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

5461

2009-2010 Regular Sessions

I N S E N A T E

May 7, 2009

Introduced by Sen. SCHNEIDERMAN -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, the domestic relations law, the executive law, the judiciary law, the family court act, the public health law and the social services law, in relation to the representation of children

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

Section 1. Subdivision (e) of section 1101 of the civil practice law and rules, as amended by section 64 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(e) When motion not required. Where a party is represented in a civil action by a legal aid society or a legal services or other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society or organization, all fees and costs relating to the filing and service shall be waived without the necessity of a motion and the case shall be given an index number, or, in a court other than the supreme or county court, an appropriate filing number, provided that a determination has been made by such society, organization or attorney that such party is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, and that an attorney's certification that such determination has been made is filed with the clerk of the court along with the summons and complaint or summons with notice or third-party summons and complaint or otherwise provided to the clerk of the court. Where an attorney certifies, pursuant to section eleven hundred eighteen of the family court act, and in accordance with procedures of the appropriate appellate division, that a party or child who is the subject of an appeal has been represented in the family court by assigned counsel [or a law guardian] or by a legal

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

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aid society or a legal services or other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society or organization, and, in the case of a counsel assigned to an adult party, that the party continues to be indigent, the party or child shall be presumed eligible for poor person relief pursuant to this section.

S 2. Section 75-f of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

S 75-f. Priority. If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, upon request of a party, child or [law guardian] CHILD'S ATTORNEY must be given priority on the calendar and handled expeditiously.

S 3. Subdivision 1 of section 76-f of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

1. A court of this state which has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the child or the [law guardian] CHILD'S ATTORNEY, or upon the court's own motion, or request of another court.

S 4. Subdivisions 2 and 4 of section 112-b of the domestic relations law, subdivision 2 as amended by chapter 437 of the laws of 2006 and subdivision 4 as added by section 63 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

2. Agreements regarding communication or contact between an adoptive child, adoptive parent or parents, and a birth parent or parents and/or biological siblings or half-siblings of an adoptive child shall not be legally enforceable unless the terms of the agreement are incorporated into a written court order entered in accordance with the provisions of this section. The court shall not incorporate an agreement regarding communication or contact into an order unless the terms and conditions of the agreement have been set forth in writing and consented to in writing by the parties to the agreement, including the [law guardian] ATTORNEY representing the adoptive child. The court shall not enter a proposed order unless the court that approved the surrender of the child determined and stated in its order that the communication with or contact between the adoptive child, the prospective adoptive parent or parents and a birth parent or parents and/or biological siblings or half-siblings, as agreed upon and as set forth in the agreement, would be in the adoptive child's best interests. Notwithstanding any other provision of law, a copy of the order entered pursuant to this section incorporating the post-adoption contact agreement shall be given to all parties who have agreed to the terms and conditions of such order.

4. An order incorporating an agreement regarding communication or contact entered under this section may be enforced by any party to the agreement or the [law guardian] ATTORNEY FOR THE CHILD by filing a petition in the family court in the county where the adoption was approved. Such petition shall have annexed to it a copy of the order approving the agreement regarding communication or contact. The court shall not enforce an order under this section unless it finds that the enforcement is in the child's best interests.

S 5. Clauses (B) and (C) of subparagraph (ii) of paragraph (b) of subdivision 3 of section 113 of the domestic relations law, as amended by chapter 185 of the laws of 2006, are amended to read as follows:

(B) If the court determines that the child is under the jurisdiction of a different family court, the court in which the adoption petition was filed shall stay its proceeding for not more than thirty days and shall communicate with the family court judge who exercised jurisdiction over the most recent permanency or other proceeding involving the child. The communication shall be recorded or summarized on the record by the court in which the adoption petition was filed. Both courts shall notify the parties and [law guardian] THE ATTORNEY FOR THE CHILD, if any, in their respective proceedings and shall give them an opportunity to present facts and legal argument or to participate in the communication prior to the issuance of a decision on jurisdiction.

(C) The family court judge who exercised jurisdiction over the most recent permanency or other proceeding involving the child shall determine whether he or she should assume or decline jurisdiction over the adoption proceeding. In making its determination, the family court judge shall consider, among other factors: the relative familiarity of each court with the facts and circumstances regarding permanency planning for, and the needs and best interests of, the child; the ability of the [law guardian] ATTORNEY FOR THE CHILD to continue [to represent the child] SUCH REPRESENTATION in the adoption proceeding, if appropriate; the convenience of each court to the residence of the prospective adoptive parent or parents; and the relative ability of each court to hear and determine the adoption petition expeditiously. The court in which the adoption petition was filed shall issue an order incorporating this determination of jurisdiction within thirty days of the filing of the adoption petition.

S 6. Subparagraph (i) of paragraph (d) of subdivision 6 of section 115-b of the domestic relations law, as amended by chapter 817 of the laws of 1986, is amended to read as follows:

(i) The court shall promptly notify, in writing, the parent, the adoptive parents, their respective attorneys, and the [law guardian] ATTORNEY FOR THE CHILD appointed pursuant to section two hundred forty-nine of the family court act or a guardian ad litem appointed pursuant to section four hundred three-a of the surrogate's court procedure act, that the court will, upon the date specified in such notice by the court, or as soon thereafter as the parties may be heard pursuant to this paragraph, hear and determine whether revocation of the consent of the parent was timely and properly given and whether the adoptive parent's notice of intent to oppose such revocation was timely and properly given and if necessary, hear and determine what disposition should be made with respect to the custody of the child.

S 7. Subparagraph 2 of paragraph (a-1) of subdivision 1 of section 240 of the domestic relations law, as added by chapter 595 of the laws of 2008, is amended to read as follows:

(2) Notifying counsel and issuing orders. Upon consideration of decisions pursuant to article ten of the family court act, and registry reports and notifying counsel involved in the proceeding, or in the event of a party appearing pro se, notifying such party of the results thereof, including any court appointed [law guardian] ATTORNEY FOR THE CHILD, the court may issue a temporary, successive temporary or final order of custody or visitation.

S 8. Paragraph (c) of subdivision 1-c of section 240 of the domestic relations law, as amended by chapter 378 of the laws of 1999, is amended to read as follows:

(c) For the purpose of making a determination pursuant to clause (C) of subparagraph (i) of paragraph (b) of this subdivision, the court shall not be bound by the findings of fact, conclusions of law or ultimate conclusion as determined by the proceedings leading to the conviction of murder in the first or second degree in this state or of an offense in another jurisdiction which, if committed in this state, would constitute murder in either the first or second degree, of a parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of a child who is the subject of the proceeding. In all proceedings under this section, [a law guardian] AN ATTORNEY shall be appointed for the child.

S 9. Subdivision 1 of section 254 of the domestic relations law, as added by chapter 236 of the laws of 2001, is amended to read as follows:

1. Notwithstanding any other provision of law, in any proceeding for custody, divorce, separation or annulment, whether or not an order of protection or temporary order of protection is sought or has been sought in the past, the court may, upon its own motion or upon the motion of any party or the [law guardian] ATTORNEY FOR THE CHILD, authorize any party or the child to keep his or her address confidential from any adverse party or the child, as appropriate, in any pleadings or other papers submitted to the court, where the court finds that the disclosure of the address or other identifying information would pose an unreasonable risk to the health or safety of a party or the child. Pending such a finding, any address or other identifying information of the child or party seeking confidentiality shall be safeguarded and sealed in order to prevent its inadvertent or unauthorized use or disclosure.

S 10. Subdivision 6 of section 503 of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

6. The division shall be responsible for bringing violations of law pertaining to detention of juveniles to the attention of each appropriate [law guardian] ATTORNEY FOR THE CHILD or counsel for the defendant who may petition for habeas corpus for persons aggrieved thereby.

S 11. Subdivision 4 of section 508 of the executive law, as added by chapter 481 of the laws of 1978 and such section as renumbered by chapter 465 of the laws of 1992, is amended to read as follows:

4. The division for youth may apply to the sentencing court for permission to transfer a youth not less than sixteen nor more than eighteen years of age to the department of correctional services. Such application shall be made upon notice to the youth, who shall be entitled to be heard upon the application and to be represented by counsel [or law guardian]. The court shall grant the application if it is satisfied that there is no substantial likelihood that the youth will benefit from the programs offered by the division facilities.

S 12. Subdivision 7 of section 35 of the judiciary law, as added by chapter 571 of the laws of 1989, is amended to read as follows:

7. Whenever the supreme court or a surrogate's court shall appoint counsel in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceeding were pending in family court, such court would be authorized by section two hundred forty-nine of the family court act to appoint [a law guardian] AN ATTORNEY FOR THE CHILD, such

counsel shall be compensated in accordance with the provisions of this section.

S 13. Paragraph (b) of subdivision 1 of section 35-a of the judiciary law, as amended by chapter 834 of the laws of 1975, is amended to read as follows:

(b) Paragraph (a) shall not apply to any compensation awarded to appointees assigned to represent indigent persons pursuant to Article 18-B of the county law, counsel assigned pursuant to section thirty-five of the judiciary law, [law guardians or] counsel appointed pursuant to the family court act[, or referees appointed pursuant to section 78.25 of the mental hygiene law].

S 14. Subdivision (c) of section 154 of the family court act, as added by chapter 441 of the laws of 1995, is amended to read as follows:

(c) In a proceeding arising under article four, five, six, eight or ten of this act in which an order of protection is sought or in which a violation of an order of protection is alleged, the court may send process without the state in the same manner and with the same effect as process sent within the state in the exercise of personal jurisdiction over any person, subject to the jurisdiction of the court under section three hundred one or three hundred two of the civil practice law and rules, notwithstanding that such person is not a resident or domiciliary of the state, so long as: (1) the act or acts giving rise to the application for issuance or enforcement of the order of protection occurred within the state; and (2) the applicant for the order of protection resides or is domiciled in the state or has substantial contacts in the state, including but not limited to, presence on a regular basis in the state. Upon good cause shown, the court may issue a temporary order of protection in accordance with article four, five, six, eight or ten of this act. Where personal jurisdiction over a non-resident or non-domiciliary respondent would not be obtainable but for this subdivision, the papers to be served shall include a conspicuous notice that the exercise of such jurisdiction is limited to the issue of the order of protection. Where service of a petition and summons upon a non-resident or non-domiciliary respondent is required, such service shall be made at least twenty days before the return date. Where service is effected on an out-of-state respondent and the respondent defaults by failing to appear, the court may on its own motion, or upon application of any party or the [law guardian] ATTORNEY FOR THE CHILD, proceed to a hearing with respect to issuance or enforcement of the order of protection. Nothing in this section shall be construed to affect or alter the exercise of personal jurisdiction with respect to issues other than the order of protection.

S 15. Paragraph (a) of subdivision 2 of section 154-b of the family court act, as amended by chapter 236 of the laws of 2001, is amended to read as follows:

(a) Notwithstanding any other provision of law, in any proceeding under article four, five, five-b, six, eight or ten of this act, whether or not an order of protection or temporary order of protection is sought or has been sought in the past, the court may, upon its own motion or upon the motion of any party or the [law guardian] CHILD'S ATTORNEY, authorize any party or the child to keep his or her address confidential from any adverse party or the child, as appropriate, in any pleadings or other papers submitted to the court, where the court finds that disclosure of such address or other identifying information would pose an unreasonable risk to the health or safety of a party or the child. Pending such a finding, any address or other identifying information of the

child or party seeking confidentiality shall be safeguarded and sealed in order to prevent its inadvertent or unauthorized use or disclosure.

S 16. Subdivision 2 of section 154-c of the family court act, as added by chapter 186 of the laws of 1997, is amended to read as follows:

2. Modifications of orders of protection. Except as provided in subdivision two of section one hundred fifty-four-d of this act, any motion to vacate or modify any order of protection or temporary order of protection issued under this act shall be on notice to the non-moving party and the [law guardian] CHILD'S ATTORNEY, if any.

