

1 (C) THE PETITION ALLEGES THAT THE PETITIONER OR PETITIONERS AND THE
2 RESPONDENT OR RESPONDENTS IN THE PROCEEDING IN WHICH GUARDIANSHIP AND
3 CUSTODY HAD BEEN COMMITTED CONSENT TO THE RELIEF REQUESTED IN THE PETI-
4 TION OR THAT THE PETITIONER OR PETITIONERS WITHHELD CONSENT TO THE
5 RELIEF REQUESTED IN THE PETITION WITHOUT GOOD CAUSE; AND

6 (D) THE CHILD IS FOURTEEN YEARS OF AGE OR OLDER, REMAINS UNDER THE
7 JURISDICTION OF THE FAMILY COURT, HAS NOT BEEN ADOPTED, DOES NOT HAVE A
8 PERMANENCY GOAL OF ADOPTION AND CONSENTS TO THE RELIEF REQUESTED IN THE
9 PETITION.

10 S 636. ORIGINATING A PROCEEDING TO RESTORE PARENTAL RIGHTS; SERVICE
11 AND VENUE. (A) A PROCEEDING TO MODIFY THE DISPOSITION IN ORDER TO
12 RESTORE PARENTAL RIGHTS MAY BE ORIGINATED BY THE FILING OF A PETITION BY
13 THE CHILD'S ATTORNEY, BY THE AGENCY OR INDIVIDUAL TO WHOM GUARDIANSHIP
14 AND CUSTODY OF THE CHILD HAD BEEN COMMITTED OR BY THE RESPONDENT OR
15 RESPONDENTS IN THE TERMINATION OF PARENTAL RIGHTS PROCEEDING. THE PETI-
16 TION SHALL BE SERVED UPON THE CHILD'S ATTORNEY, THE AGENCY OR INDIVIDUAL
17 TO WHOM GUARDIANSHIP AND CUSTODY OF THE CHILD HAD BEEN COMMITTED AND THE
18 RESPONDENT OR RESPONDENTS IN THE TERMINATION OF PARENTAL RIGHTS PROCEED-
19 ING, AS WELL AS THE ATTORNEY OR ATTORNEYS WHO REPRESENTED THE RESPONDENT
20 OR RESPONDENTS IN THE TERMINATION OF PARENTAL RIGHTS PROCEEDING. A
21 CERTIFIED COPY OF THE ORDER COMMITTING GUARDIANSHIP AND CUSTODY SHALL BE
22 ATTACHED TO THE PETITION.

23 (B) UPON THE FILING OF A PETITION UNDER THIS PART, THE COURT MAY CAUSE
24 A SUMMONS TO BE ISSUED TO THE CHILD, THE AGENCY OR INDIVIDUAL TO WHOM
25 GUARDIANSHIP AND CUSTODY OF THE CHILD HAD BEEN COMMITTED AND THE
26 RESPONDENT OR RESPONDENTS IN THE TERMINATION OF PARENTAL RIGHTS PROCEED-
27 ING. THE SUMMONS SHALL BE SERVED IN ACCORDANCE WITH SECTION SIX HUNDRED
28 SEVENTEEN OF THIS ARTICLE, ACCOMPANIED BY A COPY OF THE PETITION AND THE
29 CERTIFIED ORDER OF COMMITMENT SOUGHT TO BE MODIFIED.

30 (C) THE PETITION SHALL BE FILED BEFORE THE COURT THAT EXERCISED JURIS-
31 DICTION OVER THE MOST RECENT PERMANENCY PROCEEDING INVOLVING THE CHILD
32 AND SHALL BE ASSIGNED, WHEREVER PRACTICABLE, TO THE FAMILY COURT JUDGE
33 WHO PRESIDED OVER THAT PROCEEDING OR THE PROCEEDING TO TERMINATE
34 PARENTAL RIGHTS.

