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

4390--A

2009-2010 Regular Sessions

I N S E N A T E

April 22, 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 -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, the education law, the social services law and the executive law, in relation to permanency planning and dispositional alternatives in juvenile delinquency and persons in need of supervision proceedings

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 PRESENTMENT AGENCY SHALL NOTIFY ANY NON-CUSTODIAL PARENT OF THE RESPONDENT NOT SUMMONSED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION, PROVIDED THAT THE ADDRESS OF EACH PARENT HAS BEEN PROVIDED. THE PROBATION DEPARTMENT AND PRESENTMENT AGENCY SHALL ASK THE CUSTODIAL PARENT OR PERSON LEGALLY RESPONSIBLE FOR THE RESPONDENT, FOR INFORMATION REGARDING ANY OTHER NON-CUSTODIAL PARENT OR PARENTS OF THE RESPONDENT. THE NOTICE SHALL INFORM SUCH NON-CUSTODIAL 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 SEND THE NOTICE TO THE NON-CUSTODIAL PARENT OR PARENTS AT LEAST FIVE DAYS BEFORE THE RETURN DATE. THE FAILURE OF A PARENT ENTITLED TO NOTICE TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE RESPONDENT'S INITIAL APPEARANCE, AS DEFINED IN SECTION 320.1 OF THIS ARTICLE.

S 2. Subdivision 2 of section 320.2 of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

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

LBD10485-06-0

2. At the initial appearance the court must appoint an attorney to represent the respondent pursuant to the provisions of section two hundred forty-nine OF THIS CHAPTER if independent legal representation is not available to such respondent. WHENEVER AN ATTORNEY HAS BEEN APPOINTED BY THE FAMILY COURT TO REPRESENT A CHILD IN A PROCEEDING UNDER THIS ARTICLE, SUCH APPOINTMENT SHALL CONTINUE WITHOUT FURTHER COURT ORDER OR APPOINTMENT DURING THE PERIOD COVERED BY ANY ORDER OF DISPOSITION ISSUED BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR ANY EXTENSION OR VIOLATION THEREOF, OR DURING ANY PERMANENCY HEARING, OTHER POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE BY THE COURT OR UNLESS SUCH ATTORNEY MAKES APPLICATION TO THE COURT TO BE RELIEVED OF HIS OR HER APPOINTMENT. UPON APPROVAL OF SUCH APPLICATION TO BE RELIEVED, THE COURT SHALL IMMEDIATELY APPOINT ANOTHER ATTORNEY TO WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE ATTORNEY FOR THE RESPONDENT SHALL BE ENTITLED TO COMPENSATION PURSUANT TO APPLICABLE PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUDING DISPOSITION OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLICATION, BE ENTITLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE DISPOSITION OF THE PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR HER ASSIGNMENT.

S 3. Paragraphs (e) and (f) of subdivision 3 of section 353.2 of the family court act are relettered paragraphs (f) and (g) and a new paragraph (e) is added to read as follows:

(E) COOPERATE WITH A PROGRAM OF INTENSIVE SUPERVISION BY THE PROBATION DEPARTMENT DURING THE PERIOD OF PROBATION OR A SPECIFIED PORTION THEREOF, TO THE EXTENT AVAILABLE IN THE COUNTY, UPON A FINDING ON THE RECORD BY THE COURT THAT, ABSENT COOPERATION WITH SUCH A PROGRAM, PLACEMENT OF THE RESPONDENT WOULD BE NECESSARY. SUCH A PROGRAM SHALL BE CONDUCTED IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED BY THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES AND MAY REQUIRE THE RESPONDENT, AMONG OTHER CONDITIONS, TO COMPLY WITH A PROGRAM OF ELECTRONIC MONITORING TO THE EXTENT AVAILABLE IN THE COUNTY, AS PROVIDED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-THREE OF THE EXECUTIVE LAW;

S 4. Subdivision 6 of section 353.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

6. The maximum period of probation shall not exceed two years, WHICH MAY INCLUDE INTENSIVE PROBATION SUPERVISION, IN ACCORDANCE WITH PARAGRAPH (E) OF SUBDIVISION THREE OF THIS SECTION, TO THE EXTENT AVAILABLE UP TO THE TERM OF PROBATION. If the court finds at the conclusion of the original period and after a hearing that exceptional circumstances require an additional year of probation, the court may continue the probation for an additional year.