S 17. The article heading and the part heading of part 4 of article 2 and section 241 of the family court act, section 241 as amended by chapter 476 of the laws of 1988, are amended to read as follows:

ADMINISTRATION, MEDICAL EXAMINATIONS, [LAW GUARDIANS]
ATTORNEYS FOR CHILDREN,
AUXILIARY SERVICES

[Law guardians] ATTORNEYS FOR CHILDREN

S 241. Findings and purpose. This act declares that minors who are the subject of family court proceedings or appeals in proceedings originating in the family court should be represented by counsel of their own choosing or by [law guardians] ASSIGNED COUNSEL. This declaration is based on a finding that counsel is often indispensable to a practical realization of due process of law and may be helpful in making reasoned determinations of fact and proper orders of disposition. This part establishes a system of [law guardians] ATTORNEYS for [minors] CHILDREN who often require the assistance of counsel to help protect their interests and to help them express their wishes to the court. Nothing in this act is intended to preclude any other interested person from appearing by counsel.

S 18. Section 242 of the family court act, as amended by chapter 962 of the laws of 1970, is amended to read as follows:

S 242. [Law guardian] ATTORNEY FOR THE CHILD. As used in this act, "[law guardian] ATTORNEY FOR THE CHILD" refers to an attorney admitted to practice law in the state of New York and designated under this part to represent minors pursuant to section two hundred [and] forty-nine of this act.

S 19. Section 243 of the family court act, as amended by chapter 443 of the laws of 1995, is amended to read as follows:

S 243. Designation. (a) The office of court administration may enter into an agreement with a legal aid society for the society to provide [law guardians for] ATTORNEYS TO REPRESENT CHILDREN IN the family court or appeals in proceedings originating in the family court in a county having a legal aid society.

(b) The appellate division of the supreme court for the judicial department in which a county is located may, upon determining that a county panel designated pursuant to subdivision (c) of this section is not sufficient to afford appropriate [law guardian services] SERVICES OF ATTORNEYS FOR CHILDREN, enter into an agreement, subject to regulations as may be promulgated by the administrative board of the courts, with any qualified attorney or attorneys to serve as [law guardian or as law guardians] ATTORNEYS FOR CHILDREN for the family court or appeals in proceedings originating in the family court in that county.

(c) The appellate division of the supreme court for the judicial department in which a county is located may designate a panel of [law guardians] ATTORNEYS FOR CHILDREN for the family court and appeals in proceedings originating in the family court in that county, subject to the approval of the administrative board of the courts. For this

purpose, it may invite a bar association to recommend qualified persons for consideration by the [said] appellate division in making its designation, subject to standards as may be promulgated by such administrative board.

S 20. Subdivision (b) of section 244 of the family court act, as added by chapter 833 of the laws of 1974, is amended to read as follows:

(b) No designations pursuant to subdivision (c) of [such] section two hundred forty-three may be for a term of more than one year, but successive designations may be made. The appellate division proceeding pursuant to [such] subdivision (c) OF SECTION TWO HUNDRED FORTY-THREE, may at any time increase or decrease the number of [law guardians] ATTORNEYS FOR CHILDREN designated in any county and may rescind any designation at any time, subject to the approval of the office of court administration.

S 21. Section 245 of the family court act, as amended by chapter 443 of the laws of 1995, is amended to read as follows:

S 245. Compensation. (a) If the office of court administration proceeds pursuant to subdivision (a) of section two hundred forty-three of this chapter, the agreement shall provide that the society shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the [providing] PROGRAM FOR THE PROVISION of [law guardians] ATTORNEYS FOR CHILDREN by the respective legal aid society, approved by the [said] administrative board, and the office of court administration may require such reports as it deems necessary from the society.

(b) If an appellate division proceeds pursuant to subdivision (b) of such section two hundred forty-three, the agreement may provide that the attorney or attorneys shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the [providing] PROGRAM FOR THE PROVISION of [law guardians] ATTORNEYS FOR CHILDREN by the respective attorney or attorneys, and the appellate division may require such reports as it deems necessary from the attorney or attorneys.

(c) If an appellate division proceeds pursuant to subdivision (c) of such section two hundred forty-three, [law guardians] ATTORNEYS FOR CHILDREN shall be compensated and allowed expenses and disbursements in the same amounts established by subdivision three of section thirty-five of the judiciary law.

S 22. Section 248 of the family court act, as amended by chapter 833 of the laws of 1974, is amended to read as follows:

S 248. Appropriations. The costs of [law guardians] ATTORNEYS FOR CHILDREN under section two hundred forty-five shall be payable by the state of New York within the amounts appropriated therefor.

S 23. Section 249 of the family court act, as amended by chapter 76 of the laws of 2002, subdivision (a) as amended by section 2 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 249. Appointment of [law guardian] ATTORNEY FOR CHILD. (a) In a proceeding under article three, seven, ten or ten-A of this act or where a revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four or three hundred eighty-four-b of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act, the family court shall appoint [a law guardian] AN ATTORNEY to represent a minor who is the subject of the proceeding or who is sought to be placed in protec-

tive custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of mental retardation and developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the respondent, respondent's parent, or other person legally responsible for the respondent's care, or by [a law guardian] ASSIGNED COUNSEL. In any other proceeding in which the court has jurisdiction, the court may appoint [a law guardian] AN ATTORNEY to represent the child, when, in the opinion of the family court judge, such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

(b) In making an appointment of [a law guardian] AN ATTORNEY FOR A CHILD pursuant to this section, the court shall, to the extent practicable and appropriate, appoint the same [law guardian] ATTORNEY who has previously represented the child. Notwithstanding any other provision of law, in a proceeding under article three OF THIS ACT following an order of removal made pursuant to article seven hundred twenty-five of the criminal procedure law, the court shall, wherever practicable, appoint the SAME counsel [representing] WHO REPRESENTED the juvenile offender in the criminal proceedings [as law guardian].

S 24. Section 249-a of the family court act, as added by chapter 513 of the laws of 1978, is amended to read as follows:

S 249-a. Waiver of counsel. A minor who is a subject of a juvenile delinquency or person in need of supervision proceeding shall be presumed to lack the requisite knowledge and maturity to waive the appointment of [a law guardian] AN ATTORNEY. This presumption may be rebutted only after [a law guardian] AN ATTORNEY has been appointed and the court determines after a hearing at which the [law guardian] ATTORNEY appears and participates and upon clear and convincing evidence that (a) the minor understands the nature of the charges, the possible dispositional alternatives and the possible defenses to the charges, (b) the minor possesses the maturity, knowledge and intelligence necessary to conduct his OR HER own defense, and (c) waiver is in the best interest of the minor.

S 25. Section 249-b of the family court act, as added by chapter 626 of the laws of 2007, is amended to read as follows:

S 249-b. Rules of court. The chief administrator of the courts, pursuant to paragraph (e) of subdivision two of section two hundred twelve of the judiciary law, shall promulgate court rules prescribing workload standards for attorneys for children, including maximum numbers of children who can be represented at any given time, in order to ensure that children receive effective assistance of counsel comporting with legal and ethical mandates, the complexity of the proceedings affecting each client to which the [law guardian] ATTORNEY is assigned, and the nature of the court appearance likely to be required for each individual client. Appointments of attorneys for children under section two hundred forty-nine of this part shall be in conformity with the rules.

S 26. Subdivision (b) of section 251 of the family court act, as amended by chapter 296 of the laws of 1993, is amended to read as follows:

(b) Except for examinations conducted pursuant to section 322.1 of this act where the family court determines that an inpatient examination is necessary, or those ordered after a fact-finding hearing has been completed under article three or seven of this act and the court determines according to the criteria in subdivision three of section 320.5 or subdivision (a) of section seven hundred thirty-nine of this act that the child should be detained pending disposition, or unless otherwise consented to by the adult to be examined or by the [law guardian] ATTORNEY representing the respondent, all examinations pursuant to this section shall be conducted on an outpatient basis. An order for remand after a fact-finding hearing under article three or seven of this act shall include findings on the record supporting the need for examination in a residential facility and a determination that it is the most appropriate facility. Remands for examinations shall be for a period determined by the facility, which shall not exceed thirty days, except that, upon motion by the person detained on its own motion, the court may, for good cause shown, terminate the remand at any time.

S 27. Subdivision 2 of section 301.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. "Respondent" means the person against whom a juvenile delinquency petition is filed pursuant to section 310.1. Provided, however, that any act of the respondent required or authorized under this article may be performed by his OR HER attorney [or law guardian] unless expressly provided otherwise.

S 28. Subdivision 3 of section 306.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

3. Upon receipt of a report of the division of criminal justice services pursuant to this section, the recipient office or agency must promptly transmit two copies of such report to the family court in which the proceeding may be originated and two copies thereof to the presentment agency who shall furnish a copy thereof to counsel for the respondent [or to the respondent's law guardian].

S 29. Subdivision 2 of section 307.4 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. At such hearing the court must appoint [a law guardian] AN ATTORNEY to represent the child pursuant to the provisions of section two hundred forty-nine if independent legal representation is not available to such child.

S 30. Subdivisions 2, 3, and 4 of section 320.2 of the family court act, subdivisions 2 and 3 as added by chapter 920 of the laws of 1982 and subdivision 4 as amended by chapter 663 of the laws of 1985, are amended to read as follows:

2. At the initial appearance the court must appoint [a law guardian] AN ATTORNEY to represent the respondent pursuant to the provisions of section two hundred forty-nine if independent legal representation is not available to such respondent.

3. The initial appearance may be adjourned for no longer than seventy-two hours or until the next court day, whichever is sooner, to enable an appointed [law guardian or other counsel] ATTORNEY to appear before the court.

4. The clerk of the court shall notify the presentment agency and any appointed [law guardian] ATTORNEY of the initial appearance date.

S 31. Section 320.3 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 320.3. Notice of rights. At the time the respondent first appears before the court, the respondent and his OR HER parent or other person

legally responsible for his OR HER care shall be advised of the respondent's right to remain silent and of his OR HER right to be represented by counsel chosen by him OR HER or by [a law guardian] AN ATTORNEY assigned by the court. Provided, however, that in the event of the failure of the respondent's parent or other person legally responsible for his 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 [a law guardian] AN ATTORNEY for the respondent.

S 32. Subdivision 1 of section 320.4 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. At the initial appearance the court must inform the respondent, or cause him to be informed in its presence, of the charge or charges contained in the petition, and the presentment agency must cause the respondent and his OR HER counsel [or law guardian] to be furnished with a copy of the petition.

S 33. Subdivision 1 and paragraphs (a) and (d) of subdivision 5 of section 322.2 of the family court act, subdivision 1 as added by chapter 920 of the laws of 1982, paragraphs (a) and (d) of subdivision 5 as amended by chapter 789 of the laws of 1985, are amended to read as follows:

1. Upon the receipt of examination reports ordered under section 322.1, the court shall conduct a hearing to determine whether the respondent is an incapacitated person. The respondent, the counsel [or law guardian] for the respondent, the presentment agency and the commissioner of mental health or the commissioner of mental retardation and developmental disabilities, as appropriate, shall be notified of such hearing at least five days prior to the date thereof and afforded an opportunity to be heard.

(a) If the court finds that there is probable cause to believe that the respondent committed a felony, it shall order the respondent committed to the custody of the commissioner of mental health or the commissioner of mental retardation and developmental disabilities for an initial period not to exceed one year from the date of such order. Such period may be extended annually upon further application to the court by the commissioner having custody or his OR HER designee. Such application must be made not more than sixty days prior to the expiration of such period on forms that have been prescribed by the chief administrator of the courts. At that time, the commissioner must give written notice of the application to the respondent, the counsel [or law guardian] representing the respondent and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court must conduct a hearing to determine the issue of capacity. If, at the conclusion of a hearing conducted pursuant to this subdivision, the court finds that the respondent is no longer incapacitated, he OR SHE shall be returned to the family court for further proceedings pursuant to this article. If the court is satisfied that the respondent continues to be incapacitated, the court shall authorize continued custody of the respondent by the commissioner for a period not to exceed one year. Such extensions shall not continue beyond a reasonable period of time necessary to determine whether the respondent will attain the capacity to proceed to a fact finding hearing in the foreseeable future but in no event shall continue beyond the respondent's eighteenth birthday.

