

15 (C) where the child is not freed for adoption, a direction that the  
16 parent or other person legally responsible for the child's care keep the  
17 local social services district or agency apprised of his or her current  
18 whereabouts and a current mailing address;

19 (D) where the child is not freed for adoption, a notice that if the  
20 child remains in foster care for fifteen of the most recent twenty-two  
21 months, the local social services district or agency may be required by  
22 law to file a petition to terminate parental rights;

23 (E) where a child has been freed for adoption and is over age fourteen  
24 and has voluntarily withheld his or her consent to an adoption, the  
25 facts and circumstances with regard to the child's decision to withhold  
26 consent and the reasons therefor;

27 (F) where a child has been placed outside of this state, whether the  
28 out-of-state placement continues to be appropriate, necessary and in the  
29 best interests of the child;

30 (G) where a child has or will before the next permanency hearing reach  
31 the age of fourteen, the services and assistance necessary to assist the  
32 child in learning independent living skills;

33 (H) WHERE THE PERMANENCY GOAL FOR A CHILD AGING OUT OF FOSTER CARE IS  
34 ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT INCLUDES A SIGNIFICANT  
35 CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD  
36 AND IT IS ANTICIPATED THAT THE CHILD'S DISCHARGE OR TRIAL DISCHARGE MAY  
37 OCCUR WITHIN THE EARLIER OF THE NEXT SCHEDULED PERMANENCY HEARING OR ONE  
38 YEAR, THE LOCAL SOCIAL SERVICES DISTRICT OR AGENCY SHALL BE DIRECTED TO  
39 COMMENCE DEVELOPMENT OF A TRANSITION PLAN FOR THE CHILD, IN CONSULTATION  
40 WITH THE CHILD AND HIS OR HER ATTORNEY, AND SHALL FILE THE FINAL TRANSI-  
41 TION PLAN WITH THE COURT AND PROVIDE COPIES FOR THE CHILD, HIS OR HER  
42 ATTORNEY AND ALL PARTIES NO LATER THAN NINETY DAYS BEFORE THE CHILD'S  
43 ANTICIPATED DISCHARGE FROM FOSTER CARE; and

44 S 6. The family court act is amended by adding a new section 1089-b to  
45 read as follows:

46 S 1089-B. SUBSIDIZED GUARDIANSHIP WITH A FIT AND WILLING RELATIVE. (A)  
47 WHERE THE PERMANENCY GOAL IS SUBSIDIZED LEGAL GUARDIANSHIP WITH A FIT  
48 AND WILLING RELATIVE, THE COURT MAY ISSUE AN ORDER OF SUBSIDIZED GUARDI-  
49 ANSHIP IN RESPONSE TO A PETITION FILED BEFORE THE COURT BY A RELATIVE  
50 PURSUANT TO ARTICLE SIX OF THIS ACT OR ARTICLE SEVENTEEN OF THE SURRO-  
51 GATE'S COURT PROCEDURE ACT. THE COURT MAY CONSOLIDATE THE HEARING OF THE  
52 PETITION WITH A PERMANENCY HEARING HELD PURSUANT TO THIS ARTICLE. IF THE  
53 COURT GRANTS THE GUARDIANSHIP PETITION, THE COURT SHALL TERMINATE ITS  
54 JURISDICTION PURSUANT TO THIS ARTICLE AND SHALL TERMINATE ALL PENDING  
55 ORDERS ISSUED PURSUANT TO THIS ARTICLE OTHER THAN APPOINTMENT OF COUN-

1 SEL. THE COURT MAY ONLY GRANT THE GUARDIANSHIP PETITION IF IT MAKES THE  
2 FOLLOWING FINDINGS AND SETS FORTH THE FINDINGS IN ITS ORDER:

