

4388

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

AN ACT to amend the family court act and the social services law, in relation to trial discharges of youth in foster care and voluntary re-placements of older adolescents in foster care

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

1 Section 1. Subparagraph (E) of paragraph (i) of subdivision (b) and
2 subdivision (e) of section 1055 of the family court act, paragraph (i)
3 of subdivision (b) as amended and subdivision (e) as relettered by chap-
4 ter 437 of the laws of 2006 and subdivision (e) as amended by section 18
5 of part A of chapter 3 of the laws of 2005, are amended to read as
6 follows:
7 (E) where the permanency goal is return to the parent and it is antic-
8 ipated that the child may be finally discharged to his or her parent
9 before the next scheduled permanency hearing, the court may provide the
10 local social services district with authority to finally discharge the
11 child to the parent without further court hearing, provided that ten
12 days prior written notice is served upon the court and [law guardian]
13 THE ATTORNEY FOR THE CHILD. If the court on its own motion or the [law
14 guardian] ATTORNEY FOR THE CHILD on motion to the court does not request
15 the matter to be brought for review before final discharge, no further
16 permanency hearings will be required. The local social services
17 district may also discharge the child on a trial basis to the parent
18 unless the court has prohibited such trial discharge or unless the court
19 has conditioned such trial discharge on another event. For the purposes
20 of this section, trial discharge shall mean that the child is physically
21 returned to the parent while the child remains in the care and custody
22 of the local social services district. Permanency hearings shall
23 continue to be held for any child who has returned to his or her parents

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

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1 on a trial discharge. Where the permanency goal for a [child] YOUTH
2 aging out of foster care is another planned permanent living arrangement
3 that includes a significant connection to an adult willing to be a
4 permanency resource for the [child] YOUTH, the local social services
5 district may also discharge the [child] YOUTH on a trial basis to the
6 planned permanent living arrangements, unless the court has prohibited
7 or otherwise conditioned such a trial discharge. Trial discharge for a
8 [child] YOUTH aging out of foster care shall mean that a [child] YOUTH
9 is physically discharged but the local social services district retains
10 care and custody or custody and guardianship of the [child] YOUTH and
11 there remains a date certain for the scheduled permanency hearing.
12 TRIAL DISCHARGE FOR A YOUTH AGING OUT OF FOSTER CARE MAY BE EXTENDED AT
13 EACH SCHEDULED PERMANENCY HEARING, UNTIL THE CHILD REACHES THE AGE OF
14 TWENTY-ONE, IF A CHILD OVER THE AGE OF EIGHTEEN CONSENTS TO SUCH EXTEN-
15 SION. PRIOR TO FINALLY DISCHARGING A YOUTH AGING OUT OF FOSTER CARE TO
16 ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT, THE LOCAL SOCIAL SERVICES
17 OFFICIAL SHALL GIVE THE YOUTH NOTICE OF THE RIGHT TO APPLY TO REENTER
18 FOSTER CARE WITHIN THE EARLIER OF TWENTY-FOUR MONTHS OF THE FINAL
19 DISCHARGE OR THE YOUTH'S TWENTY-FIRST BIRTHDAY IN ACCORDANCE WITH ARTI-
20 CLE TEN-B OF THIS ACT. SUCH NOTICE SHALL ALSO ADVISE THE YOUTH THAT
21 REENTRY INTO FOSTER CARE WILL ONLY BE AVAILABLE WHERE THE FORMER FOSTER
22 CARE YOUTH HAS NO REASONABLE ALTERNATIVE TO FOSTER CARE AND CONSENTS TO
23 ENROLLMENT IN AND ATTENDANCE AT AN APPROPRIATE EDUCATIONAL OR VOCATIONAL
24 PROGRAM IN ACCORDANCE WITH PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION
25 ONE THOUSAND NINETY-ONE OF THIS ACT. Children placed under this section
26 shall be placed until the court completes the initial permanency hearing
27 scheduled pursuant to article ten-A of this act. Should the court deter-
28 mine pursuant to article ten-A of this act that placement shall be
29 extended beyond completion of the scheduled permanency hearing, such
30 extended placement and any such successive extensions of placement shall
31 expire at the completion of the next scheduled permanency hearing,
32 unless the court shall determine, pursuant to article ten-A of this act,
33 to continue to extend such placement.