(d) The commissioner shall review the condition of the respondent within forty-five days after the respondent is committed to the custody

of the commissioner. He OR SHE shall make a second review within ninety days after the respondent is committed to his OR HER custody. Thereafter, he OR SHE shall review the condition of the respondent every ninety days. The respondent and the counsel [or law guardian] for the respondent, shall be notified of any such review and afforded an opportunity to be heard. The commissioner having custody shall apply to the court for an order dismissing the petition whenever he OR SHE determines that there is a substantial probability that the respondent will continue to be incapacitated for the foreseeable future. At the time of such application the commissioner must give written notice of THE application to the respondent, the presentment agency and the mental hygiene legal service if the respondent is at a residential facility. Upon receipt of such application, the court may on its own motion conduct a hearing to determine whether there is substantial probability that the respondent will continue to be incapacitated for the foreseeable future, and it must conduct such hearing if a demand therefor is made by the respondent or the mental hygiene legal service within ten days from the date that notice of THE application was given to them. The respondent may apply to the court for an order of dismissal on the same ground.

S 34. Subdivisions 2 and 3 and paragraph (b) of subdivision 7 of section 330.1 of the family court act, as added by chapter 398 of the laws of 1983, are amended to read as follows:

2. Bill of particulars upon request. Upon a timely request for a bill of particulars by a respondent against whom a petition is pending, the presentment agency shall within fifteen days of the service of the request or as soon thereafter as is practicable, serve upon the respondent or his OR HER attorney [or law guardian] and file with the court, the bill of particulars, except to the extent the presentment agency shall have refused to comply with the request pursuant to subdivision four of this section. If the respondent is detained, the court shall direct the filing of the bill of particulars on an expedited basis and prior to the commencement of the fact-finding hearing.

3. Timeliness of request. A request for a bill of particulars shall be timely if made within thirty days after the conclusion of the initial appearance and before commencement of the fact-finding hearing. If the respondent is not represented by counsel [or a law guardian], and has requested an adjournment to retain counsel or to have [a law guardian] COUNSEL appointed, the thirty-day period shall commence, for the purposes of a request for a bill of particulars by the respondent, on the date counsel [or a law guardian] initially appeared on respondent's behalf. However, the court may direct compliance with a request for a bill of particulars that, for good cause shown, could not have been made within the time specified.

(b) An order limiting, conditioning, delaying or regulating the bill of particulars may, among other things, require that any material copied or derived therefrom be maintained in the exclusive possession of the attorney [or law guardian] for the respondent and be used for the exclusive purpose of preparing for the defense of the juvenile delinquency proceeding.

S 35. Subdivision 2 of section 331.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

2. "Attorneys' work product" means property to the extent that it contains the opinions, theories or conclusions of the presentment agency[, law guardian], counsel for the respondent or members of their staffs.

S 36. Subdivision 1 of section 332.2 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

1. Except as otherwise expressly provided in this article, all pre-trial motions shall be filed within thirty days after the conclusion of the initial appearance and before commencement of the fact-finding hearing, or within such additional times as the court may fix upon application of the respondent made prior to entering a finding pursuant to section 345.1. If the respondent is not represented by counsel [or a law guardian] and has requested an adjournment to retain counsel or to have [a law guardian] COUNSEL appointed, such thirty-day period shall commence on the date counsel [or a law guardian] initially appears on the respondent's behalf. A motion made pursuant to subdivision eight of section 332.1 must be made prior to the commencement of a fact-finding hearing or the entry of an admission.

S 37. Section 341.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 341.2. Presence of respondent and his OR HER parent. 1. The respondent and his OR HER counsel [or law guardian] shall be personally present at any hearing under this article and at the initial appearance.

2. If a respondent conducts himself OR HERSELF in so disorderly and disruptive a manner that the hearing cannot be carried on with [him] THE RESPONDENT in the courtroom, the court may order a recess for the purpose of enabling [his] THE RESPONDENT'S parent or other person responsible for his OR HER care and [his law guardian or] THE RESPONDENT'S counsel to exercise full efforts to assist the respondent to conduct himself OR HERSELF so as to permit the proceedings to resume in an orderly manner. If such efforts fail, the respondent may be removed from the courtroom if, after he OR SHE is warned by the court that he OR SHE will be removed, he OR SHE continues such disorderly and disruptive conduct. Such time shall not extend beyond the minimum period necessary to restore order.

3. The respondent's parent or other person responsible for his OR HER care shall be present at any hearing under this article and at the initial appearance. However, the court shall not be prevented from proceeding by the absence of such parent or person if reasonable and substantial effort has been made to notify such parent or other person and if the respondent and his [law guardian] or HER counsel are present.

S 38. Subdivision 4 and the opening paragraph of subdivision 7 of section 353.3 of the family court act, subdivision 4 as amended by chapter 465 of the laws of 1992, the opening paragraph of subdivision 7 as amended by chapter 181 of the laws of 2000, are amended to read as follows:

4. Where the respondent is placed with the division for youth, the court may direct the division to place the respondent with an authorized agency or class of authorized agencies and in the event the division is unable to so place the respondent or, discontinues the placement with the authorized agency, the respondent shall be deemed to have been placed with the division pursuant to paragraph (b) or (c) of subdivision three of this section. In such cases, the division shall notify the court, presentment agency, [law guardian] RESPONDENT'S ATTORNEY and parent or other person responsible for the respondent's care, of the reason for discontinuing the placement with the authorized agency and the level and location of the youth's placement.

The place in which or the person with whom the respondent has been placed under this section shall submit a report to the court, [law guar-

dian or] RESPONDENT'S attorney of record, and presentment agency at the conclusion of the placement period, except as provided in paragraphs (a) and (b) of this subdivision. Such report shall include recommendations and such supporting data as is appropriate. The court may extend a placement pursuant to section 355.3 of this article.

S 39. Section 354.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 354.2. Duties of counsel [or law guardian]. 1. If the court has entered a dispositional order pursuant to section 352.2, it shall be the duty of the respondent's counsel [or law guardian] to promptly advise such respondent and his OR HER parent or other person responsible for his OR HER care in writing of [his] THE right to appeal to the appropriate appellate division of the supreme court, the time limitations involved, the manner of instituting an [apppeal] APPEAL and obtaining a transcript of the testimony and the right to apply for leave to appeal as a poor person if he OR SHE is unable to pay the cost of an appeal. It shall be the further duty of such counsel [or law guardian] to explain to the respondent and his OR HER parent or person responsible for his OR HER care the procedures for instituting an appeal, the possible reasons upon which an appeal may be based and the nature and possible consequences of the appellate process.

2. It shall also be the duty of such counsel [or law guardian] to ascertain whether the respondent wishes to appeal and, if so, to serve and file the necessary notice of appeal.

3. If the respondent has been permitted to waive the appointment of [a law guardian] COUNSEL pursuant to section two hundred forty-nine-a, it shall be the duty of the court to provide the notice and explanation pursuant to subdivision one and, if the respondent indicates that he OR SHE wishes to appeal, the clerk of the court shall file and serve the notice of appeal.

S 40. Subdivision 3 of section 365.3 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

3. If the presentment agency is the appellant, it must serve a copy of such notice of appeal upon the respondent and upon the attorney [or law guardian] who last appeared for him OR HER in the family court.

S 41. Subdivision 1 of section 375.1 of the family court act, as amended by chapter 645 of the laws of 1996, is amended to read as follows:

1. Upon termination of a delinquency proceeding against a respondent in favor of such respondent, unless the presentment agency upon written motion with not less than eight days notice to such respondent demonstrates to the satisfaction of the court that the interests of justice require otherwise or the court on its own motion with not less than eight days notice to such respondent determines that the interest of justice require otherwise and states the reason for such determination on the record, the clerk of the court shall immediately notify the [law guardian or] counsel for the child, the director of the appropriate presentment agency, and the heads of the appropriate probation department and police department or other law enforcement agency, that the proceeding has terminated in favor of the respondent and, unless the court has directed otherwise, that the records of such action or proceeding, other than those destroyed pursuant to section 354.1 of this act, shall be sealed. Upon receipt of such notification all official records and papers, including judgments and orders of the court, but not including public court decisions or opinions or records and briefs on appeal, relating to the arrest, the prosecution and the probation

service proceedings, including all duplicates or copies thereof, on file with the court, police agency, probation service and presentment agency shall be sealed and not made available to any person or public or private agency. Such records shall remain sealed during the pendency of any motion made pursuant to this subdivision.

S 42. Subdivision (c) of section 435 of the family court act, as amended by chapter 81 of the laws of 2003, is amended to read as follows:

(c) Reports prepared by the probation service for use by the court at any time prior to the making of an order of disposition shall be deemed confidential information furnished to the court which the court in a proper case may, in its discretion, withhold from or disclose in whole or in part to the support magistrate, [law guardian] CHILD'S ATTORNEY, counsel, party in interest, or other appropriate person. Such reports may not be made available to the court prior to a determination that the respondent is liable under this article for the support of the petitioner.

S 43. Subdivision (b) of section 625 of the family court act, as amended by chapter 666 of the laws of 1976, is amended to read as follows:

(b) Reports prepared by the probation service or a duly authorized agency for use by the court prior to the making of an order of disposition shall be deemed confidential information furnished to the court which the court in a proper case may, in its discretion, withhold from or disclose in whole or in part to the [law guardian] CHILD'S ATTORNEY, counsel, party in interest, or other appropriate person. Such reports may not be furnished to the court prior to the completion of a fact-finding hearing, but may be used in a dispositional hearing or in the making of an order of disposition without a dispositional hearing pursuant to subdivision (a) of this section.

S 44. Subdivision (d) of section 633 of the family court act, as added by section 7 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(d) Not later than sixty days before the expiration of the period of suspended judgment, the petitioner shall file a report with the family court and all parties, including the respondent and his or her attorney, the [law guardian] CHILD'S ATTORNEY and intervenors, if any, regarding the respondent's compliance with the terms of suspended judgment. The report shall be reviewed by the court on the scheduled court date. Unless a motion or order to show cause has been filed prior to the expiration of the period of suspended judgment alleging a violation or seeking an extension of the period of the suspended judgment, the terms of the disposition of suspended judgment shall be deemed satisfied and an order committing the guardianship and custody of the child shall not be entered.

S 45. Subdivision (d) and paragraph 2 of subdivision (e) of section 651 of the family court act, subdivision (d) as amended by chapter 657 of the laws of 2003, paragraph 2 of subdivision (e) as added by chapter 595 of the laws of 2008, are amended to read as follows:

(d) With respect to applications by a grandparent or grandparents for visitation or custody rights, made pursuant to section seventy-two or two hundred forty of the domestic relations law, with a child remanded or placed in the care of a person, official, agency or institution pursuant to the provisions of article ten of this act, the applicant, in such manner as the court shall prescribe, shall serve a copy of the application upon the social services official having care and custody of

such child, and the child's [law guardian] ATTORNEY, who shall be afforded an opportunity to be heard thereon.

2. Notifying counsel and issuing orders. Upon consideration of decisions pursuant to article ten of this act, and registry reports and notifying counsel involved in the proceeding, or in the event of a party appearing pro se, notifying such party of the results thereof, including any court appointed [law guardian] ATTORNEY FOR THE CHILD, the court may issue a temporary, successive temporary or final order of custody or visitation.

S 46. Subdivision (a) of section 728 of the family court act is amended to read as follows:

(a) If a child in custody is brought before a judge of the family court before a petition is filed, the judge shall hold a hearing for the purpose of making a preliminary determination of whether the court appears to have jurisdiction over the child. At the commencement of the hearing, the judge shall advise the child of his OR HER right to remain silent, his OR HER right to be represented by counsel of his OR HER own choosing, and of [his] THE right to have [a law guardian] AN ATTORNEY assigned in accord with part four of article two of this act. [He] THE JUDGE must also allow the child a reasonable time to send for his OR HER parents or other person OR PERSONS legally responsible for his OR HER care, and for counsel, and adjourn the hearing for that purpose.