3 (I) THAT GRANTING SUBSIDIZED GUARDIANSHIP OF THE CHILD TO THE RELATIVE  
4 IS IN THE BEST INTERESTS OF THE CHILD AND THAT NEITHER A PERMANENCY GOAL  
5 OF RETURN TO THE CHILD'S BIRTH PARENTS NOR ADOPTION WOULD BE IN THE  
6 CHILD'S BEST INTERESTS AND THEREFORE WOULD NOT BE APPROPRIATE PERMANENCY  
7 GOALS FOR THE CHILD;

8 (II) THAT THE TERMINATION OF THE ORDER PLACING THE CHILD PURSUANT TO  
9 THIS ARTICLE OR ARTICLE TEN OF THIS ACT WILL NOT JEOPARDIZE THE SAFETY  
10 OF THE CHILD; AND THAT GRANTING SUBSIDIZED GUARDIANSHIP OF THE CHILD TO  
11 THE RELATIVE WILL PROVIDE THE CHILD WITH A SAFE AND PERMANENT HOME;

12 (III) THAT THE CHILD DEMONSTRATES A STRONG ATTACHMENT TO THE RELATIVE  
13 AND THE RELATIVE DEMONSTRATES A STRONG COMMITMENT TO CARING PERMANENTLY  
14 FOR THE CHILD;

15 (IV) THAT THE RELATIVE HAS BEEN APPROVED OR CERTIFIED AS A FOSTER  
16 PARENT PURSUANT TO REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY  
17 SERVICES AND HAS BEEN SCREENED IN ACCORDANCE WITH SECTION THREE HUNDRED  
18 SEVENTY-EIGHT-A OF THE SOCIAL SERVICES LAW;

19 (V) THAT THE CHILD HAS BEEN IN FOSTER CARE FOR A PERIOD OF NOT LESS  
20 THAN FOURTEEN MONTHS AND HAS BEEN IN FOSTER CARE IN THE CARE OF THE  
21 PROPOSED GUARDIAN FOR A PERIOD OF NOT LESS THAN SIX CONSECUTIVE MONTHS  
22 PRECEDING THE FILING OF THE GUARDIANSHIP PETITION;

23 (VI) THAT THE RELATIVE, THE ATTORNEY FOR THE CHILD AND THE LOCAL  
24 DEPARTMENT OF SOCIAL SERVICES CONSENT TO THE ISSUANCE OF AN ORDER OF  
25 SUBSIDIZED GUARDIANSHIP PURSUANT TO ARTICLE SIX OF THIS ACT OR ARTICLE  
26 SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT AND THE TERMINATION OF  
27 THE ORDER OF PLACEMENT PURSUANT TO THIS ARTICLE OR ARTICLE TEN OF THIS  
28 ACT;

29 (VII) THAT THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE PROSPECTIVE  
30 RELATIVE GUARDIAN HAVE ENTERED INTO A WRITTEN, BINDING KINSHIP GUARDIAN-  
31 SHIP ASSISTANCE AGREEMENT, A COPY OF WHICH HAS BEEN PROVIDED BY THE  
32 LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE PROSPECTIVE RELATIVE GUARDI-  
33 AN; AND

34 (VIII) THAT IF THE YOUTH IS FOURTEEN YEARS OF AGE OR OLDER, HE OR SHE  
35 HAS INDICATED HIS OR HER POSITION REGARDING THE PROPOSED GUARDIANSHIP  
36 EITHER IN PERSON OR THROUGH HIS OR HER ATTORNEY AND IF THE YOUTH IS  
37 EIGHTEEN YEARS OF AGE OR OLDER, HE OR SHE HAS CONSENTED TO THE GUARDIAN-  
38 SHIP.