S 5. Section 353.3 of the family court act is amended by adding a new subdivision 4-a to read as follows:

4-A. WHERE THE RESPONDENT IS PLACED WITH A COMMISSIONER OF SOCIAL SERVICES OR THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO THIS SECTION, THE DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED BY REFERENCE INTO THE ORDER SHALL INCLUDE:

(A) A DESCRIPTION OF THE VISITATION PLAN;

(B) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET BEEN DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND DELIVERED TO THE PRESENTMENT AGENCY, ATTORNEY, AND PARENT OR PARENTS OR OTHER

PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT, NO LATER THAN NINETY DAYS FROM THE DATE THE DISPOSITION WAS MADE; AND

(C) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION PRESENT AT SUCH CONFERENCES WITH THEM.

A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 6. The opening paragraph and paragraph (ii) of subdivision 4 of section 355.3 of the family court act, as amended by chapter 454 of the laws of 1995, are amended to read as follows:

At the conclusion of the hearing the court may, in its discretion, order an extension of the placement for not more than one year OR MAY ORDER THAT THE PETITION FOR AN EXTENSION OF PLACEMENT BE DISMISSED, OR THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION 353.2 OF THIS PART OR THAT THE RESPONDENT BE CONDITIONALLY DISCHARGED FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION 353.1 OF THIS PART. The court must consider and determine in its order:

(ii) in the case of a respondent who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the child to make the transition from foster care to independent living; and

S 7. The opening paragraph of subdivision 2, the opening paragraph of subdivision 3 and paragraphs (b) and (d) of subdivision 7 of section 355.5 of the family court act, the opening paragraph of subdivision 2 and the opening paragraph of subdivision 3 as amended by chapter 145 of the laws of 2000, paragraph (b) of subdivision 7 as added by chapter 7 of the laws of 1999, and paragraph (d) of subdivision 7 as amended by chapter 181 of the laws of 2000, are amended and a new subdivision 10 is added to read as follows:

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to section 353.3 of this [article] PART for a period of twelve or fewer months and resides in a foster home or IN A non-secure OR LIMITED SECURE facility;

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to section 353.3 of this [article] PART for a period in excess of twelve months and resides in a foster home or in a non-secure OR LIMITED SECURE facility;

(b) in the case of a respondent who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the respondent to make the transition from foster care to independent living;

(d) with regard to the completion of placement ordered by the court pursuant to section 353.3 or 355.3 of this [article] PART: whether and when the respondent: (i) will be returned to the parent OR PARENTS; (ii) should be placed for adoption with the local commissioner of social services filing a petition for termination of parental rights; (iii) should be referred for legal guardianship; (iv) should be placed permanently with a fit and willing relative; or (v) should be placed in another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD

if the office of children and family services or the local commissioner of social services has documented to the court a compelling reason for determining that it would not be in the best interest of the respondent to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and

10. IF THE ORDER RESULTING FROM THE PERMANENCY HEARING EXTENDS THE RESPONDENT'S PLACEMENT PURSUANT TO SECTION 355.3 OF THIS PART IN A FOSTER HOME OR NON-SECURE OR LIMITED SECURE FACILITY OR IF THE RESPONDENT CONTINUES IN SUCH PLACEMENT UNDER A PRIOR ORDER, THE ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED INTO THE ORDER BY REFERENCE SHALL INCLUDE:

(A) A DESCRIPTION OF THE VISITATION PLAN;

(B) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

(C) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES, INCLUDING THOSE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

A COPY OF THE COURT'S ORDER AND THE ATTACHMENTS SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 8. Section 736 of the family court act is amended by adding a new subdivision 4 to read as follows:

(4) IN ANY PROCEEDING UNDER THIS ARTICLE, THE COURT SHALL CAUSE A COPY OF THE PETITION AND NOTICE OF THE TIME AND PLACE TO BE HEARD TO BE SERVED UPON ANY NON-CUSTODIAL PARENT OF THE CHILD, PROVIDED THAT THE ADDRESS OF SUCH PARENT IS KNOWN TO OR IS ASCERTAINABLE BY THE COURT. SERVICE SHALL BE MADE BY ORDINARY FIRST CLASS MAIL AT SUCH PARENT'S LAST KNOWN RESIDENCE. THE FAILURE OF SUCH NOTICED PARENT TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE PROCEEDINGS.