S 47. Subdivisions (a) and (c) of section 741 of the family court act, subdivision (a) as amended and subdivision (c) as added by chapter 837 of the laws of 1975, are amended 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 parent or other person legally responsible for his OR HER care shall be advised of the respondent's right to remain silent and of [his] 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 [a law guardian] AN ATTORNEY assigned by the court under part four of article two. Provided, however, that 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 [a law guardian] 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 [law guardian] ATTORNEY and any guardian ad litem.

(c) At any hearing under this article, the court shall not be prevented from proceeding by the absence of the respondent's parent or other person responsible for his OR HER care if reasonable and substantial effort has been made to notify such parent or responsible person of the occurrence of the hearing and if the respondent and his [law guardian] OR HER ATTORNEY are present. The court shall, unless inappropriate, also appoint a guardian ad litem who shall be present at such hearing and any subsequent hearing.

S 48. Subdivision 2 of section 750 of the family court act, as amended by chapter 106 of the laws of 1987, is amended to read as follows:

2. After the completion of the fact-finding hearing and the making of the required findings and prior to the dispositional hearing, the reports or memoranda prepared or obtained by the probation service and furnished to the court shall be made available by the court for examination and copying by the child's [law guardian or] counsel or by the

respondent if he OR SHE is not represented by [a law guardian or other] counsel. All diagnostic assessments and probation investigation reports shall be submitted to the court at least five court days prior to the commencement of the dispositional hearing. In its discretion the court may except from disclosure a part or parts of the reports or memoranda which are not relevant to a proper disposition, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. In all cases where a part or parts of the reports or memoranda are not disclosed, the court shall state for the record that a part or parts of the reports or memoranda have been excepted and the reasons for its action. The action of the court excepting information from disclosure shall be subject to review on any appeal from the order of disposition. If such reports or memoranda are made available to THE respondent or his [law guardian] or HER counsel, they shall also be made available to the counsel presenting the petition pursuant to section two hundred fifty-four and, in the court's discretion, to any other attorney representing the petitioner.

S 49. Section 760 of the family court act, as added by chapter 9 of the laws of 1989, is amended to read as follows:

S 760. Duties of counsel [or law guardian]. 1. If the court has entered a dispositional order pursuant to section seven hundred fifty-four, it shall be the duty of the respondent's counsel [or law guardian] to promptly advise such respondent and if his OR HER parent or other person responsible for his OR HER care is not the petitioner, such parent or other person responsible for his OR HER care, in writing of [his] THE right to appeal to the appropriate appellate division of the supreme court, the time limitations involved, the manner of instituting an appeal and obtaining a transcript of the testimony and the right to apply for leave to appeal as a poor person if he OR SHE is unable to pay the cost of an appeal. It shall be the further duty of such counsel [or law guardian] to explain to the respondent and if his OR HER parent or other person responsible for his OR HER care is not the petitioner, such parent or person responsible for his OR HER care, the procedures for instituting an appeal, the possible reasons upon which an appeal may be based and the nature and possible consequences of the appellate process.

2. It shall also be the duty of such counsel [or law guardian] to ascertain whether the respondent wishes to appeal and, if so, to serve and file the necessary notice of appeal.

3. If the respondent has been permitted to waive the appointment of [a law guardian] COUNSEL pursuant to section two hundred forty-nine-a, it shall be the duty of the court to provide the notice and explanation pursuant to subdivision one and, if the respondent indicates that he OR SHE wishes to appeal, the clerk of the court shall file and serve the notice of appeal.

S 50. Subdivision (b) of section 835 of the family court act, as amended by chapter 529 of the laws of 1963, is amended to read as follows:

(b) Reports prepared by the probation service for use by the court at any time prior to the making of an order of disposition shall be deemed confidential information furnished to the court which the court in a proper case may, in its discretion, withhold from or disclose in whole or in part to the [law guardian] CHILD'S ATTORNEY, counsel, party in interest, or other appropriate person. Such reports may not be furnished to the court prior to the completion of a fact-finding hearing, but may be used in a dispositional hearing.

S 51. Section 1016 of the family court act, as added by chapter 319 of the laws of 1990, the second undesignated paragraph as amended by section 9 of part A of chapter 3 of the laws of 2005, the fourth undesignated paragraph as added by chapter 560 of the laws of 1990, is amended to read as follows:

S 1016. Appointment of [law guardian] ATTORNEY FOR THE CHILD. The court shall appoint [a law guardian] AN ATTORNEY to represent a child who has been allegedly abused or neglected upon the earliest occurrence of any of the following: (i) the court receiving notice, pursuant to paragraph (iv) of subdivision (b) of section [ten hundred] ONE THOUSAND twenty-four of this act, of the emergency removal of the child; (ii) an application for an order for removal of the child prior to the filing of a petition, pursuant to section one thousand twenty-two of this act; or (iii) the filing of a petition alleging abuse or neglect pursuant to this article.

Whenever [a law guardian] AN ATTORNEY has been appointed by the family court pursuant to section two hundred forty-nine of this act to represent a child in a proceeding under this article, such appointment shall continue without further court order or appointment during (i) an order of disposition issued by the court pursuant to section one thousand fifty-two of this article directing supervision, protection or suspending judgment, or any extension thereof; (ii) an adjournment in contemplation of dismissal as provided for in section one thousand thirty-nine of this article or any extension thereof; or (iii) the pendency of the foster care placement ordered pursuant to section one thousand fifty-two of this article. All notices and reports required by law shall be provided to such [law guardian] ATTORNEY FOR THE CHILD. Such appointment shall terminate upon the expiration of such order, unless another appointment of [a law guardian] AN ATTORNEY FOR THE CHILD has been made by the court or unless such [law guardian] 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 [law guardian] ATTORNEY FOR THE CHILD to whom all notices and reports required by law shall be provided.

[A law guardian] THE ATTORNEY FOR THE CHILD shall be entitled to compensation pursuant to applicable provisions of law for services rendered up to and including disposition of the petition. The [law guardian] ATTORNEY FOR THE CHILD shall, by separate application, be entitled to compensation for services rendered subsequent to the disposition of the petition.

Nothing in this section shall be construed to limit the authority of the court to remove [a law guardian] THE ATTORNEY FOR THE CHILD from his or her assignment.

S 52. Paragraphs (ii) and (iii) of subdivision (a) of section 1027 of the family court act, as amended by section 15 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

(ii) In any such case where the child has been removed, any person originating a proceeding under this article shall, or the [law guardian] ATTORNEY FOR THE CHILD may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

(iii) In any case under this article in which a child has not been removed from his or her parent or other person legally responsible, any person originating a proceeding under this article or the [law guardian]

ATTORNEY FOR THE CHILD may apply for, or the court on its own motion may order, a hearing at any time after the petition is filed to determine whether the child's interests require protection, including whether the child should be removed from his or her parent or other person legally responsible, pending a final order of disposition. Such hearing must be scheduled for no later than the next court day after the application for such hearing has been made.

S 53. Subdivision (a) of section 1028 of the family court act, as amended by chapter 36 of the laws of 1994, is amended to read as follows:

(a) Upon the application of the parent or other person legally responsible for the care of a child temporarily removed under this part or upon the application of the [law guardian] CHILD'S ATTORNEY for an order returning the child, the court shall hold a hearing to determine whether the child should be returned (i) unless there has been a hearing pursuant to section [ten hundred] ONE THOUSAND twenty-seven of this article on the removal of the child at which the parent or other person legally responsible was present and had the opportunity to be represented by counsel, or (ii) upon good cause shown. Except for good cause shown, such hearing shall be held within three court days of the application and shall not be adjourned. Upon such hearing, the court shall grant the application, unless it finds that the return presents an imminent risk to the child's life or health. If a parent or other person legally responsible for the care of a child waives his or her right to a hearing under this section, the court shall advise such person at that time that, notwithstanding such waiver, an application under this section may be made at any time during the pendency of the proceedings.

S 54. Subdivision (a) of section 1029 of the family court act, as amended by chapter 673 of the laws of 1988, is amended to read as follows:

(a) The family court, upon the application of any person who may originate a proceeding under this article, for good cause shown, may issue a temporary order of protection, before or after the filing of such petition, which may contain any of the provisions authorized on the making of an order of protection under section [ten hundred] ONE THOUSAND fifty-six. If such order is granted before the filing of a petition and a petition is not filed under this article within ten days from the granting of such order, the order shall be vacated. In any case where a petition has been filed and [a law guardian] AN ATTORNEY FOR THE CHILD HAS BEEN appointed, such [law guardian] ATTORNEY may make application for a temporary order of protection pursuant to the provisions of this section.

S 55. Subdivisions (b) and (d) of section 1030 of the family court act, as added by chapter 457 of the laws of 1988, are amended to read as follows:

(b) A respondent who has not been afforded such visitation may apply to the court for an order requiring the local social services official having temporary custody of the child pursuant to this part or pursuant to subdivision (d) of section one thousand fifty-one of this article, to permit the respondent to visit the child at stated periods. Such application shall be made upon notice to the local social services official and to any [law guardian] ATTORNEY appointed to represent the child, who shall be afforded an opportunity to be heard thereon.

(d) An order made under this section may be modified by the court for good cause shown, upon application by any party or the child's [law guardian] ATTORNEY, and upon notice of such application to all other

parties and the child's [law guardian] ATTORNEY, who shall be afforded an opportunity to be heard thereon.

S 56. Paragraph (a) of subdivision 1 of section 1033-b of the family court act, as amended by chapter 75 of the laws of 1991, is amended to read as follows:

(a) At the initial appearance, the court shall appoint [a law guardian] AN ATTORNEY to represent the interests of any child named in a petition who is alleged to be abused or neglected, unless [a law guardian] AN ATTORNEY has already been appointed for such child pursuant to section [ten hundred] ONE THOUSAND sixteen of this act.

S 57. Subdivision (c) of section 1036 of the family court act, as amended by chapter 69 of the laws of 1991, is amended to read as follows:

(c) In cases involving either abuse or neglect, the court may send process without the state in the same manner and with the same effect as process sent within the state in the exercise of personal jurisdiction over any person subject to the jurisdiction of the court under section three hundred one or three hundred two of the civil practice law and rules, notwithstanding that such person is not a resident or domiciliary of the state, where the allegedly abused or neglected child resides or is domiciled within the state and the alleged abuse or neglect occurred within the state. In cases involving abuse where service of a petition and summons upon a non-resident or non-domiciliary respondent is required, such service shall be made within ten days after its issuance. If service can not be effected in ten days, an extension of the period to effect service may be granted by the court for good cause shown upon application of any party or the [law guardian] CHILD'S ATTORNEY. Where service is effected on an out of state respondent and the respondent defaults by failing to appear to answer the petition, the court may on its own motion, or upon application of any party or the [law guardian] CHILD'S ATTORNEY proceed to a fact finding hearing thereon.

S 58. Subdivisions (b) and (c) of section 1038 of the family court act, subdivision (b) as added by chapter 724 of the laws of 1989, subdivision (c) as amended by chapter 65 of the laws of 1992, are amended to read as follows:

(b) Pursuant to a demand [pursuant to section thirty-one] MADE UNDER RULE THREE THOUSAND ONE hundred twenty of the civil practice law and rules, a petitioner or social services official shall provide to a respondent or the [law guardian] CHILD'S ATTORNEY any records, photographs or other evidence demanded relevant to the proceeding, for inspection and photocopying. The petitioner or social services official may delete the identity of the persons who filed reports pursuant to section four hundred fifteen of the social services law, unless such petitioner or official intends to offer such reports into evidence at a hearing held pursuant to this article. The petitioner or social services official may move for a protective order to withhold records, photographs or evidence which will not be offered into evidence and the disclosure of which is likely to endanger the life or health of the child.

(c) A respondent or the [law guardian] CHILD'S ATTORNEY may move for an order directing that any child who is the subject of a proceeding under this article be made available for examination by a physician, psychologist or social worker selected by such party or [law guardian] THE CHILD'S ATTORNEY. In determining the motion, the court shall consider the need of the respondent or [law guardian] CHILD'S ATTORNEY for such examination to assist in the preparation of the case and the

potential harm to the child from the examination. Nothing in this section shall preclude the parties from agreeing upon a person to conduct such examination without court order.