34 (e) No placement may be made or continued under this section beyond
35 the child's eighteenth birthday without his or her consent and in no
36 event past his or her twenty-first birthday. HOWEVER, A FORMER FOSTER
37 CARE YOUTH UNDER THE AGE OF TWENTY-ONE WHO WAS PREVIOUSLY DISCHARGED
38 FROM FOSTER CARE DUE TO A FAILURE TO CONSENT TO CONTINUATION OF PLACE-
39 MENT MAY MAKE A MOTION PURSUANT TO SECTION ONE THOUSAND NINETY-ONE OF
40 THIS ACT TO RETURN TO THE CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL
41 SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE
42 CHILDREN AS PUBLIC CHARGES. IN SUCH MOTION, THE YOUTH MUST CONSENT TO
43 ENROLLMENT IN AND ATTENDANCE AT A VOCATIONAL OR EDUCATIONAL PROGRAM IN
44 ACCORDANCE WITH PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ONE THOUSAND
45 NINETY-ONE OF THIS ACT.

46 S 2. Subdivision (a) of section 1087 of the family court act, as added
47 by section 27 of part A of chapter 3 of the laws of 2005, is amended to
48 read as follows:

49 (a) "Child" shall mean a person under the age of eighteen who is
50 placed in foster care pursuant to section three hundred fifty-eight-a,
51 three hundred eighty-four or three hundred eighty-four-a of the social
52 services law or pursuant to section one thousand twenty-two, one thou-
53 sand twenty-seven, or one thousand fifty-two of this act; or directly
54 placed with a relative pursuant to section one thousand seventeen or one
55 thousand fifty-five of this act; or who has been freed for adoption or a
56 person between the ages of eighteen and twenty-one who has consented to

1 continuation in foster care OR TRIAL DISCHARGE STATUS; OR A FORMER
2 FOSTER CARE YOUTH UNDER THE AGE OF TWENTY-ONE FOR WHOM A COURT HAS
3 GRANTED A MOTION TO PERMIT THE FORMER FOSTER CARE YOUTH TO RETURN TO THE
4 CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER,
5 BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES.

6 S 3. Section 1088 of the family court act, as added by section 27 of
7 part A of chapter 3 of the laws of 2005, is amended to read as follows:

8 S 1088. Continuing court jurisdiction. If a child is placed pursuant
9 to section three hundred fifty-eight-a, three hundred eighty-four, or
10 three hundred eighty-four-a of the social services law, or pursuant to
11 section one thousand seventeen, one thousand twenty-two, one thousand
12 twenty-seven or one thousand fifty-two of this act, or directly placed
13 with a relative pursuant to section one thousand seventeen or one thou-
14 sand fifty-five of this act; or if the child is freed for adoption
15 pursuant to section three hundred eighty-three-c, three hundred eighty-
16 four or three hundred eighty-four-b of the social services law, the case
17 shall remain on the court's calendar and the court shall maintain juris-
18 diction over the case until the child is discharged from placement and
19 all orders regarding supervision, protection or services have expired.
20 The court shall rehear the matter whenever it deems necessary or desira-
21 ble, or upon motion by any party entitled to notice in proceedings under
22 this article, or by the [law guardian] ATTORNEY for the child, and when-
23 ever a permanency hearing is required by this article. While the court
24 maintains jurisdiction over the case, the provisions of section one
25 thousand thirty-eight of this act shall continue to apply. THE COURT
26 SHALL ALSO MAINTAIN JURISDICTION OVER A CASE FOR PURPOSES OF HEARING A
27 MOTION TO PERMIT A FORMER FOSTER CARE YOUTH UNDER THE AGE OF TWENTY-ONE
28 WHO WAS DISCHARGED FROM FOSTER CARE DUE TO A FAILURE TO CONSENT TO
29 CONTINUATION OF PLACEMENT TO RETURN TO THE CUSTODY OF THE LOCAL COMMIS-
30 SIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHOR-
31 IZED TO RECEIVE CHILDREN AS PUBLIC CHARGES.