S 9. Subdivision (a) of section 741 of the family court act, as amended by chapter 41 of the laws of 2010, is amended and a new subdivision (d) is added to read as follows:

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

(D) WHENEVER AN ATTORNEY HAS BEEN APPOINTED BY THE FAMILY COURT TO REPRESENT A RESPONDENT IN A PROCEEDING UNDER THIS ARTICLE PURSUANT TO

SUBDIVISION (A) OF THIS SECTION, SUCH APPOINTMENT SHALL CONTINUE WITHOUT FURTHER COURT ORDER OR APPOINTMENT DURING AN ORDER OF DISPOSITION ISSUED BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR ANY EXTENSION OR VIOLATION THEREOF, OR ANY PERMANENCY HEARING, OTHER POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE BY THE COURT OR UNLESS SUCH ATTORNEY MAKES APPLICATION TO THE COURT TO BE RELIEVED OF HIS OR HER APPOINTMENT. UPON APPROVAL OF SUCH APPLICATION TO BE RELIEVED, THE COURT SHALL IMMEDIATELY APPOINT ANOTHER ATTORNEY TO WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE ATTORNEY SHALL BE ENTITLED TO COMPENSATION PURSUANT TO APPLICABLE PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUDING DISPOSITION OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLICATION, BE ENTITLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE DISPOSITION OF THE PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR HER ASSIGNMENT.

S 10. Subdivision (a) of section 756 of the family court act is amended by adding two new paragraphs (iii) and (iv) to read as follows:

(III) THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR THE PERSON WITH WHOM THE RESPONDENT HAS BEEN PLACED UNDER THIS SECTION SHALL SUBMIT A REPORT TO THE COURT, THE ATTORNEY FOR THE RESPONDENT AND THE PRESENTMENT AGENCY, IF ANY, NOT LATER THAN THIRTY DAYS PRIOR TO THE CONCLUSION OF THE PLACEMENT PERIOD; PROVIDED, HOWEVER, THAT WHERE THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR PERSON WITH WHOM THE RESPONDENT HAS BEEN PLACED FILES A PETITION FOR AN EXTENSION OF THE PLACEMENT AND A PERMANENCY HEARING PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART, SUCH REPORT SHALL BE SUBMITTED NOT LATER THAN SIXTY DAYS PRIOR TO THE DATE ON WHICH THE PERMANENCY HEARING MUST BE HELD AND SHALL BE ANNEXED TO THE PETITION.

(IV) THE REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH (III) OF THIS SUBDIVISION SHALL INCLUDE RECOMMENDATIONS AND SUCH SUPPORTING DATA AS IS APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, A PLAN FOR THE RELEASE OF THE RESPONDENT TO THE CUSTODY OF HIS OR HER PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE, OR TO ANOTHER PERMANENCY ALTERNATIVE AS PROVIDED IN PARAGRAPH (IV) OF SUBDIVISION (D) OF SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART. THE RELEASE PLAN SHALL PROVIDE AS FOLLOWS:

(1) IF THE RESPONDENT IS SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW OR ELECTS TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA FOLLOWING RELEASE, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE RESPONDENT IS PLACED HAS TAKEN AND WILL BE TAKING IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY TO ENSURE THE IMMEDIATE ENROLLMENT OF THE RESPONDENT IN AN APPROPRIATE SCHOOL OR EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA AND THE TRANSFER OF NECESSARY RECORDS IN ADVANCE OF OR IMMEDIATELY UPON RELEASE OR, IF SUCH RELEASE OCCURS DURING THE SUMMER RECESS, IMMEDIATELY UPON THE COMMENCEMENT OF THE NEXT SCHOOL TERM.

(2) IF THE AGENCY HAS REASON TO BELIEVE THAT THE RESPONDENT MAY HAVE A DISABILITY OR IF THE RESPONDENT HAD BEEN FOUND ELIGIBLE TO RECEIVE SPECIAL EDUCATION SERVICES PRIOR TO OR DURING THE PLACEMENT, IN ACCORDANCE WITH ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE RESPONDENT IS PLACED HAS TAKEN AND WILL BE TAKING TO ENSURE THAT THE LOCAL EDUCATION AGENCY MAKES ANY NECESSARY REFERRALS OR ARRANGES FOR SPECIAL EDUCATIONAL EVALUATIONS OR SERVICES, AS APPROPRIATE, AND

PROVIDES NECESSARY RECORDS IMMEDIATELY IN ACCORDANCE WITH STATE AND FEDERAL LAW.