Any examination or interview, other than a physical examination, of a child who is the subject of a proceeding under this article, for the purposes of offering expert testimony to a court regarding the sexual abuse of the child, as such term is defined by section one thousand twelve of this article, may, in the discretion of the court, be videotaped in its entirety with access to be provided to the court, the [law guardian] CHILD'S ATTORNEY and all parties. In determining whether such examination or interview should be videotaped, the court shall consider the effect of the videotaping on the reliability of the examination, the effect of the videotaping on the child and the needs of the parties, including the [law guardian] ATTORNEY FOR THE CHILD, for the videotape. Prior to admitting a videotape of an examination or interview into evidence, the person conducting such examination or the person operating the video camera shall submit to the court a verified statement confirming that such videotape is a complete and unaltered videographic record of such examination of the child. The proponent of entry of the videotape into evidence must establish that the potential prejudicial effect is substantially outweighed by the probative value of the videotape in assessing the reliability of the validator in court. Nothing in this section shall in any way affect the admissibility of such evidence in any other court proceeding. The chief administrator of the courts shall promulgate regulations protecting the confidentiality and security of such tapes, and regulating the access thereto, consistent with the provisions of this section.

S 59. Section 1038-a of the family court act, as amended by chapter 162 of the laws of 1991, is amended to read as follows:

S 1038-a. Discovery; upon court order. Upon motion of a petitioner or [law guardian] ATTORNEY FOR THE CHILD, the court may order a respondent to provide nontestimonial evidence, only if the court finds probable cause that the evidence is reasonably related to establishing the allegations in a petition filed pursuant to this article. Such order may include, but not be limited to, provision for the taking of samples of blood, urine, hair or other materials from the respondent's body in a manner not involving an unreasonable intrusion or risk of serious physical injury to the respondent.

S 60. Subdivisions (a), (b), (c), (d) and (e) of section 1039 of the family court act, subdivision (a) as amended by chapter 601 of the laws of 1985, subdivision (b) as amended by chapter 707 of the laws of 1975, subdivision (c) as amended by chapter 323 of the laws of 1990, subdivision (d) as amended by chapter 167 of the laws of 1990, and subdivision (e) as amended by chapter 194 of the laws of 1990, are amended to read as follows:

(a) Prior to or upon a fact-finding hearing, the court may upon a motion by the petitioner with the consent of the respondent and the child's attorney [or law guardian] or upon its own motion with the consent of the petitioner, the respondent and the child's attorney [or law guardian], order that the proceeding be "adjourned in contemplation of dismissal". Under no circumstances shall the court order any party to consent to an order under this section. The court may make such order only after it has apprised the respondent of the provisions of this section and it is satisfied that the respondent understands the effect of such provisions.

(b) An adjournment in contemplation of dismissal is an adjournment of the proceeding for a period not to exceed one year with a view to ultimate dismissal of the petition in furtherance of justice. Upon the consent of the petitioner, the respondent and the child's attorney [or law guardian], the court may issue an order extending such period for such time and upon such conditions as may be agreeable to the parties.

(c) Such order may include terms and conditions agreeable to the parties and to the court, provided that such terms and conditions shall include a requirement that the child and the respondent be under the supervision of a child protective agency during the adjournment period. In any order issued pursuant to this section, such agency shall be directed to make a progress report to the court, the parties and the child's [law guardian] ATTORNEY on the implementation of such order, no later than ninety days after the issuance of such order, unless the court determines that the facts and circumstances of the case do not require such reports to be made. The child protective agency shall make further reports to the court, the parties and the [law guardian] CHILD'S ATTORNEY in such manner and at such times as the court may direct.

(d) Upon application of the respondent, the petitioner, the child's attorney [or law guardian] or upon the court's own motion, made at any time during the duration of the order, if the child protective agency has failed substantially to provide the respondent with adequate supervision or to observe the terms and conditions of the order, the court may direct the child protective agency to observe such terms and conditions and provide adequate supervision or may make any order authorized pursuant to section two hundred fifty-five of this act.

(e) Upon application of the petitioner or the child's attorney [or law guardian,] or upon the court's own motion, made at any time during the duration of the order, the court may restore the matter to the calendar, if the court finds after a hearing that the respondent has failed substantially to observe the terms and conditions of the order or to cooperate with the supervising child protective agency. In such event, unless the parties consent to an order pursuant to section one thousand fifty-one of this act or unless the petition is dismissed upon the consent of the petitioner, the court shall thereupon proceed to a fact-finding hearing under this article no later than sixty days after such application unless such period is extended by the court for good cause shown.

S 61. Section 1039-a of the family court act, as amended by chapter 69 of the laws of 1991, is amended to read as follows:

S 1039-a. Procedures following adjournment in contemplation of dismissal. The local child protective service shall notify the child's [law guardian] ATTORNEY of an indicated report of child abuse or maltreatment in which the respondent is a subject of the report or another person named in the report, as such terms are defined in section four hundred twelve of the social services law, while any order issued pursuant to section [ten hundred] ONE THOUSAND thirty-nine or extension thereof remains in effect.

S 62. Section 1042 of the family court act, as amended by section 4 of part B of chapter 3 of the laws of 2005, is amended to read as follows:

S 1042. Effect of absence of parent or other person responsible for care. If the parent or other person legally responsible for the child's care is not present, the court may proceed to hear a petition under this article only if the child is represented by counsel[, a law guardian,] or a guardian ad litem. The parent or other person legally responsible for the child's care shall be served with a copy of the order of dispo-

sition with written notice of its entry pursuant to section one thousand thirty-six of this article. Within one year of such service or substituted service pursuant to section one thousand thirty-six of this article, the parent or other person legally responsible for the child's care may move to vacate the order of disposition and schedule a rehearing. Such motion shall be granted on an affidavit showing such relationship or responsibility and a meritorious defense to the petition, unless the court finds that the parent or other person willfully refused to appear at the hearing, in which case the court may deny the motion.

S 63. Subdivision (b) of section 1048 of the family court act, as amended by chapter 141 of the laws of 1990, is amended to read as follows:

(b) At the conclusion of a fact-finding hearing and after the court has made findings required before a dispositional hearing may commence, the court may on its own motion or motion of the respondent, the petitioner or the [law guardian] CHILD'S ATTORNEY order a reasonable adjournment of the proceedings[,] to enable the court to make inquiry into the surroundings, conditions[,] and capacities of the persons involved in the proceedings.

S 64. Subdivision (a) of section 1051 of the family court act, as amended by chapter 160 of the laws of 1987, is amended to read as follows:

(a) If facts sufficient to sustain the petition are established in accord with part four of this article, or if all parties and the [law guardian] ATTORNEY FOR THE CHILD consent, the court shall, subject to the provisions of subdivision (c) of this section, enter an order finding that the child is an abused child or a neglected child and shall state the grounds for the finding.

S 65. Section 1052-a of the family court act, as amended by chapter 69 of the laws of 1991, is amended to read as follows:

S 1052-a. Post-dispositional procedures. The local child protective service shall notify the child's [law guardian] ATTORNEY of an indicated report of child abuse or maltreatment in which the respondent is a subject of the report or another person named in the report, as such terms are defined in section four hundred twelve of the social services law, while any order issued pursuant to paragraph (i), (iii), (iv) or (v) of subdivision (a) of section [ten hundred] ONE THOUSAND fifty-two remains in effect against the respondent.

S 66. Subdivision (c) of section 1053 of the family court act, as added by chapter 323 of the laws of 1990, is amended to read as follows:

(c) Except as provided for herein, in any order issued pursuant to this section, the court may require the child protective agency to make progress reports to the court, the parties, and the child's [law guardian] ATTORNEY on the implementation of such order. Where the order of disposition is issued upon the consent of the parties and the child's [law guardian] ATTORNEY, such agency shall report to the court, the parties and the child's [law guardian] ATTORNEY no later than ninety days after the issuance of the order, unless the court determines that the facts and circumstances of the case do not require such report to be made.

S 67. Subdivision (a) of section 1054 of the family court act, as separately amended by chapters 206 and 323 of the laws of 1990, is amended to read as follows:

(a) If the order of disposition releases the child to the custody of his OR HER parent or other person legally responsible for his OR HER care at the time of the filing of the petition, the court may place the

person to whose custody the child is released under supervision of a child protective agency or of a social services official or duly authorized agency, or may enter an order of protection under section [ten hundred] ONE THOUSAND fifty-six, or both. An order of supervision entered under this section shall set forth the terms and conditions of such supervision that the respondent must meet and the actions that the child protective agency, social services official or duly authorized agency must take to exercise such supervision. Except as provided for herein, in any order issued pursuant to this section, the court may require the child protective agency to make progress reports to the court, the parties, and the child's [law guardian] ATTORNEY on the implementation of such order. Where the order of disposition is issued upon the consent of the parties and the child's [law guardian] ATTORNEY, such agency shall report to the court, the parties and the child's [law guardian] ATTORNEY no later than ninety days after the issuance of the order, unless the court determines that the facts and circumstances of the case do not require such report to be made.

S 68. Subparagraph (E) of paragraph (i) of subdivision (b) of section 1055 of the family court act, as amended by chapter 437 of the laws of 2006, is amended to read as follows:

(E) where the permanency goal is return to the parent and it is anticipated that the child may be finally discharged to his or her parent before the next scheduled permanency hearing, the court may provide the local social services district with authority to finally discharge the child to the parent without further court hearing, provided that ten days prior written notice is served upon the court and [law guardian] CHILD'S ATTORNEY. If the court on its own motion or the [law guardian] CHILD'S ATTORNEY on motion to the court does not request the matter to be brought for review before final discharge, no further permanency hearings will be required. The local social services district may also discharge the child on a trial basis to the parent unless the court has prohibited such trial discharge or unless the court has conditioned such trial discharge on another event. For the purposes of this section, trial discharge shall mean that the child is physically returned to the parent while the child remains in the care and custody of the local social services district. Permanency hearings shall continue to be held for any child who has returned to his or her parents on a trial discharge. Where the permanency goal for a child aging out of foster care is another planned permanent living arrangement that includes a significant connection to an adult willing to be a permanency resource for the child, the local social services district may also discharge the child on a trial basis to the planned permanent living arrangements, unless the court has prohibited or otherwise conditioned such a trial discharge. Trial discharge for a child aging out of foster care shall mean that a child is physically discharged but the local social services district retains care and custody or custody and guardianship of the child and there remains a date certain for the scheduled permanency hearing. Children placed under this section shall be placed until the court completes the initial permanency hearing scheduled pursuant to article ten-A of this act. Should the court determine pursuant to article ten-A of this act that placement shall be extended beyond completion of the scheduled permanency hearing, such extended placement and any such successive extensions of placement shall expire at the completion of the next scheduled permanency hearing, unless the court shall determine, pursuant to article ten-A of this act, to continue to extend such placement.

S 69. Subdivisions (a) and (c) of section 1055-a of the family court act, as added by section 19 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

(a) In case of a substantial failure of a material condition in a surrender executed pursuant to section three hundred eighty-three-c of the social services law prior to finalization of the adoption of the child, the court shall possess continuing jurisdiction in accordance with subdivision six of such section to rehear the matter upon the filing of a petition by the authorized agency, the parent or the [law guardian] ATTORNEY for the child or whenever the court deems necessary. In such case, the authorized agency shall notify the parent, unless such notice is expressly waived by a statement written by the parent and appended to or included in such instrument, the [law guardian] ATTORNEY for the child and the court that approved the surrender within twenty days of any substantial failure to comply with a material condition of the surrender prior to the finalization of the adoption of the child. In such case, the authorized agency shall file a petition on notice to the parent unless notice is expressly waived by a statement written by the parent and appended to or included in such instrument and the [law guardian] ATTORNEY FOR THE CHILD in accordance with this section within thirty days of such failure, except for good cause shown, in order for the court to review such failure and, where necessary, to hold a hearing; provided, however, that in the absence of such filing, the parent and/or [law guardian] ATTORNEY for the child may file such a petition at any time up to sixty days after notification of the failure. Such petition filed by a parent or [law guardian] CHILD'S ATTORNEY must be filed prior to the adoption of the child.