35 (D) WHEREVER PRACTICABLE, THE CHILD SHALL BE REPRESENTED BY THE SAME
36 ATTORNEY THAT REPRESENTED THE CHILD IN THE MOST RECENT PERMANENCY
37 PROCEEDING AND THE PARENT OR PARENTS SHALL BE REPRESENTED BY THE SAME
38 ATTORNEY OR ATTORNEYS WHO REPRESENTED THE PARENT OR PARENTS IN THE
39 TERMINATION OF PARENTAL RIGHTS PROCEEDING. WHERE THIS IS NOT PRACTICA-
40 BLE, OR WHERE THE COURT GRANTS A REQUEST BY THE ATTORNEY OR ATTORNEYS TO
41 BE RELIEVED, THE COURT SHALL IMMEDIATELY ASSIGN A NEW ATTORNEY OR ATTOR-
42 NEYS, AS APPLICABLE.

43 S 637. BURDEN OF PROOF, DISPOSITION AND FINDINGS. (A) THE PETITIONER
44 SHALL HAVE THE BURDEN OF PROOF BY CLEAR AND CONVINCING EVIDENCE THAT
45 RESTORATION OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS, THAT
46 THE REQUIREMENTS OF SECTION SIX HUNDRED THIRTY-FIVE OF THIS PART HAVE
47 BEEN MET AND THAT ALL OF THE PARTIES AND THE CHILD HAVE CONSENTED OR, IF
48 THE PETITIONER IN THE PROCEEDING IN WHICH GUARDIANSHIP AND CUSTODY HAVE
49 BEEN COMMITTED FAILED TO CONSENT TO THE RELIEF REQUESTED, THAT SUCH
50 FAILURE WAS WITHOUT GOOD CAUSE.

51 (B) THE COURT SHALL STATE ON THE RECORD THE REASON OR REASONS FOR ITS
52 DISPOSITION OF THE PETITION. THE COURT MAY MAKE THE FOLLOWING ORDERS OF
53 DISPOSITION:

54 (I) THE COURT MAY GRANT THE PETITION, MODIFY THE ORDER OF DISPOSITION
55 PREVIOUSLY ENTERED IN THE TERMINATION OF PARENTAL RIGHTS PROCEEDING AND
56 TRANSFER GUARDIANSHIP AND CUSTODY OF THE CHILD TO THE BIRTH PARENT OR

1 PARENTS, PROVIDED, HOWEVER, THAT THE FINDINGS OF FACT RENDERED PURSUANT
2 TO SECTION SIX HUNDRED TWENTY-TWO OF THIS ARTICLE OR SUBDIVISION FOUR OF
3 SECTION THREE HUNDRED EIGHTY-FOUR-B OF THE SOCIAL SERVICES LAW THAT
4 FORMED THE BASIS FOR THE ADJUDICATION TERMINATING PARENTAL RIGHTS SHALL
5 REMAIN; OR

6 (II) THE COURT MAY DISMISS THE PETITION, IN WHICH CASE THE COMMITMENT
7 OF GUARDIANSHIP AND CUSTODY OF THE CHILD TO THE AUTHORIZED AGENCY OR
8 INDIVIDUAL WOULD CONTINUE AND A PERMANENCY HEARING WOULD BE REQUIRED TO
9 BE HELD AS SCHEDULED IN ACCORDANCE WITH ARTICLE TEN-A OF THIS ACT; OR

