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

2467

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the return of a child to the care and custody of his or her parent, parents or guardian

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

Section 1. Subdivision 7 of section 358-a of the social services law, as amended by section 39 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(7) Return of child. If an instrument provides for the return of the care and custody of a child by the local social services official to the parent, parents or guardian upon any terms and conditions or at any time, the local social services official shall comply with such terms of such instrument without further court order. Every order approving an instrument providing for the transfer of the care and custody of a child to a local social services official shall be served upon the parent, parents or guardian who executed such instrument in such manner as the family court judge may provide in such order, together with a notice of the terms and conditions under which the care and custody of such child may be returned to the parent, parents or guardian. If an instrument provides for the return of the care and custody of a child by the local social services official to the parent, parents or guardian without fixing a definite date for such return, or if the local social services official shall fail to return a child to the care and custody of the child's parent, parents or guardian in accordance with the terms of the instrument, the parent, parents or guardian may seek such care and custody by motion for return of such child and order to show cause in such proceeding or by writ of habeas corpus in the supreme court. IN A CASE WHERE A CHILD HAS BEEN IN THE CARE AND CUSTODY OF A SOCIAL SERVICES OFFICIAL FOR A PERIOD OF SIX MONTHS OR MORE WITHOUT VISITATION BY THE

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

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PARENT, PARENTS OR GUARDIAN, THE INSTRUMENT THAT PROVIDES FOR THE RETURN OF THE CARE AND CUSTODY OF A CHILD BY THE SOCIAL SERVICES OFFICIAL TO THE PARENT, PARENTS OR GUARDIAN SHALL PROVIDE FOR A TRANSITION PLAN FOR THE RETURN OF THE CHILD TO THE PARENT, PARENTS OR GUARDIAN. SUCH TRANSITION PLAN SHALL CONSIST OF A SERIES OF VISITS OVER A PERIOD OF TIME TO BE DETERMINED BY THE COURT IN ORDER TO PREPARE THE CHILD FOR THE PERMANENT RETURN OF THE CHILD TO HIS OR HER PARENT, PARENTS OR GUARDIAN. Nothing in this subdivision shall limit the requirement for a permanency hearing pursuant to article ten-A of the family court act.

S 2. Subdivision 2 of section 384-a of the social services law is amended by adding a new paragraph (i) to read as follows:

(I) IN A CASE WHERE A CHILD HAS BEEN IN THE CARE AND CUSTODY OF A SOCIAL SERVICES OFFICIAL OR SUITABLE PERSON RELATED TO THE CHILD FOR A PERIOD OF SIX MONTHS WITHOUT VISITATION BY THE PARENT, PARENTS OR GUARDIAN, THE INSTRUMENT THAT PROVIDES FOR THE RETURN OF THE CARE AND CUSTODY OF A CHILD BY THE SOCIAL SERVICES OFFICIAL TO THE PARENT, PARENTS OR GUARDIAN SHALL PROVIDE A TRANSITION PLAN FOR THE RETURN OF THE CHILD TO THE PARENT, PARENTS OR GUARDIAN. SUCH TRANSITION PLAN SHALL CONSIST OF A SERIES OF VISITS OVER A PERIOD OF TIME TO BE DETERMINED BY THE COURT IN ORDER TO PREPARE THE CHILD FOR THE PERMANENT RETURN OF THE CHILD TO HIS OR HER PARENT, PARENTS OR GUARDIAN.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.