(c) Nothing in this section shall limit the rights and remedies available to the parties and the [law guardian] ATTORNEY FOR THE CHILD pursuant to section one hundred twelve-b of the domestic relations law with respect to a failure to comply with a material condition of a surrender subsequent to the finalization of the adoption of the child.

S 70. Subdivision (c) of section 1055-b of the family court act, as added by chapter 519 of the laws of 2008, is amended to read as follows:

(c) As part of the order granting custody or guardianship pursuant to article six of this act, the court may require that the local department of social services and the [law guardian] ATTORNEY for the child receive notice of and be made parties to any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding.

S 71. Section 1057 of the family court act, as separately amended by chapters 206 and 323 of the laws of 1990, is amended to read as follows:

S 1057. Supervision. The court may place the respondent under supervision of a child protective agency or of a social services official or duly authorized agency. An order of supervision entered under this section shall set forth the terms and conditions of such supervision that the respondent must meet and the actions that the child protective agency, social services official or duly authorized agency must take to exercise such supervision. Except as provided for herein, in any order issued pursuant to this section, the court may require the child protective agency to make progress reports to the court, the parties, and the child's [law guardian] ATTORNEY on the implementation of such order. Where the order of disposition is issued upon the consent of the parties and the child's [law guardian] ATTORNEY, such agency shall report to the court, the parties and the child's [law guardian] ATTORNEY no later than ninety days after the issuance of the order, unless the court determines

that the facts and circumstances of the case do not require such report to be made. Rules of court shall define permissible terms and conditions of supervision under this section. The duration of any period of supervision shall be for an initial period of no more than one year and the court may at the expiration of that period, upon a hearing and for good cause shown, make successive extensions of such supervision of up to one year each.

S 72. Section 1058 of the family court act, as amended by section 20 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1058. Expiration of orders. No later than sixty days prior to the expiration of an order issued pursuant to paragraph (i), (ii), (iv), or (v) of subdivision (a) of section one thousand fifty-two of this part or prior to the conclusion of the period of an adjournment in contemplation of dismissal pursuant to section one thousand thirty-nine of this article, where no application has been made seeking extension of such orders or adjournments and, with respect to an adjournment in contemplation of dismissal, no violations of the court's order are before the court, the child protective agency shall, whether or not the child has been or will be returned to the family, report to the court, the parties, including any non-respondent parent and the child's [law guardian] ATTORNEY on the status and circumstances of the child and family and any actions taken or contemplated by such agency with respect to such child and family.

S 73. Section 1063 of the family court act, as amended by section 22 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1063. Service of motion; answer. A copy of a motion under section one thousand sixty-two of this part shall promptly be served by regular mail upon the duly authorized agency or the institution having custody of the child and upon the [law guardian] CHILD'S ATTORNEY, each of whose duty it is to file an answer to the motion within five days of the receipt of the motion.

S 74. Section 1073 of the family court act, as added by chapter 962 of the laws of 1970, is amended to read as follows:

S 1073. Effect of running away from place of placement. If a child placed under section one thousand fifty-five runs away from the place of placement the court may, after hearing, revoke the order of placement and make any order, including an order of placement, that might have been made at the time the order of placement was made. The court may require that the child be present at such hearing and shall appoint [a law guardian] AN ATTORNEY to represent him OR HER.

S 75. Section 1075 of the family court act, as added by chapter 316 of the laws of 1990, is amended to read as follows:

S 1075. Special duties of [law guardian] ATTORNEY FOR THE CHILD. In addition to all other duties and responsibilities necessary to the representation of a child who is the subject of a proceeding under this article, [a law guardian] AN ATTORNEY FOR A CHILD shall upon receipt of a report from a child protective agency pursuant to sections [ten hundred] ONE THOUSAND thirty-nine, [ten hundred] ONE THOUSAND thirty-nine-a, [ten hundred] ONE THOUSAND fifty-two-a, [ten hundred] ONE THOUSAND fifty-three, [ten hundred] ONE THOUSAND fifty-four, [ten hundred] ONE THOUSAND fifty-five, [ten hundred] ONE THOUSAND fifty-seven and [ten hundred] ONE THOUSAND fifty-eight, review the information contained therein and make a determination as to whether there is reasonable cause to suspect that the child is at risk of further abuse or neglect or that there has been a substantive violation of a court order. Where the [law

guardian] ATTORNEY FOR THE CHILD makes such a determination, the [law guardian] ATTORNEY shall apply to the court for appropriate relief pursuant to section [ten hundred] ONE THOUSAND sixty-one. Nothing contained in this section shall relieve a child protective agency or social services official of its duties pursuant to this act or the social services law.

S 76. Subdivision 4 of section 1081 of the family court act, as added by chapter 457 of the laws of 1988, is amended to read as follows:

4. The petition shall be served upon the respondent in a proceeding under this article, the local social services official having the care of the child, any grandparent or grandparents named in the petition as having visitation rights conferred by court order pursuant to section seventy-two or two hundred forty of the domestic relations law, and upon the child's [law guardian] ATTORNEY. The petition shall be served in such manner as the court may direct.

S 77. Paragraph (b) of subdivision 1 and subdivision 2 of section 1082 of the family court act, as added by chapter 457 of the laws of 1988, are amended to read as follows:

(b) The department, the [law guardian] CHILD'S ATTORNEY and the respondent in a proceeding under this article, shall have the right to be heard [in] WITH respect to a petition for an order to enforce visitation rights under this part.

2. Where the local department of social services or the [law guardian] CHILD'S ATTORNEY opposes a petition described in section one thousand eighty-one of this part, the department or the [law guardian] CHILD'S ATTORNEY as appropriate shall serve and file an answer to the petition. The court shall, upon the filing of such answer, set a date for a hearing on such petition and shall notify the parents, grandparent or grandparents, the department and the [law guardian] CHILD'S ATTORNEY of such hearing date.

S 78. Subdivision 4 of section 1085 of the family court act, as added by chapter 378 of the laws of 1999, is amended to read as follows:

4. For the purposes of making a determination pursuant to subparagraph (C) of paragraph (i) of subdivision one of this section, the court shall not be bound by the findings of fact, conclusions of law or ultimate conclusion as determined by the proceedings leading to the conviction of murder in the first or second degree in this state or of an offense in another jurisdiction which, if committed in this state, would constitute murder in either the first or second degree, of a parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of a child who is the subject of the proceeding. In all proceedings under this section, [a law guardian] AN ATTORNEY shall be appointed for the child.

S 79. Section 1088 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1088. Continuing court jurisdiction. If a child is placed pursuant to section three hundred fifty-eight-a, three hundred eighty-four, or three hundred eighty-four-a of the social services law, or pursuant to section one thousand seventeen, one thousand twenty-two, one thousand twenty-seven or one thousand fifty-two of this act, or directly placed with a relative pursuant to section one thousand seventeen or one thousand fifty-five of this act; or if the child is freed for adoption pursuant to section three hundred eighty-three-c, three hundred eighty-four or three hundred eighty-four-b of the social services law, the case shall remain on the court's calendar and the court shall maintain jurisdiction over the case until the child is discharged from placement and all orders regarding supervision, protection or services have expired.

The court shall rehear the matter whenever it deems necessary or desirable, or upon motion by any party entitled to notice in proceedings under this article, or by the [law guardian] ATTORNEY for the child, and whenever a permanency hearing is required by this article. While the court maintains jurisdiction over the case, the provisions of section one thousand thirty-eight of this act shall continue to apply.

S 80. Subparagraph (ii) of paragraph 1 of subdivision (b) of section 1089 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(ii) the agency supervising the care of the child on behalf of the social services district with whom the child was placed, the child's [law guardian] ATTORNEY, and the attorney for the respondent parent.

S 81. Clauses (C) and (G) of subparagraph (viii) of paragraph 2 of subdivision (d) of section 1089 of the family court act, clause (C) as amended by chapter 437 of the laws of 2006, clause (G) as added by section 27 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

(C) Where the permanency goal is return to parent and it is anticipated that the child may be returned home before the next scheduled permanency hearing, the court may provide the local social services district with authority to finally discharge the child to the parent without further court hearing, provided that ten days prior written notice is served upon the court and [law guardian] CHILD'S ATTORNEY. If the court on its own motion or the [law guardian] CHILD'S ATTORNEY on motion to the court does not request the matter to be brought for review before final discharge, no further permanency hearings will be required. The local social services district may also discharge the child on a trial basis to the parent unless the court has prohibited such trial discharge or unless the court has conditioned such trial discharge on another event. For the purposes of this section, trial discharge shall mean that the child is physically returned to the parent while the child remains in the care and custody of the local social services district. Permanency hearings shall continue to be held for any child who has returned to his or her parents on a trial discharge. Where the permanency goal for a child aging out of foster care is another planned permanent living arrangement that includes a significant connection to an adult willing to be a permanency resource for the child, the local social services district may also discharge the child on a trial basis to the planned permanent living arrangements, unless the court has prohibited or otherwise conditioned such a trial discharge. Trial discharge for a child aging out of foster care shall mean that a child is physically discharged but the local social services district retains care and custody or custody and guardianship of the child and there remains a date certain for the scheduled permanency hearing.

(G) Except as provided for herein, in any order issued pursuant to this section, the court may require the local social services district or agency to make progress reports to the court, the parties, and the child's [law guardian] ATTORNEY on the implementation of such order.

S 82. Subparagraph (B) of paragraph (iv) of subdivision (a) and subdivision (c) of section 1089-a of the family court act, as added by chapter 519 of the laws of 2008, are amended to read as follows:

(B) if the local department of social services, the [law guardian] ATTORNEY for the child, or the foster parent of the child who has been the foster parent for the child for one year or more fail to consent to the granting of custody or guardianship under article six of this act,

the court finds that granting custody or guardianship of the child to the relative or suitable person is in the best interests of the child.

(c) As part of the order granting custody or guardianship to the relative or suitable person pursuant to article six of this act, the court may require that the local department of social services and the [law guardian] ATTORNEY for the child receive notice of and be made parties to any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding.

S 83. Subdivision (a) of section 1090 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(a) If [a law guardian] AN ATTORNEY for the child has been appointed by the family court in a proceeding pursuant to section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four, or three hundred eighty-four-b of the social services law, or article ten of this act, the appointment of the [law guardian] ATTORNEY FOR THE CHILD shall continue without further court order or appointment, unless another appointment of [a law guardian] AN ATTORNEY FOR THE CHILD has been made by the court, until the child is discharged from placement and all orders regarding supervision, protection or services have expired. All notices, reports and motions required by law shall be provided to [such law guardian] THE CHILD'S ATTORNEY. The [law guardian] CHILD'S ATTORNEY may be relieved of his or her representation upon application to the court for termination of the appointment. Upon approval of the application, the court shall immediately appoint another [law guardian] ATTORNEY to whom all notices, reports, and motions required by law shall be provided.

S 84. Section 1113 of the family court act, as amended by chapter 461 of the laws of 1997, is amended to read as follows:

S 1113. Time of appeal. An appeal under this article must be taken no later than thirty days after the service by a party or the [law guardian] CHILD'S ATTORNEY upon the appellant of any order from which the appeal is taken, thirty days from receipt of the order by the appellant in court or thirty-five days from the mailing of the order to the appellant by the clerk of the court, whichever is earliest.

All such orders shall contain the following statement in conspicuous print: "Pursuant to section 1113 of the family court act, an appeal must be taken within thirty days of receipt of the order by appellant in court, thirty-five days from the mailing of the order to the appellant by the clerk of the court, or thirty days after service by a party or [law guardian] ATTORNEY FOR THE CHILD upon the appellant, whichever is earliest." When service of the order is made by the court, the time to take an appeal shall not commence unless the order contains such statement and there is an official notation in the court record as to the date and the manner of service of the order.

S 85. Subdivision (d) of section 1114 of the family court act, as added by chapter 417 of the laws of 1991, is amended to read as follows:

(d) Any party to a child protective proceeding, or the [law guardian] ATTORNEY FOR THE CHILD, may apply to a justice of the appellate division for a stay of an order issued pursuant to part two of article ten of this chapter returning a child to the custody of a respondent. The party applying for the stay shall notify the attorneys for all parties and the [law guardian] ATTORNEY FOR THE CHILD of the time and place of such application. If requested by any party present, oral argument shall be had on the application, except for good cause stated upon the record. The party applying for the stay shall state in the application the

errors of fact or law allegedly committed by the family court. A party applying to the court for the granting or continuation of such stay shall make every reasonable effort to obtain a complete transcript of the proceeding before the family court.