(3) IF THE RESPONDENT IS NOT SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW AND ELECTS NOT TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE AGENCY WITH WHICH THE RESPONDENT IS PLACED HAS TAKEN AND WILL BE TAKING TO ASSIST THE RESPONDENT TO BECOME GAINFULLY EMPLOYED OR ENROLLED IN A VOCATIONAL PROGRAM IMMEDIATELY UPON RELEASE.

S 11. Section 756 of the family court act is amended by adding a new subdivision (d) to read as follows:

(D) WHERE THE RESPONDENT IS PLACED PURSUANT TO THIS SECTION, THE DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED BY REFERENCE INTO THE ORDER SHALL INCLUDE:

(I) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR VISITS AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

(II) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET BEEN DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND DELIVERED TO THE PRESENTMENT AGENCY, ATTORNEY FOR THE RESPONDENT AND PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT NO LATER THAN NINETY DAYS FROM THE DATE THE DISPOSITION WAS MADE; AND

(III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 12. The opening paragraph and paragraphs (ii), (iii) and (iv) of subdivision (d) of section 756-a of the family court act, as amended by section 4 of part B of chapter 327 of the laws of 2007, are amended and a new paragraph (v) is added to read as follows:

At the conclusion of the permanency hearing, the court may, in its discretion, order an extension of the placement for not more than one year OR MAY ORDER THAT THE PETITION FOR AN EXTENSION OF PLACEMENT BE DISMISSED, OR THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SEVEN OF THIS PART. The court must consider and determine in its order:

(ii) in the case of a [child] RESPONDENT who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the [child] RESPONDENT to make the transition from foster care to independent living;

(iii) in the case of a [child] RESPONDENT placed outside New York state, whether the out-of-state placement continues to be appropriate and in the best interests of the [child] RESPONDENT; [and]

(iv) whether and when the [child] RESPONDENT: (A) will be returned to the parent; (B) should be placed for adoption with the social services official filing a petition for termination of parental rights; (C) should be referred for legal guardianship; (D) should be placed perma-

nently with a fit and willing relative; or (E) should be placed in another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT if the social services official has documented to the court a compelling reason for determining that it would not be in the best interest of the [child] RESPONDENT to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and where the [child] RESPONDENT will not be returned home, consideration of appropriate in-state and out-of-state placements[.]; AND

(V) WITH REGARD TO THE COMPLETION OR EXTENSION OF PLACEMENT ORDERED BY THE COURT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART, THE STEPS THAT MUST BE TAKEN BY THE AGENCY WITH WHICH THE RESPONDENT IS PLACED TO IMPLEMENT THE PLAN FOR RELEASE SUBMITTED PURSUANT TO PARAGRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SUCH SECTION, THE ADEQUACY OF SUCH PLAN AND ANY MODIFICATIONS THAT SHOULD BE MADE TO SUCH PLAN.

S 13. Subdivisions (e) and (f) of section 756-a of the family court act are relettered subdivisions (f) and (g) and a new subdivision (e) is added to read as follows:

(E) IF THE ORDER FROM THE PERMANENCY HEARING EXTENDS THE RESPONDENT'S PLACEMENT OR IF THE RESPONDENT CONTINUES IN PLACEMENT UNDER A PRIOR ORDER, THE ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED INTO THE ORDER BY REFERENCE SHALL INCLUDE:

(I) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR VISITATION AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

(II) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

(III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

A COPY OF THE COURT'S ORDER AND THE SERVICE PLAN SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 14. Subdivision (b) of section 757 of the family court act, as amended by chapter 920 of the laws of 1982, is amended and a new subdivision (e) is added to read as follows:

(b) The maximum period of probation shall not exceed one year, WHICH MAY INCLUDE INTENSIVE PROBATION SUPERVISION, IN ACCORDANCE WITH SUBDIVISION (E) OF THIS SECTION, TO THE EXTENT AVAILABLE, DURING ALL OR PART OF THE TERM OF PROBATION. If the court finds at the conclusion of the original period that exceptional circumstances require an additional year of probation, the court may continue probation for an additional year.