39 (B) AS PART OF THE ORDER GRANTING SUBSIDIZED GUARDIANSHIP TO THE RELA-  
40 TIVE PURSUANT TO ARTICLE SIX OF THIS ACT OR ARTICLE SEVENTEEN OF THE  
41 SURROGATE'S COURT PROCEDURE ACT THE COURT SHALL REQUIRE THAT THE LOCAL  
42 DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD RECEIVE  
43 NOTICE OF AND BE MADE PARTIES TO ANY SUBSEQUENT PROCEEDING TO MODIFY THE  
44 ORDER OF GUARDIANSHIP GRANTED PURSUANT TO THE GUARDIANSHIP PROCEEDING.

45 (C) AN ORDER ENTERED PURSUANT TO THIS SECTION SHALL RESULT IN THE  
46 TERMINATION OF ANY ORDERS IN EFFECT PURSUANT TO THIS ARTICLE AND SHALL  
47 CONCLUDE THE COURT'S JURISDICTION OVER THE PROCEEDING PURSUANT TO THIS  
48 ARTICLE OR ARTICLE TEN OF THIS ACT.

49 S 7. Section 1701 of the surrogate's court procedure act, as amended  
50 by chapter 404 of the laws of 2008, is amended to read as follows:  
51 S 1701. Power of court

52 The court has power over the property of an infant and is authorized  
53 and empowered to appoint a guardian of the person or of the property or  
54 of both of an infant whether or not the parent or parents of the infant  
55 or child are living. Where the guardianship and custody of a child have  
56 been committed to an authorized agency pursuant to section six hundred

1 thirty-one of the family court act, or section three hundred eighty-  
2 three-c, section three hundred eighty-four or section three hundred  
3 eighty-four-b of the social services law, or where both parents of the  
4 child whose consent to the adoption of the child would have been  
5 required pursuant to section one hundred eleven-a of the domestic  
6 relations law are dead, the court may appoint a permanent guardian of a  
7 child if the court finds that such appointment is in the best interests  
8 of the child. WHERE THE COURT HAS MADE FINDINGS PURSUANT TO SECTION ONE  
9 THOUSAND FIFTY-FIVE-C OR ONE THOUSAND EIGHTY-NINE-B OF THE FAMILY COURT  
10 ACT, THE FAMILY COURT MAY APPOINT A FIT AND WILLING RELATIVE TO BE A  
11 SUBSIDIZED KINSHIP GUARDIAN OF THE CHILD.

12 S 8. Section 1702 of the surrogate's court procedure act is amended by  
13 adding a new subdivision 3 to read as follows:

14 3. THE PETITION FOR APPOINTMENT OF A RELATIVE AS A SUBSIDIZED KINSHIP  
15 GUARDIAN OF THE CHILD SHALL BE FILED WITH THE COURT WHERE THE MOST  
16 RECENT CHILD PROTECTIVE PROCEEDING OR PERMANENCY HEARING IS PENDING.

17 S 9. Subdivision 8 of section 1704 of the surrogate's court procedure  
18 act, as added by chapter 404 of the laws of 2008, is amended to read as  
19 follows:

20 8. In addition, the petition for appointment of a permanent guardian  
21 OR SUBSIDIZED KINSHIP GUARDIAN of an infant or child shall include:

22 (a) an assessment to be performed by the local social services  
23 district, which shall contain:

24 (i) the full name and address of the person seeking to become the  
25 guardian;

26 (ii) the ability of the guardian to assume permanent care of the  
27 child;

28 (iii) the child's property and assets, if known;

29 (iv) the wishes of the child, if [appropriate] THE CHILD IS FOURTEEN  
30 YEARS OF AGE OR OLDER AND HIS OR HER CONSENT IF HE OR SHE IS EIGHTEEN  
31 YEARS OF AGE OR OLDER;

32 (v) the results of the criminal history record check with the division  
33 of criminal justice services of the guardian and any person eighteen  
34 years of age or older residing in the guardian's household conducted by  
35 the office of children and family services pursuant to subdivision two  
36 of section three hundred seventy-eight-a of the social services law if  
37 such a criminal history record check has been completed;