If a stay is granted, a schedule shall be set for an expedited appeal.

S 86. Section 1115 of the family court act, as amended by section 29 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

S 1115. Notices of appeal. An appeal as of right shall be taken by filing the original notice of appeal with the clerk of the family court in which the order was made and from which the appeal is taken.

A notice of appeal shall be served on any adverse party as provided for in subdivision one of section five thousand five hundred fifteen of the civil practice law and rules and upon the [law guardian] CHILD'S ATTORNEY, if any. The appellant shall file two copies of such notice, together with proof of service, with the clerk of the family court who shall forthwith transmit one copy of such notice to the clerk of the appropriate appellate division or as otherwise required by such appellate division.

S 87. Section 1118 of the family court act, as amended by chapter 437 of the laws of 2006, is amended to read as follows:

S 1118. Applicability of civil practice law and rules. The provisions of the civil practice law and rules apply where appropriate to appeals under this article, provided, however, that the fees required by section eight thousand twenty-two of the civil practice law and rules shall not be required where the attorney for the appellant or attorney for the movant, as applicable, certifies that such appellant or movant has been assigned counsel or [a law guardian] AN ATTORNEY FOR A CHILD pursuant to section two hundred forty-nine, two hundred sixty-two or eleven hundred twenty of this act or section seven hundred twenty-two of the county law, or is represented by a legal aid society or a legal services program or other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society or organization. Where the attorney for the appellant or the attorney for the movant certifies in accordance with procedures established by the appropriate appellate division that the appellant or movant has been represented in family court by assigned counsel or [a law guardian] AN ATTORNEY FOR A CHILD, pursuant to section two hundred forty-nine, two hundred sixty-two or eleven hundred twenty of this act or section seven hundred twenty-two of the county law, or is represented by a legal aid society or legal services program or some other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf or under the auspices of such society or organization, and that the appellant, who has indicated an intention to appeal, or movant, continues to be eligible for assignment of counsel and, in the case of counsel assigned to represent an adult party, continues to be indigent, the appellant or movant shall be presumed eligible for poor person relief pursuant to section eleven hundred one of the civil practice law and rules and for assignment of counsel on appeal without further motion. The appointment of counsel and granting of poor person relief by the appellate division shall continue for the purpose of filing a notice of appeal or motion for leave to appeal to the court of appeals.

S 88. The section heading and subdivisions (b), (c), (d), (e) and (f) of section 1120 of the family court act, the section heading and subdi-

visions (b), (c) and (e) as amended by chapter 476 of the laws of 1988, subdivision (d) as amended by chapter 75 of the laws of 1991, and subdivision (f) as added by chapter 582 of the laws of 1991, are amended to read as follows:

Counsel [or law guardian] FOR PARTIES AND CHILDREN on appeal.

(b) Whenever [a law guardian] AN ATTORNEY has been appointed by the family court pursuant to section two hundred forty-nine of this act to represent a child in a proceeding described therein, the appointment shall continue without further court order or appointment where (i) the [law guardian] ATTORNEY on behalf of the child files a notice of appeal, or (ii) where a party to the original proceeding files a notice of appeal. The [law guardian] ATTORNEY FOR THE CHILD may be relieved of his representation upon application to the court to which the appeal is taken for termination of the appointment. Upon approval of such application the court shall appoint another [law guardian] ATTORNEY FOR THE CHILD.

(c) An appellate court may appoint [a law guardian] AN ATTORNEY to represent a child in an appeal in a proceeding originating in the family court where [a law guardian] AN ATTORNEY was not representing the child at the time of the entry of the order appealed from or at the time of the filing of the motion for permission to appeal and when independent legal representation is not available to such child.

(d) Nothing in this section shall be deemed to relieve [law guardians] ATTORNEYS FOR CHILDREN of their duties pursuant to subdivision one of sections 354.2 and seven hundred sixty of this act.

(e) [Law guardians] AN ATTORNEY appointed or continuing to represent a [person] CHILD under this section shall be compensated and shall receive reimbursement for expenses reasonably incurred in the same manner provided by section thirty-five of the judiciary law.

(f) In any case where [a law guardian] AN ATTORNEY is or shall be representing a child in an appellate proceeding pursuant to subdivision (b) or (c) of this section, such [law guardian] ATTORNEY shall be served with a copy of the notice of appeal.

S 89. Subdivisions 2, 3, 4 and 5 of section 1121 of the family court act, subdivisions 2 and 4 as added by chapter 582 of the laws of 1991, subdivisions 3 and 5 as amended by chapter 437 of the laws of 2006, are amended to read as follows:

2. Upon the filing of such order, it shall be the duty of counsel to the parties and the [law guardian] CHILD to promptly advise the parties in writing of the right to appeal to the appropriate appellate division of the supreme court, the time limitations involved, the manner of instituting an appeal and obtaining a transcript of the testimony and the right to apply for leave to appeal as a poor person if the party is unable to pay the cost of an appeal. It shall be the further duty of such counsel [or law guardian] to explain to the client the procedures for instituting an appeal, the possible reasons upon which an appeal may be based and the nature and possible consequences of the appellate process.

3. It shall also be the duty of such counsel [or law guardian] to ascertain whether the party represented by such attorney wishes to appeal and, if so, to serve and file the necessary notice of appeal and, as applicable, to apply for leave to appeal as a poor person, to file a certification of continued eligibility for appointment of counsel pursuant to section eleven hundred eighteen of this article, and to submit such other documents as may be required by the appropriate appellate division.

4. If the party has been permitted to waive the appointment of [a law guardian or] counsel appointed pursuant to section two hundred forty-nine-a or two hundred sixty-two of this act, it shall be the duty of the court to advise the party of the right to the appointment of [a law guardian or] counsel for the purpose of filing an appeal.

5. Where a party wishes to appeal, it shall also be the duty of such counsel [or law guardian], where appropriate, to apply for assignment of counsel for such party pursuant to applicable provisions of this act, the judiciary law and the civil practice law and rules, and to file a certification of continued eligibility for appointment of counsel and, in the case of counsel assigned to represent an adult party, continued indigency, pursuant to section [eleven] ONE THOUSAND ONE hundred eighteen of this article and to submit such other documents as may be required by the appropriate appellate division.

S 90. Section 2306 of the public health law, as amended by chapter 512 of the laws of 1992, is amended to read as follows:

S 2306. Sexually transmissible diseases; reports and information, confidential. All reports or information secured by a board of health or health officer under the provisions of this article shall be confidential except in so far as is necessary to carry out the purposes of this article. Such report or information may be disclosed by court order in a criminal proceeding in which it is otherwise admissible or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the prosecution and to the defense, or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the petitioner, respondent and [law guardian] ATTORNEY FOR THE CHILD, provided that the subject of the report or information has waived the confidentiality provided for by this section. A person waives the confidentiality provided for by this section if such person voluntarily discloses or consents to disclosure of such report or information or a portion thereof. If such person lacks the capacity to consent to such a waiver, his or her parent, guardian or [law guardian] ATTORNEY may so consent. An order directing disclosure pursuant to this section shall specify that no report or information shall be disclosed pursuant to such order which identifies or relates to any person other than the subject of the report or information.

S 91. Paragraph (p) of subdivision 1 of section 2782 of the public health law, as added by chapter 592 of the laws of 1990, is amended to read as follows:

(p) [a law guardian,] AN ATTORNEY appointed to represent a minor pursuant to the social services law or the family court act, with respect to confidential HIV related information relating to the minor and for the purpose of representing the minor. If the minor has the capacity to consent, the [law guardian] MINOR'S ATTORNEY may not redisclose confidential HIV related information without the minor's permission. If the minor lacks capacity to consent, the [law guardian] MINOR'S ATTORNEY may redisclose confidential HIV related information for the sole purpose of representing the minor. This paragraph shall not limit [a law guardian's] THE ability OF THE MINOR'S ATTORNEY to seek relief under section twenty-seven hundred eighty-five of this chapter.

S 92. Subdivision 6 and paragraphs (b) and (c) of subdivision 10 of section 358-a of the social services law, subdivision 6 as amended by chapter 78 of the laws of 1978, paragraphs (b) and (c) of subdivision 10 as added by chapter 457 of the laws of 1988, are amended to read as follows:

(6) Representation. In any case where a hearing is directed by the family court judge, he [may, in his discretion,] OR SHE SHALL, PURSUANT TO SECTION TWO HUNDRED FORTY-NINE OF THE FAMILY COURT ACT, appoint [a law guardian] AN ATTORNEY to represent the child, who shall be [an attorney] admitted to practice law in the state of New York.

(b) Where a social services official or the [law guardian of] ATTORNEY FOR the child[, if any,] opposes incorporation of an order, judgment or agreement conferring visitation rights as provided for in paragraph (e) of subdivision two of section three hundred eighty-four-a of this chapter, the social services official or [law guardian] ATTORNEY FOR THE CHILD shall apply for an order determining that the provisions of such order, judgment or agreement should not be incorporated into the instrument executed pursuant to such section. Such order shall be granted upon a finding, based on competent, relevant and material evidence, that the child's life or health would be endangered by incorporation and enforcement of visitation rights as described in such order, judgment or agreement. Otherwise, the court shall deny such application.

(c) Where visitation rights pursuant to an order, judgment or agreement are incorporated in an instrument, the parties may agree to an alternative schedule of visitation equivalent to and consistent with the original or modified visitation order, judgment, or agreement where such alternative schedule reflects changed circumstances of the parties and is consistent with the best interests of the child. In the absence of such an agreement between the parties, the court may, in its discretion, upon application of any party or the child's [law guardian] ATTORNEY, order an alternative schedule of visitation, as described herein, where it determines that such schedule is necessary to facilitate visitation and to protect the best interests of the child.

S 93. Subdivision 3 of section 372 of the social services law, as amended by chapter 394 of the laws of 1993, is amended to read as follows:

3. Such records maintained by the department or an authorized agency, including a local social services district, regarding such children are confidential, provided, however, that such records are subject to the provisions of article thirty-one of the civil practice law and rules. When either the subject foster child, or such child's parent, or such child's guardian if any, is not a party to the action, a copy of the notice or motion for discovery shall be served upon such parent, guardian, and child and, if the child is still a minor, the child's [law guardian] ATTORNEY. Such persons may thereafter appear in the action with regard to such discovery. Where no action is pending, upon application by a parent, relative or legal guardian of such child or by an authorized agency, after due notice to the institution or authorized agency affected and hearing had thereon, the supreme court may by order direct the officers of such institution or authorized agency to furnish to such parent, relative, legal guardian or authorized agency such extracts from the record relating to such child as the court may deem proper. The department through its authorized agents and employees may examine at all reasonable times the records required by this section to be kept.

S 94. Paragraph (b) of subdivision 2 and subparagraphs (i) and (ii) of paragraph (c) of subdivision 5 of section 383-c of the social services law, paragraph (b) of subdivision 2 as added by section 41 and subparagraph (ii) of paragraph (c) of subdivision 5 as amended by section 43 of part A of chapter 3 of the laws of 2005, and subparagraph (i) of paragraph (c) of subdivision 5 as amended by chapter 76 of the laws of 2002, are amended to read as follows:

(b) If a surrender instrument designates a particular person or persons who will adopt a child, such person or persons, the child's birth parent or parents, the authorized agency having care and custody of the child and the child's [law guardian] ATTORNEY, may enter into a written agreement providing for communication or contact between the child and the child's parent or parents on such terms and conditions as may be agreed to by the parties. If a surrender instrument does not designate a particular person or persons who will adopt the child, then the child's birth parent or parents, the authorized agency having care and custody of the child and the child's [law guardian] ATTORNEY may enter into a written agreement providing for communication or contact, on such terms and conditions as may be agreed to by the parties. Such agreement also may provide terms and conditions for communication with or contact between the child and the child's biological siblings or half-siblings, if any. If any such sibling or half-sibling is fourteen years of age or older, such terms and conditions shall not be enforceable unless such sibling or half-sibling consents to the agreement in writing. If the court before which the surrender instrument is presented for approval determines that the agreement concerning communication and contact is in the child's best interests, the court shall approve the agreement. If the court does not approve the agreement, the court may nonetheless approve the surrender; provided, however, that the birth parent or parents executing the surrender instrument shall be given the opportunity at that time to withdraw such instrument. Enforcement of any agreement prior to the adoption of the child shall be in accordance with subdivision (b) of section one thousand fifty-five-a of the family court act. Subsequent to the adoption of the child, enforcement of any agreement shall be in accordance with section one hundred twelve-b of the domestic relations law.