32 S 4. Paragraph 1 of subdivision (a) of section 1089 of the family
33 court act, as added by section 27 of part A of chapter 3 of the laws of
34 2005, is amended to read as follows:

35 (1) Children freed for adoption. (I) At the conclusion of the dispo-
36 sitional hearing at which the child was freed for adoption in a proceed-
37 ing pursuant to section three hundred eighty-three-c, three hundred
38 eighty-four or three hundred eighty-four-b of the social services law,
39 the court shall set a date certain for the initial freed child permanen-
40 cy hearing and advise all parties in court of the date set, except for
41 the respondent or respondents. The permanency hearing shall be commenced
42 no later than thirty days after the hearing at which the child was freed
43 and shall be completed within thirty days, unless the court determines
44 to hold the permanency hearing immediately upon completion of the hear-
45 ing at which the child was freed, provided adequate notice has been
46 given.

47 (II) AT THE CONCLUSION OF THE HEARING PURSUANT TO SECTION ONE THOUSAND
48 NINETY-ONE OF THIS ACT WHERE THE COURT HAS GRANTED THE MOTION FOR A
49 FORMER FOSTER CARE YOUTH WHO WAS DISCHARGED FROM FOSTER CARE DUE TO A
50 FAILURE TO CONSENT TO CONTINUATION OF PLACEMENT TO RETURN TO THE CUSTODY
51 OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR
52 DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES, THE COURT
53 SHALL SET A DATE CERTAIN FOR A PERMANENCY HEARING AND ADVISE ALL PARTIES
54 IN COURT OF THE DATE SET. THE PERMANENCY HEARING SHALL BE COMMENCED NO
55 LATER THAN THIRTY DAYS AFTER THE HEARING AT WHICH THE FORMER FOSTER CARE
56 YOUTH WAS RETURNED TO FOSTER CARE.

1 S 5. Subparagraph (ii) of paragraph 2 of subdivision (d) of section
2 1089 of the family court act, as added by section 27 of part A of chap-
3 ter 3 of the laws of 2005, is amended to read as follows:

4 (ii) placing the child in the custody of a fit and willing relative or
5 other suitable person, or continuing the placement of the child until
6 the completion of the next permanency hearing, provided, however, that
7 no placement may be continued under this section beyond the child's
8 eighteenth birthday without his or her consent and in no event past the
9 child's twenty-first birthday; PROVIDED, HOWEVER, THAT A FORMER FOSTER
10 YOUTH WHO WAS PREVIOUSLY DISCHARGED FROM FOSTER CARE DUE TO A FAILURE TO
11 CONSENT TO CONTINUATION OF PLACEMENT MAY BE RETURNED TO THE CUSTODY OF
12 THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR
13 DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES IF THE COURT
14 HAS GRANTED THE MOTION OF THE FORMER FOSTER CARE YOUTH OR LOCAL SOCIAL
15 SERVICES OFFICIAL UPON A FINDING THAT THE YOUTH HAS NO REASONABLE ALTER-
16 NATIVE TO FOSTER CARE AND HAS CONSENTED TO ENROLLMENT IN AND ATTENDANCE
17 AT A VOCATIONAL OR EDUCATIONAL PROGRAM IN ACCORDANCE WITH SECTION ONE
18 THOUSAND NINETY-ONE OF THIS ACT;

19 S 6. Clause (C) of subparagraph (viii) of paragraph 2 of subdivision
20 (d) of section 1089 of the family court act, as amended by chapter 437
21 of the laws of 2006, is amended to read as follows:

22 (C) Where the permanency goal is return to parent and it is antic-
23 ipated that the child may be returned home before the next scheduled
24 permanency hearing, the court may provide the local social services
25 district with authority to finally discharge the child to the parent
26 without further court hearing, provided that ten days prior written
27 notice is served upon the court and [law guardian] ATTORNEY FOR THE
28 CHILD. If the court on its own motion or the [law guardian] ATTORNEY FOR
29 THE CHILD on motion to the court does not request the matter to be
30 brought for review before final discharge, no further permanency hear-
31 ings will be required. The local social services district may also
32 discharge the child on a trial basis to the parent unless the court has
33 prohibited such trial discharge or unless the court has conditioned such
34 trial discharge on another event. For the purposes of this section,
35 trial discharge shall mean that the child is physically returned to the
36 parent while the child remains in the care and custody of the local
37 social services district. Permanency hearings shall continue to be held
38 for any child who has returned to his or her parents on a trial
39 discharge. Where the permanency goal for a [child] YOUTH aging out of
40 foster care is another planned permanent living arrangement that
41 includes a significant connection to an adult willing to be a permanency
42 resource for the [child] YOUTH, the local social services district may
43 also discharge the [child] YOUTH on a trial basis to the planned perma-
44 nent living arrangements, unless the court has prohibited or otherwise
45 conditioned such a trial discharge. Trial discharge for a [child] YOUTH
46 aging out of foster care shall mean that [a child] THE YOUTH is phys-
47 ically discharged but the local social services district retains care
48 and custody or custody and guardianship of the child and there remains a
49 date certain for the scheduled permanency hearing. TRIAL DISCHARGE FOR
50 A YOUTH AGING OUT OF FOSTER CARE MAY BE EXTENDED AT EACH SCHEDULED
51 PERMANENCY HEARING, UNTIL THE YOUTH REACHES THE AGE OF TWENTY-ONE, IF A
52 YOUTH OVER THE AGE OF EIGHTEEN CONSENTS TO SUCH EXTENSION. PRIOR TO
53 FINALLY DISCHARGING A YOUTH AGING OUT OF FOSTER CARE TO ANOTHER PLANNED
54 PERMANENT LIVING ARRANGEMENT, THE LOCAL SOCIAL SERVICES OFFICIAL SHALL
55 GIVE THE YOUTH NOTICE OF THE RIGHT TO APPLY TO REENTER FOSTER CARE WITH-
56 IN THE EARLIER OF TWENTY-FOUR MONTHS OF THE FINAL DISCHARGE OR THE

1 YOUTH'S TWENTY-FIRST BIRTHDAY IN ACCORDANCE WITH ARTICLE TEN-B OF THIS
2 ACT. SUCH NOTICE SHALL ALSO ADVISE THE YOUTH THAT REENTRY INTO FOSTER
3 CARE WILL ONLY BE AVAILABLE WHERE THE FORMER FOSTER CARE YOUTH HAS NO
4 REASONABLE ALTERNATIVE TO FOSTER CARE AND CONSENTS TO ENROLLMENT IN AND
5 ATTENDANCE AT AN APPROPRIATE EDUCATIONAL OR VOCATIONAL PROGRAM IN
6 ACCORDANCE WITH PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ONE THOUSAND
7 NINETY-ONE OF THIS ACT.

8 S 7. Subdivision (a) of section 1090 of the family court act, as added
9 by section 27 of part A of chapter 3 of the laws of 2005, is amended to
10 read as follows:

11 (a) If [a law guardian] AN ATTORNEY for the child has been appointed
12 by the family court in a proceeding pursuant to section three hundred
13 fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four,
14 or three hundred eighty-four-b of the social services law, or article
15 ten of this act, the appointment of the [law guardian] ATTORNEY shall
16 continue without further court order or appointment, unless another
17 appointment of [a law guardian] AN ATTORNEY has been made by the court,
18 until the child is discharged from placement and all orders regarding
19 supervision, protection or services have expired. THE ATTORNEY SHALL
20 ALSO REPRESENT THE CHILD WITHOUT FURTHER ORDER OR APPOINTMENT IN ANY
21 PROCEEDINGS UNDER ARTICLE TEN-B OF THIS ACT. All notices, reports and
22 motions required by law shall be provided to such [law guardian] ATTOR-
23 NEY. The [law guardian] ATTORNEY may be relieved of his or her represen-
24 tation upon application to the court for termination of the appointment.
25 Upon approval of the application, the court shall immediately appoint
26 another [law guardian] ATTORNEY to whom all notices, reports, and
27 motions required by law shall be provided.