(E) IF THE RESPONDENT HAS BEEN FOUND TO BE A PERSON IN NEED OF SUPERVISION, AND IF THE COURT FURTHER FINDS THAT, ABSENT INTENSIVE PROBATION SUPERVISION, THE RESPONDENT WOULD BE PLACED PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART, THE COURT MAY DIRECT THE RESPONDENT TO COOPERATE WITH A PROGRAM OF INTENSIVE PROBATION SUPERVISION DURING ALL OR PART OF THE TERM OF PROBATION. THE LOCAL PROBATION DEPARTMENT MAY PROVIDE INTENSIVE PROBATION SUPERVISION TO RESPONDENTS SO DIRECTED PURSUANT TO THIS SUBDIVISION IN ACCORDANCE WITH REGULATIONS TO BE

PROMULGATED BY THE STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-THREE OF THE EXECUTIVE LAW.

S 15. Subdivisions 1 and 2 of section 112 of the education law, as amended by section 62 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

1. The department shall establish and enforce standards of instruction, personnel qualifications and other requirements for education services or programs, as determined by rules of the regents and regulations of the commissioner, with respect to the individual requirements of children who are in full-time residential care in facilities or homes operated or supervised by any state department or agency or political subdivision. The department shall cooperate with the office of children and family services, the department of mental hygiene and local departments of social services with respect to educational and vocational training programs for children placed with, committed to or under the supervision of such agencies. The department shall promulgate regulations requiring the cooperation of local school districts in facilitating the prompt enrollment of children who are released or conditionally released from residential facilities operated by or under contract with the office of children and family services, the department of mental hygiene and local departments of social services and in implementing plans for release or conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 AND PARAGRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of the family court act and the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act. Such regulations regarding the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act shall be developed in conjunction with the office of children and family services. SUCH REGULATIONS SHALL FACILITATE THE RETENTION OF CHILDREN PLACED OR REMANDED INTO FOSTER CARE IN THEIR ORIGINAL SCHOOLS AND, IF THAT IS NOT FEASIBLE OR DETERMINED TO BE IN THE CHILD'S BEST INTERESTS, THE IMMEDIATE ENROLLMENT OF THE CHILDREN IN SCHOOL AND TRANSFER OF NECESSARY RECORDS. Nothing herein contained shall be deemed to apply to responsibility for the provision or payment of care, maintenance or other services subject to the provisions of the executive law, mental hygiene law, social services law or any other law.

2. The commissioner shall prepare a report and submit it to the governor, the speaker of the assembly and the temporary president of the senate by December thirty-first, nineteen hundred ninety-six and on December thirty-first of each successive year. Such report shall contain, for each facility operated by or under contract with the office of children and family services that provides educational programs, an assessment of each facility's compliance with the rules of the board of regents, the regulations of the commissioner, and this chapter. Such report shall include, but not be limited to: the number of youth receiving services under article eighty-nine of this chapter; the office's activities undertaken as required by subdivisions one, two, four and eight of section forty-four hundred three of this chapter; the number of youth receiving bilingual education services; the number of youth eligible to receive limited English proficient services; interviews with facility residents conducted during site visits; library services; the ratio of teachers to students; the curriculum; the length of stay of each youth and the number of hours of instruction provided; instruc-

tional technology utilized; the educational services provided following the release and conditional release of the youth, including, but not limited to, the implementation of requirements for the PROMPT enrollment of such youth in school contained in plans for release and conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 AND PARAGRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX of the family court act and in the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act and the compliance by local school districts with the regulations promulgated pursuant to subdivision one of this section; and any recommendations to ensure compliance with the rules of regents, regulations of the commissioner, and this chapter.