10 (III) THE COURT MAY GRANT THE PETITION CONDITIONALLY FOR A DESIGNATED
11 PERIOD OF UP TO SIX MONTHS, DURING WHICH TIME GUARDIANSHIP AND CUSTODY
12 OF THE CHILD SHALL REMAIN WITH THE LOCAL SOCIAL SERVICES DISTRICT OR
13 AUTHORIZED AGENCY WHILE THE CHILD MAY VISIT WITH, OR BE PLACED ON A
14 TRIAL DISCHARGE WITH, THE BIRTH PARENT OR PARENTS. THE COURT SHALL
15 DIRECT THE DISTRICT OR AGENCY TO SUPERVISE THE CHILD'S BIRTH PARENT OR
16 PARENTS, DEVELOP A REUNIFICATION PLAN AND PROVIDE APPROPRIATE TRANSI-
17 TIONAL SERVICES TO THE CHILD AND BIRTH PARENT OR PARENTS AND REPORT TO
18 THE PARTIES, ATTORNEY FOR THE CHILD AND THE COURT NOT LATER THAN THIRTY
19 DAYS PRIOR TO THE EXPIRATION OF THE DESIGNATED PERIOD. THE COURT SHALL
20 SCHEDULE THE PROCEEDING TO BE HEARD PRIOR TO THE EXPIRATION OF THE
21 DESIGNATED PERIOD AND SHALL DETERMINE WHETHER TO GRANT THE PETITION
22 PERMANENTLY IN ACCORDANCE WITH PARAGRAPH (I) OF THIS SUBDIVISION OR
23 DISMISS THE PETITION IN ACCORDANCE WITH PARAGRAPH (II) OF THIS SUBDIVI-
24 SION. THE COURT SHALL STATE ITS REASONS FOR ITS DETERMINATION. IF THE
25 PETITION IS PERMANENTLY GRANTED, THE CHILD'S CUSTODY AND GUARDIANSHIP
26 SHALL BE TRANSFERRED TO THE BIRTH PARENT OR PARENTS. IF THE CHILD HAS
27 BEEN REMOVED FROM THE CUSTODY OF THE BIRTH PARENT OR PARENTS PRIOR TO
28 THE EXPIRATION OF THE DESIGNATED PERIOD BY REASON OF A REPORT OF
29 SUSPECTED CHILD ABUSE OR MALTREATMENT, THE COURT SHALL SCHEDULE THE
30 PROCEEDING TO BE HEARD ON NOTICE TO THE PARTIES AND ATTORNEY FOR THE
31 CHILD, MAY TERMINATE THE TRIAL DISCHARGE AND MAY DISMISS THE PETITION IN
32 ACCORDANCE WITH PARAGRAPH (II) OF THIS SUBDIVISION.

33 S 2. Item (III) of clause (B) of subparagraph (viii) of paragraph 2 of
34 subdivision (d) of section 1089 of the family court act, as added by
35 section 27 of part A of chapter 3 of the laws of 2005, is amended and a
36 new item (IV) is added to read as follows:

37 (III) recommend that the office of children and family services inves-
38 tigate the facts and circumstances concerning the discharge of responsi-
39 bilities for the care and welfare of such child by a local social
40 services district pursuant to section three hundred ninety-five of the
41 social services law[.]; AND

42 (IV) RECOMMEND THAT THE ATTORNEY FOR THE CHILD, LOCAL SOCIAL SERVICES
43 DISTRICT OR AGENCY FILE A PETITION PURSUANT TO PART ONE-A OF ARTICLE SIX
44 OF THIS ACT TO RESTORE THE PARENTAL RIGHTS OF A CHILD WHO HAS BEEN FREED
45 FOR ADOPTION.

46 S 3. The section heading of section 384-b of the social services law,
47 as added by chapter 666 of the laws of 1976, is amended and a new subdi-
48 vision 13 is added to read as follows:

49 Guardianship and custody of destitute or dependent children; commit-
50 ment by court order; MODIFICATION OF COMMITMENT AND RESTORATION OF
51 PARENTAL RIGHTS.

52 13. A PETITION TO MODIFY A DISPOSITION OF COMMITMENT OF GUARDIANSHIP
53 AND CUSTODY IN ORDER TO RESTORE PARENTAL RIGHTS MAY BE BROUGHT IN
54 ACCORDANCE WITH PART ONE-A OF ARTICLE SIX OF THE FAMILY COURT ACT WHERE
55 THE CONDITIONS ENUMERATED IN SECTION SIX HUNDRED THIRTY-FIVE OF SUCH
56 PART HAVE BEEN MET.

1 S 4. This act shall take effect on the ninetieth day after it shall
2 have become a law.