28 S 8. The family court act is amended by adding a new article 10-B to
29 read as follows:

30 ARTICLE 10-B

31 FORMER FOSTER CARE YOUTH RE-ENTRY PROCEEDINGS

32 SECTION 1091. MOTION TO RETURN TO FOSTER CARE PLACEMENT.

33 S 1091. MOTION TO RETURN TO FOSTER CARE PLACEMENT. A MOTION TO RETURN
34 A FORMER FOSTER CARE YOUTH UNDER THE AGE OF TWENTY-ONE, WHO WAS
35 DISCHARGED FROM FOSTER CARE DUE TO A FAILURE TO CONSENT TO CONTINUATION
36 OF PLACEMENT, TO THE CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL
37 SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE
38 CHILDREN AS PUBLIC CHARGES, MAY BE MADE BY SUCH FORMER FOSTER CARE
39 YOUTH, OR BY A LOCAL SOCIAL SERVICES OFFICIAL UPON THE CONSENT OF SUCH
40 FORMER FOSTER CARE YOUTH, IF THERE IS A COMPELLING REASON FOR SUCH
41 FORMER FOSTER CARE YOUTH TO RETURN TO FOSTER CARE; PROVIDED HOWEVER,
42 THAT THE COURT SHALL NOT ENTERTAIN A MOTION FILED AFTER TWENTY-FOUR
43 MONTHS FROM THE DATE OF THE FIRST FINAL DISCHARGE THAT OCCURRED ON OR
44 AFTER THE FORMER FOSTER CARE YOUTH'S EIGHTEENTH BIRTHDAY.

45 (A) A MOTION MADE PURSUANT TO THIS SECTION BY A SOCIAL SERVICES OFFI-
46 CIAL SHALL BE MADE BY ORDER TO SHOW CAUSE. SUCH MOTION SHALL SHOW BY
47 AFFIDAVIT OR OTHER EVIDENCE THAT:

48 (1) THE FORMER FOSTER CARE YOUTH HAS NO REASONABLE ALTERNATIVE TO
49 FOSTER CARE;

50 (2) THE FORMER FOSTER CARE YOUTH CONSENTS TO ENROLLMENT IN AND ATTEND-
51 ANCE AT AN APPROPRIATE EDUCATIONAL OR VOCATIONAL PROGRAM, UNLESS
52 EVIDENCE IS SUBMITTED THAT SUCH ENROLLMENT OR ATTENDANCE IS UNNECESSARY
53 OR INAPPROPRIATE, GIVEN THE PARTICULAR CIRCUMSTANCES OF THE YOUTH;

54 (3) RE-ENTRY INTO FOSTER CARE IS IN THE BEST INTERESTS OF THE FORMER
55 FOSTER CARE YOUTH; AND

(4) THE FORMER FOSTER CARE YOUTH CONSENTS TO THE RE-ENTRY INTO FOSTER CARE.

(B) A MOTION MADE PURSUANT TO THIS SECTION BY A FORMER FOSTER CARE YOUTH SHALL BE MADE BY ORDER TO SHOW CAUSE OR TEN DAYS NOTICE TO THE SOCIAL SERVICES OFFICIAL. SUCH MOTION SHALL SHOW BY AFFIDAVIT OR OTHER EVIDENCE THAT:

(1) THE REQUIREMENTS OUTLINED IN PARAGRAPHS ONE, TWO AND THREE OF SUBDIVISION (A) OF THIS SECTION ARE MET; AND

(2) THE APPLICABLE LOCAL SOCIAL SERVICES DISTRICT CONSENTS TO THE RE-ENTRY OF SUCH FORMER FOSTER CARE YOUTH, OR IF THE APPLICABLE LOCAL SOCIAL SERVICES DISTRICT REFUSES TO CONSENT TO THE RE-ENTRY OF SUCH FORMER FOSTER CARE YOUTH AND THAT SUCH REFUSAL IS UNREASONABLE.

(C) (1) IF AT ANY TIME DURING THE PENDENCY OF A PROCEEDING BROUGHT PURSUANT TO THIS SECTION THE COURT FINDS A COMPELLING REASON THAT IT IS IN THE BEST INTERESTS OF THE FORMER FOSTER CARE YOUTH TO BE RETURNED IMMEDIATELY TO THE CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES PENDING A FINAL DECISION ON THE MOTION, THE COURT MAY ISSUE A TEMPORARY ORDER RETURNING THE YOUTH TO THE CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES.

(2) WHERE THE LOCAL SOCIAL SERVICES DISTRICT HAS REFUSED TO CONSENT TO THE RE-ENTRY OF A FORMER FOSTER CARE YOUTH, AND WHERE IT IS ALLEGED PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION, THAT SUCH REFUSAL BY SUCH SOCIAL SERVICES DISTRICT IS UNREASONABLE, THE COURT SHALL GRANT A MOTION MADE PURSUANT TO SUBDIVISION (B) OF THIS SECTION IF THE COURT FINDS AND STATES IN WRITING THAT THE REFUSAL BY THE LOCAL SOCIAL SERVICES DISTRICT IS UNREASONABLE. FOR PURPOSES OF THIS SECTION, A COURT SHALL FIND THAT A REFUSAL BY A LOCAL SOCIAL SERVICES DISTRICT TO ALLOW A FORMER FOSTER CARE YOUTH TO RE-ENTER CARE IS UNREASONABLE IF:

(I) THE YOUTH HAS NO REASONABLE ALTERNATIVE TO FOSTER CARE;

(II) THE YOUTH CONSENTS TO ENROLLMENT IN AND ATTENDANCE AT AN APPROPRIATE EDUCATIONAL OR VOCATIONAL PROGRAM, UNLESS THE COURT FINDS A COMPELLING REASON THAT SUCH ENROLLMENT OR ATTENDANCE IS UNNECESSARY OR INAPPROPRIATE, GIVEN THE PARTICULAR CIRCUMSTANCES OF THE YOUTH; AND

(III) RE-ENTRY INTO FOSTER CARE IS IN THE BEST INTERESTS OF THE FORMER FOSTER YOUTH.

(3) UPON MAKING A DETERMINATION ON A MOTION FILED PURSUANT TO THIS SECTION, WHERE A MOTION HAS PREVIOUSLY BEEN GRANTED PURSUANT TO THIS SECTION, IN ADDITION TO THE APPLICABLE FINDINGS REQUIRED BY THIS SECTION, THE COURT SHALL GRANT THE MOTION TO RETURN A FORMER FOSTER CARE YOUTH TO THE CUSTODY OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES ONLY:

(I) UPON A FINDING THAT THERE IS A COMPELLING REASON FOR SUCH FORMER FOSTER CARE YOUTH TO RETURN TO CARE;

(II) IF THE COURT HAS NOT PREVIOUSLY GRANTED A SUBSEQUENT MOTION FOR SUCH FORMER FOSTER CARE YOUTH TO RETURN TO CARE PURSUANT TO THIS PARAGRAPH; AND

(III) UPON CONSIDERATION OF THE FORMER FOSTER CARE YOUTH'S COMPLIANCE WITH PREVIOUS ORDERS OF THE COURT, INCLUDING THE YOUTH'S PREVIOUS PARTICIPATION IN AN APPROPRIATE EDUCATIONAL OR VOCATIONAL PROGRAM, IF APPLICABLE.

S 9. Paragraph (d) of subdivision 3 of section 371 of the social services law, as amended by chapter 722 of the laws of 1978, is amended and a new paragraph (e) is added to read as follows:

1 (d) a person under the age of eighteen who is without a place of shel-
2 ter where supervision and care are available[.], OR

3 (E) A FORMER FOSTER CARE YOUTH UNDER THE AGE OF TWENTY-ONE WHO WAS
4 PREVIOUSLY PLACED IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF
5 THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR OTHER OFFICER, BOARD OR
6 DEPARTMENT AUTHORIZED TO RECEIVE CHILDREN AS PUBLIC CHARGES, AND WHO WAS
7 DISCHARGED FROM FOSTER CARE DUE TO A FAILURE TO CONSENT TO CONTINUATION
8 IN PLACEMENT, WHO HAS RETURNED TO FOSTER CARE PURSUANT TO SECTION ONE
9 THOUSAND NINETY-ONE OF THE FAMILY COURT ACT.

10 S 10. Subparagraph (i) of paragraph (a) of subdivision 1 of section
11 409-a of the social services law, as amended by chapter 87 of the laws
12 of 1993, is amended to read as follows:

13 (i) the child will be placed, RETURNED TO or continued in foster care
14 unless such services are provided and that it is reasonable to believe
15 that by providing such services the child will be able to remain with or
16 be returned to his or her family, AND FOR A FORMER FOSTER CARE YOUTH
17 UNDER THE AGE OF TWENTY-ONE WHO WAS PREVIOUSLY PLACED IN THE CARE AND
18 CUSTODY OR CUSTODY AND GUARDIANSHIP OF THE LOCAL COMMISSIONER OF SOCIAL
19 SERVICES OR OTHER OFFICER, BOARD OR DEPARTMENT AUTHORIZED TO RECEIVE
20 CHILDREN AS PUBLIC CHARGES WHERE IT IS REASONABLE TO BELIEVE THAT BY
21 PROVIDING SUCH SERVICES THE FORMER FOSTER CARE YOUTH WILL AVOID A RETURN
22 TO FOSTER CARE or

23 S 11. This act shall take effect on the ninetieth day after it shall
24 have become a law.