(i) the authorized agency shall notify the parent, unless such notice is expressly waived by a statement written by the parent and appended to or included in such instrument, the [law guardian] ATTORNEY for the child and the court that approved the surrender within twenty days of any substantial failure of a material condition of the surrender prior to the finalization of the adoption of the child; and

(ii) except for good cause shown, the authorized agency shall file a petition on notice to the parent unless notice is expressly waived by a statement written by the parent and appended to or included in such instrument and [law guardian] THE CHILD'S ATTORNEY in accordance with section one thousand fifty-five-a of the family court act within thirty days of such failure, in order for the court to review such failure and, where necessary, to hold a hearing; provided, however, that, in the absence of such filing, the parent and/or [law guardian] ATTORNEY for the child may file such a petition at any time up to sixty days after notification of the failure. Such petition filed by a parent or [law guardian] ATTORNEY FOR THE CHILD must be filed prior to the CHILD'S adoption [of the child]; and

S 95. Paragraph (b) of subdivision 2 and subparagraphs (i) and (ii) of the closing paragraph of subdivision 3 of section 384 of the social services law, paragraph (b) of subdivision 2 as added by section 48 and subparagraph (ii) of the closing paragraph of subdivision 3 as amended by section 49 of part A of chapter 3 of the laws of 2005, and subparagraph (i) of the closing paragraph of subdivision 3 as added by chapter 76 of the laws of 2002, are amended to read as follows:

(b) If a surrender instrument designates a particular person or persons who will adopt a child, such person or persons, the child's

birth parent or parents, the authorized agency having care and custody of the child and the child's [law guardian] ATTORNEY, may enter into a written agreement providing for communication or contact between the child and the child's parent or parents on such terms and conditions as may be agreed to by the parties.

If a surrender instrument does not designate a particular person or persons who will adopt the child, then the child's birth parent or parents, the authorized agency having care and custody of the child and the child's [law guardian] ATTORNEY may enter into a written agreement providing for communication or contact, on such terms and conditions as may be agreed to by the parties. Such agreement also may provide terms and conditions for communication with or contact between the child and the child's biological sibling or half-sibling, if any. If any such sibling or half-sibling is fourteen years of age or older, such terms and conditions shall not be enforceable unless such sibling or half-sibling consents to the agreement in writing. If the court before which the surrender instrument is presented for approval determines that the agreement concerning communication and contact is in the child's best interests, the court shall approve the agreement. If the court does not approve the agreement, the court may nonetheless approve the surrender; provided, however, that the birth parent or parents executing the surrender instrument shall be given the opportunity at that time to withdraw such instrument. Enforcement of any agreement prior to the adoption of the child shall be in accordance with subdivision (b) of section one thousand fifty-five-a of the family court act. Subsequent to the adoption of the child, enforcement of any agreement shall be in accordance with section one hundred twelve-b of the domestic relations law.

(i) the authorized agency shall notify the parent, unless such notice is expressly waived by a statement written by the parent and appended to or included in such instrument, the [law guardian] ATTORNEY for the child and the court that approved the surrender within twenty days of any substantial failure of a material condition of the surrender prior to the finalization of the adoption of the child; and

(ii) except for good cause shown, the authorized agency shall file a petition on notice to the parent unless notice is expressly waived by a statement written by the parent and appended to or included in such instrument and [law guardian] THE CHILD'S ATTORNEY in accordance with section one thousand fifty-five-a of the family court act within thirty days of such failure, in order for the court to review such failure and, where necessary, to hold a hearing; provided, however, that, in the absence of such filing, the parent and/or [law guardian] ATTORNEY for the child may file such a petition at any time up to sixty days after notification of such failure. Such petition filed by a parent or [law guardian] ATTORNEY FOR THE CHILD must be filed prior to the CHILD'S adoption [of the child]; and

S 96. Paragraph (f) of subdivision 2 of section 384-a of the social services law, as added by chapter 457 of the laws of 1988, is amended to read as follows:

(f) Nothing in this section shall be deemed to prohibit a social services official or [a law guardian of] AN ATTORNEY FOR the child, if any, from making an application to modify the terms of a visitation order, incorporated pursuant to this section, for good cause shown, upon notice to all interested parties, or to limit the right of a non-custodial parent or grandparent to seek visitation pursuant to applicable provisions of law.

S 97. Paragraphs (b), (c) and (c-1) and subparagraph (iv) of paragraph (l) of subdivision 3 of section 384-b of the social services law, paragraph (b) as amended by section 55 of part A of chapter 3 of the laws of 2005, paragraph (c) as amended and paragraph (c-1) as added by chapter 185 of the laws of 2006, subparagraph (iv) of paragraph (l) as added by chapter 7 of the laws of 1999, are amended to read as follows:

(b) A proceeding under this section may be originated by an authorized agency or by a foster parent authorized to do so pursuant to section one thousand eighty-nine of the family court act or by a relative with care and custody of the child or, if an authorized agency ordered by the court to originate a proceeding under this section fails to do so within the time fixed by the court, by [a law guardian] THE CHILD'S ATTORNEY or guardian ad litem [of the child] on the court's direction.

(c) Where a child was placed or continued in foster care pursuant to article ten or ten-A of the family court act or section three hundred fifty-eight-a of this chapter, a proceeding under this section shall be originated in the family court in the county in which the proceeding pursuant to article ten or ten-A of the family court act or section three hundred fifty-eight-a of this chapter was last heard and shall be assigned, wherever practicable, to the judge who last heard such proceeding. Where multiple proceedings are commenced under this section concerning a child and one or more siblings or half-siblings of such child, placed or continued in foster care with the same commissioner pursuant to section one thousand fifty-five or one thousand eighty-nine of the family court act, all of such proceedings may be commenced jointly in the family court in any county which last heard a proceeding under article ten or ten-A of the family court act regarding any of the children who are the subjects of the proceedings under this section. In such instances, the case shall be assigned, wherever practicable, to the judge who last presided over such proceeding. In any other case, a proceeding under this section, including a proceeding brought in the surrogate's court, shall be originated in the county where either of the parents of the child reside at the time of the filing of the petition, if known, or, if such residence is not known, in the county in which the authorized agency has an office for the regular conduct of business or in which the child resides at the time of the initiation of the proceeding. To the extent possible, the court shall, when appointing [a law guardian] AN ATTORNEY for the child, appoint [a law guardian] AN ATTORNEY who has previously represented the child.

(c-1) Before hearing a petition under this section, the court in which the termination of parental rights petition has been filed shall ascertain whether the child is under the jurisdiction of a family court pursuant to a placement in a child protective or foster care proceeding or continuation in out-of-home care pursuant to a permanency hearing and, if so, which court exercised jurisdiction over the most recent proceeding. If the court determines that the child is under the jurisdiction of a different family court, the court in which the termination of parental rights petition was filed shall stay its proceeding for not more than thirty days and shall communicate with the court that exercised jurisdiction over the most recent proceeding. The communication shall be recorded or summarized on the record by the court in which the termination of parental rights petition was filed. Both courts shall notify the parties and [law guardian] CHILD'S ATTORNEY, if any, in their respective proceedings and shall give them an opportunity to present facts and legal argument or to participate in the communication prior to the issuance of a decision on jurisdiction. The court that exercised

jurisdiction over the most recent proceeding shall determine whether it will accept or decline jurisdiction over the termination of parental rights petition. This determination of jurisdiction shall be incorporated into an order regarding jurisdiction that shall be issued by the court in which the termination of parental rights petition was filed within thirty days of such filing. If the court that exercised jurisdiction over the most recent proceeding determines that it should exercise jurisdiction over the termination of parental rights petition, the order shall require that the petition shall be transferred to that court forthwith but in no event more than thirty-five days after the filing of the petition. The petition shall be assigned, wherever practicable, to the judge who heard the most recent proceeding. If the court that exercised jurisdiction over the most recent proceeding declines to exercise jurisdiction over the adoption petition, the court in which the termination of parental rights petition was filed shall issue an order incorporating that determination and shall proceed forthwith.

(iv) In the event that the social services official or authorized agency having care and custody of the child fails to file a petition to terminate parental rights within sixty days of the time required by this section, or within ninety days of a court direction to file a proceeding not otherwise required by this section, such proceeding may be filed by the foster parent of the child without further court order or by the [law guardian] ATTORNEY FOR THE CHILD on the direction of the court. In the event of such filing the social services official or authorized agency having care and custody of the child shall be served with notice of the proceeding and shall join the petition.

S 98. Subdivision 4 of section 409-e of the social services law, as amended by chapter 725 of the laws of 1992, is amended to read as follows:

4. In accordance with regulations of the department, relevant portions of the assessment of the child and family circumstances, including but not limited to the material described in paragraph (d) of subdivision one of this section, and a complete copy of the family service plan, established pursuant to subdivisions one and two, respectively, of this section shall be given to the child's parent or guardian, counsel for such parent or guardian, and the child's [law guardian] ATTORNEY, if any, within ten days of preparation of any such plan.

S 99. Subdivision 1 of section 409-f of the social services law, as amended by chapter 725 of the laws of 1992 and as designated by chapter 653 of the laws of 1995, is amended to read as follows:

1. With respect to each child described in subdivision one of section four hundred nine-e of this title, the social services district shall establish and maintain a uniform case record, consisting of the assessment, the family service plan, descriptions of care, maintenance or services provided to such child and family and the dates provided, essential data relating to the identification and history of such child and family, all official documents and records of any judicial or administrative proceedings relating to the district's contact with the child and family, and such other records as the department may by regulation require to adequately review case management by the districts. The department shall by regulation specify the format and contents of the uniform case record. Such regulation shall be developed [with the participation of the child welfare standards advisory council established pursuant to section four hundred nine-h of this chapter and] in consultation with public and voluntary authorized agencies, citizens' groups and concerned individuals and organizations, including the state

council on children and families. The uniform case record shall be maintained by the district in a manner consistent with the confidential nature of such records and shall be made available in accordance with applicable provisions of law. When a hearing has been requested in accordance with section twenty-two of this chapter, a copy of the portions of the record relevant to the hearing shall also be made available to the child's parent or guardian, counsel for the parent or guardian, and, if participating in the hearing, the child's [law guardian] ATTORNEY.

S 100. Subparagraphs (r) and (t) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by chapter 12 of the laws of 1996, are amended to read as follows:

(r) in relation to a report involving a child in residential care, the director or operator of the residential facility or program and, as appropriate, the local social services commissioner or school district placing the child, the division for youth, the department of education, the commission on quality of care for the mentally disabled, the office of mental health, the office of mental retardation and developmental disabilities, and any [law guardian] ATTORNEY appointed to represent the child whose appointment has been continued by a family court judge during the term of the placement, subject to the limitations contained in subdivisions nine and ten of this section and subdivision five of section four hundred twenty-four-c of this title;

(t) [a law guardian] AN ATTORNEY FOR A CHILD, appointed pursuant to the provisions of section [ten hundred] ONE THOUSAND sixteen of the family court act, at any time such appointment is in effect, in relation to any report in which the respondent in the proceeding in which the [law guardian] ATTORNEY FOR A CHILD has been appointed is the subject or another person named in the report, pursuant to sections [ten hundred] ONE THOUSAND thirty-nine-a and [ten hundred] ONE THOUSAND fifty-two-a of the family court act;

S 101. This act shall take effect immediately.