38 (vi) the results of a search of the statewide central register of  
39 child abuse and maltreatment records regarding the guardian and any  
40 person eighteen years of age or older residing in the guardian's house-  
41 hold, including whether such person has been the subject of an indicated  
42 report conducted pursuant to subparagraph (e) of paragraph (A) of subdi-  
43 vision four of section four hundred twenty-two of the social services  
44 law, if such a search has been conducted; and

45 (vii) the results of all inspections and assessments of the guardian's  
46 home and the child's progress while placed in the home, if any;

47 (b) IN PROCEEDINGS FOR THE APPOINTMENT OF A PERMANENT GUARDIAN OR  
48 SUBSIDIZED KINSHIP GUARDIAN OF A CHILD FREED FOR ADOPTION, a certified  
49 copy of the order or orders terminating the parental rights of the  
50 child's parents or approving the surrender of the child or, IN  
51 PROCEEDINGS FOR APPOINTMENT OF A PERMANENT GUARDIAN WHERE THE CHILD'S  
52 PARENTS ARE DECEASED, the death certificates of the child's parents, as  
53 applicable;

54 (c) the recommendation of the authorized agency involved, if any;  
55 [and]

1 (d) the suitability, ability and commitment of the permanent OR SUBSI-  
2 DIZED KINSHIP guardian to assume full legal responsibility for the child  
3 and raise the child to adulthood AND THE DEGREE OF ATTACHMENT OF THE  
4 CHILD TO THE PROPOSED RELATIVE GUARDIAN; AND

5 (E) IN PROCEEDINGS FOR THE APPOINTMENT OF A SUBSIDIZED KINSHIP GUARDI-  
6 AN:

7 (I) THE REASONS THAT GRANTING SUBSIDIZED GUARDIANSHIP OF THE CHILD TO  
8 THE RELATIVE IS IN THE BEST INTERESTS OF THE CHILD AND THAT NEITHER A  
9 PERMANENCY GOAL OF RETURN TO THE CHILD'S BIRTH PARENTS NOR ADOPTION  
10 WOULD BE IN THE CHILD'S BEST INTEREST AND WOULD, THEREFORE, NOT BE  
11 APPROPRIATE PERMANENCY GOALS FOR THE CHILD;

12 (II) THE REASONS THAT THE TERMINATION OF THE ORDER PLACING THE CHILD  
13 PURSUANT TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT WILL NOT JEOP-  
14 ARDIZE THE SAFETY OF THE CHILD; AND THAT GRANTING SUBSIDIZED GUARDIAN-  
15 SHIP OF THE CHILD TO THE PROSPECTIVE RELATIVE GUARDIAN WILL PROVIDE THE  
16 CHILD WITH A SAFE AND PERMANENT HOME;

17 (III) THE LENGTH OF TIME THAT THE RELATIVE HAS BEEN APPROVED OR CERTI-  
18 FIED AS A FOSTER PARENT, THE LENGTH OF TIME THE PROSPECTIVE RELATIVE  
19 GUARDIAN HAS PROVIDED FOSTER CARE FOR THE CHILD AND THE LENGTH OF TIME  
20 THE CHILD HAS BEEN IN FOSTER CARE PRIOR TO THE FILING OF THE GUARDIAN-  
21 SHIP PETITION;

22 (IV) THE CONSENT OF THE PROSPECTIVE RELATIVE GUARDIAN, THE ATTORNEY  
23 FOR THE CHILD AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO THE ISSU-  
24 ANCE OF AN ORDER OF SUBSIDIZED KINSHIP GUARDIANSHIP; AND

25 (V) A COPY OF THE WRITTEN, BINDING KINSHIP GUARDIANSHIP ASSISTANCE  
26 AGREEMENT ENTERED INTO BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND  
27 THE PROSPECTIVE RELATIVE GUARDIAN.