S 16. The opening paragraph of subdivision 1 of section 409-e of the social services law, as amended by section 60 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

With respect to each child who is identified by a local social services district as being considered for placement in foster care as defined in section one thousand eighty-seven of the family court act by a social services district, such district, within thirty days from the date of such identification, shall perform an assessment of the child and his or her family circumstances. Where a child has been removed from his or her home INTO FOSTER CARE AS DEFINED IN SECTION ONE THOUSAND EIGHTY-SEVEN OF THE FAMILY COURT ACT, DETENTION OR PLACEMENT PURSUANT TO ARTICLE SEVEN OF THE FAMILY COURT ACT OR NONSECURE OR LIMITED SECURE PLACEMENT PURSUANT TO ARTICLE THREE OF THE FAMILY COURT ACT, within thirty days of such removal, DETENTION OR PLACEMENT, the local social services district shall perform an assessment of the child and his or her family circumstances, or update any assessment performed when the child was considered for placement. Any assessment shall be in accordance with such uniform procedures and criteria as the office of children and family services shall by regulation prescribe. Such assessment shall include the following:

S 17. Subdivision 1 of section 243 of the executive law, as amended by chapter 134 of the laws of 1985, is amended to read as follows:

1. The director shall exercise general supervision over the administration of probation services throughout the state, including probation in family courts and shall collect statistical and other information and make recommendations regarding the administration of probation services in the courts. He OR SHE shall endeavor to secure the effective application of the probation system and the enforcement of the probation laws and the laws relating to family courts throughout the state. After consultation with the state probation commission, he OR SHE shall adopt general rules which shall regulate methods and procedure in the administration of probation services, including investigation of defendants prior to sentence, and children prior to adjudication, supervision, case work, record keeping, and accounting, program planning and research so as to secure the most effective application of the probation system and the most efficient enforcement of the probation laws throughout the state. SUCH RULES SHALL PERMIT THE ESTABLISHMENT OF A PROGRAM OF INTENSIVE PROBATION SUPERVISION FOR JUVENILES DIRECTED TO RECEIVE SUCH SERVICES PURSUANT TO PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION 353.2 OR SUBDIVISION (E) OF SECTION SEVEN HUNDRED FIFTY-SEVEN OF THE FAMILY COURT ACT AND SHALL INCLUDE, BUT NOT BE LIMITED TO: SPECIFICATION OF THE MAXIMUM CASELOAD LEVELS AND TRAINING REQUIRED FOR INTENSIVE PROBATION SUPERVISION OFFICERS; THE FREQUENCY AND NATURE OF PROBATION CONTACTS

WITH JUVENILES IN THE PROGRAM, SCHOOLS AND OTHER AGENCIES; AND SUPERVISION, TREATMENT AND OTHER SERVICES TO BE PROVIDED TO SUCH JUVENILES. SUCH RULES SHALL FURTHER PROVIDE FOR THE ESTABLISHMENT OF A PROGRAM OF ELECTRONIC MONITORING FOR ACCUSED JUVENILE DELINQUENTS WHO WOULD OTHERWISE BE DETAINED PRIOR TO DISPOSITION PURSUANT TO SUBDIVISION THREE OF SECTION 320.5 OF THE FAMILY COURT ACT AND FOR ADJUDICATED JUVENILE DELINQUENTS PLACED ON PROBATION ON CONDITION OF COOPERATION WITH A PROGRAM OF ELECTRONIC MONITORING PURSUANT TO PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION 353.2 OF THE FAMILY COURT ACT. Such rules shall provide that the probation investigations ordered by the court in designated felony act cases under subdivision one of section 351.1 of the family court act shall have priority over other cases arising under articles three and seven of such act. Such rules shall be binding upon all probation officers and when duly adopted shall have the force and effect of law, but shall not supersede rules that may be adopted pursuant to the family court act. He OR SHE shall keep [himself] informed as to the work of all probation officers and shall from time to time inquire into and report upon their conduct and efficiency. He OR SHE may investigate the work of any probation bureau or probation officer and shall have access to all records and probation offices. He OR SHE may issue subpoenas to compel the attendance of witnesses or the production of books and papers. He OR SHE may administer oaths and examine persons under oath. He OR SHE may recommend to the appropriate authorities the removal of any probation officer. He OR SHE shall transmit to the governor not later than February first of each year an annual report of the work of the division of probation and correctional alternatives for the preceding calendar year, which shall include such information relative to the administration of probation and correctional alternatives throughout the state as may be appropriate. He OR SHE may from time to time publish reports regarding probation including probation in family courts, and the operation of the probation system including probation in family courts and any other information regarding probation as he OR SHE may determine provided expenditures for such purpose are within amounts appropriated therefor.

S 18. This act shall take effect on the ninetieth day after it shall have become a law.