28 S 10. Subdivision 1 of section 1705 of the surrogate's court procedure  
29 act is amended by adding a new paragraph (d) to read as follows:

30 (D) IN PROCEEDINGS FOR THE APPOINTMENT OF A PERMANENT OR SUBSIDIZED  
31 KINSHIP GUARDIAN, THE ATTORNEY FOR THE CHILD AND THE LOCAL DEPARTMENT OF  
32 SOCIAL SERVICES.

33 S 11. Subdivision 1 of section 1706 of the surrogate's court procedure  
34 act, as amended by chapter 404 of the laws of 2008, is amended to read  
35 as follows:

36 1. Where process is not issued or upon the return of process, the  
37 court shall ascertain the age of the infant, the amount of his or her  
38 personal property, the gross amount of the rents and profits of his or  
39 her real estate during his or her minority and the sufficiency of the  
40 security offered by the proposed guardian. With respect to applications  
41 for appointment as a permanent OR SUBSIDIZED KINSHIP guardian of a  
42 child, the permanent guardian shall have the right and responsibility to  
43 make decisions, including issuing any necessary consents, regarding the  
44 child's protection, education, care and control, health and medical  
45 needs, and the physical custody of the person of the child[, and]. A  
46 PERMANENT GUARDIAN may consent to the adoption of the child. Provided,  
47 however, that nothing in this subdivision shall be construed to limit  
48 the ability of a child to consent to his or her own medical care as may  
49 be otherwise provided by law. If the [infant] YOUTH is over the age of  
50 fourteen years the court shall ascertain his or her preference for a  
51 suitable guardian. Notwithstanding any other section of law, where the  
52 [infant] YOUTH is over the age of eighteen, [the infant] HE OR SHE shall  
53 consent to the appointment of a suitable guardian.

54 S 12. Section 1707 of the surrogate's court procedure act, as amended  
55 by chapter 404 of the laws of 2008, is amended to read as follows:

56 S 1707. Decree appointing guardian; term of office

1 1. If the court [be] IS satisfied that the interests of the infant  
2 will be promoted by the appointment of a guardian or by the issuance of  
3 temporary letters of guardianship of his or her person or of his or her  
4 property, or of both, it must make a decree accordingly. If the court  
5 determines that appointment of a permanent guardian is in the best  
6 interests of the infant or child, the court shall issue a decree  
7 appointing such guardian. IF THE COURT MAKES THE FINDINGS REQUIRED BY  
8 SECTION ONE THOUSAND FIFTY-FIVE-C OR ONE THOUSAND EIGHTY-NINE-B OF THE  
9 FAMILY COURT ACT, THE COURT SHALL ISSUE A DECREE APPOINTING THE RELATIVE  
10 AS A SUBSIDIZED KINSHIP GUARDIAN. The same person may be appointed guar-  
11 dian of both the person and the property of the infant or the guardian-  
12 ship of the person and of the property may be committed to different  
13 persons. The court may appoint a person other than the parent of the  
14 infant or the person nominated by the petitioner. When the court is  
15 informed that the infant, a person nominated to be a guardian of such  
16 infant, the petitioner, or any individual eighteen years of age or over  
17 who resides in the home of the proposed guardian is a subject of or  
18 another person named in an indicated report, as such terms are defined  
19 in section four hundred twelve of the social services law, filed with  
20 the statewide register of child abuse and maltreatment pursuant to title  
21 six of article six of the social services law or is or has been the  
22 subject of or the respondent in or a party to a child protective  
23 proceeding commenced under article ten of the family court act which  
24 resulted in an order finding that the child is an abused or neglected  
25 child the court shall obtain such records regarding such report or  
26 proceeding as it deems appropriate and shall give the information  
27 contained therein due consideration in its determination.

28 2. The term of office of a guardian of the person or property so  
29 appointed expires when the [infant] CHILD attains majority, unless the  
30 [infant] CHILD consents to the continuation of or appointment of a guar-  
31 dian after his or her eighteenth birthday, in which case such term of  
32 office expires on his or her twenty-first birthday, or after such other  
33 shorter period as the court establishes upon good cause shown; except  
34 that the term of office of a guardian of the person of [an infant] A  
35 CHILD expires upon the [infant's] CHILD'S marriage prior to attaining  
36 majority. The appointment of a permanent guardian OR SUBSIDIZED KINSHIP  
37 GUARDIAN of a child shall expire when the [infant or] child reaches the  
38 age of eighteen years, unless the [infant or] child consents to the  
39 continuation of a guardian after his or her eighteenth birthday, in  
40 which case such term of office expires on his or her twenty-first birth-  
41 day, or unless vacated by the court prior to the [infant or] child's  
42 eighteenth or twenty-first birthday if the court finds that based upon  
43 clear and convincing evidence the guardian failed to or is unable,  
44 unavailable or unwilling to provide proper care and custody of the  
45 infant or child, or that the guardianship is no longer in the best  
46 interests of the infant or child. THE COURT SHALL PROVIDE IN ITS ORDER  
47 APPOINTING A SUBSIDIZED KINSHIP GUARDIAN THAT THE LOCAL DEPARTMENT OF  
48 SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD MUST RECEIVE NOTICE OF  
49 AND BE MADE PARTIES TO ANY SUBSEQUENT PROCEEDING TO VACATE OR MODIFY THE  
50 ORDER OF GUARDIANSHIP.

51 S 13. Subdivisions 5 and 6 of section 409-e of the social services law  
52 are renumbered subdivisions 6 and 7 and a new subdivision 5 is added to  
53 read as follows:

54 5. WITH RESPECT TO EACH CHILD WITH A PERMANENCY PLAN OF PLACEMENT WITH  
55 A PROSPECTIVE RELATIVE GUARDIAN AND RECEIPT OF KINSHIP GUARDIAN ASSIST-

1 ANCE PAYMENTS, THE FAMILY SERVICE PLAN MUST INCLUDE THE FOLLOWING  
2 SPECIFIC INFORMATION:

3 (A) HOW THE CHILD MEETS THE ELIGIBILITY REQUIREMENTS;

4 (B) THE STEPS THE AGENCY HAS TAKEN TO DETERMINE THAT RETURN TO THE  
5 HOME OR ADOPTION IS NOT APPROPRIATE;

6 (C) THE EFFORTS THE AGENCY HAS MADE TO DISCUSS ADOPTION WITH THE  
7 CHILD'S RELATIVE FOSTER PARENT AND THE REASONS WHY ADOPTION IS NOT AN  
8 OPTION;

9 (D) THE EFFORTS THE AGENCY HAS MADE TO DISCUSS KINSHIP GUARDIANSHIP  
10 WITH THE CHILD'S BIRTH PARENT OR PARENTS OR THE REASONS WHY EFFORTS WERE  
11 NOT MADE;

12 (E) THE REASON WHY A PERMANENT PLACEMENT WITH A PROSPECTIVE RELATIVE  
13 GUARDIAN AND RECEIPT OF A KINSHIP GUARDIAN ASSISTANCE PAYMENT IS IN THE  
14 CHILD'S BEST INTERESTS;

15 (F) THE EFFORTS MADE BY THE AGENCY TO DISCUSS WITH THE CHILD'S BIRTH  
16 PARENT OR PARENTS THE KINSHIP GUARDIANSHIP ASSISTANCE ARRANGEMENTS OR  
17 WHY EFFORTS WERE NOT MADE; AND

18 (G) THE REASONS WHY THE CHILD IS SEPARATED FROM HIS OR HER SIBLINGS,  
19 IF THE CHILD'S SIBLINGS ARE NOT ALSO IN FOSTER CARE WITH THE PROSPECTIVE  
20 RELATIVE GUARDIAN.

21 S 14. This act shall take effect on the ninetieth day after it shall  
22 have become a law.