

7473

2011-2012 Regular Sessions

I N A S S E M B L Y

May 6, 2011

Introduced by M. of A. TITUS, SCARBOROUGH, JAFFEE, CASTRO, REILLY, COOK, ROBINSON, PERRY, ROSENTHAL -- Multi-Sponsored by -- M. of A. BARRON, McENENY, MENG, WEISENBERG -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law and the family court act, in relation to permanency for destitute children, procedures for reinstatement of parental relationships and enhancement of supervised independent living programs; and to repeal certain provisions of the social services law relating thereto

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

1 Section 1. Subdivision 3 of section 371 of the social services law, as
2 amended by chapter 722 of the laws of 1978, paragraph (d) as amended and
3 paragraph (e) as added by chapter 342 of the laws of 2010, is amended to
4 read as follows:

5 3. "Destitute child" means a child who[, through no neglect on the
6 part of its parent, guardian or custodian,] is

7 (a) [destitute or homeless, or

8 (b)] NOT SUBJECT TO ARTICLE TEN OF THE FAMILY COURT ACT; IS UNACCOMPA-
9 NIED BY A PARENT OR OTHER LEGALLY RESPONSIBLE ADULT; AND IS EITHER in a
10 state of want or suffering due to lack of sufficient food, clothing,
11 [or] shelter, or medical or surgical care, or

12 [(c) a person under the age of eighteen years who is absent from his
13 legal residence without the consent of his parent, legal guardian or
14 custodian, or

15 (d) a person under the age of eighteen who] is without a place of
16 shelter where APPROPRIATE supervision and care are available, or

17 [(e)] (B) a former foster care youth under the age of twenty-one who
18 was previously placed in the care and custody or custody and guardian-
19 ship of the local commissioner of social services or other officer,
20 board or department authorized to receive children as public charges,

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

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1 and who was discharged from foster care due to a failure to consent to
2 continuation in placement, who has returned to foster care pursuant to
3 section one thousand ninety-one of the family court act.

4 S 2. Subdivision 3 of section 374-b of the social services law, as
5 added by chapter 160 of the laws of 2004, is amended to read as follows:

6 3. An authorized agency that has received approval from the office of
7 children and family services may operate a supervised independent living
8 program, as defined in section three hundred seventy-one of this title.
9 The office of children and family services shall promulgate regulations
10 establishing the standards for approval and operation of supervised
11 independent living programs. AN AUTHORIZED AGENCY SHALL NOT BE REQUIRED
12 TO NOTIFY THE MUNICIPALITY IN ACCORDANCE WITH SUBDIVISION TWO OF THIS
13 SECTION WHEN ESTABLISHING A SUPERVISED INDEPENDENT LIVING PROGRAM OR A
14 SUPERVISED INDEPENDENT LIVING UNIT.

15 S 3. The section heading of section 384-b of the social services law,
16 as amended by chapter 343 of the laws of 2010, is amended to read as
17 follows:

18 Guardianship and custody of destitute or dependent children; commit-
19 ment by court order; modification OR VACATUR of commitment and restora-
20 tion of parental rights.

21 S 4. Subdivision 13 of section 384-b of the social services law, as
22 added by chapter 343 of the laws of 2010, is amended to read as follows:

23 13. A petition to modify OR VACATE a disposition of commitment of
24 guardianship and custody in order to restore parental rights may be
25 brought in accordance with part one-A of article six of the family court
26 act where the conditions enumerated in section six hundred thirty-five
27 of such part have been met.

28 S 5. The social services law is amended by adding a new section 384-d
29 to read as follows:

30 S 384-D. CARE AND CUSTODY OF DESTITUTE CHILDREN. 1. INITIATION OF
31 JUDICIAL PROCEEDING. A SOCIAL SERVICES COMMISSIONER SHALL, WITHIN FOUR-
32 TEEN DAYS OF ACCEPTING THE CARE AS A PUBLIC CHARGE OF A CHILD WHO
33 APPEARS TO BE A DESTITUTE CHILD, AS THAT TERM IS DEFINED BY PARAGRAPH
34 (A) OF SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-ONE OF THIS
35 TITLE FILE A PETITION IN THE FAMILY COURT ALLEGING THAT THE CHILD IS A
36 DESTITUTE CHILD AND REQUESTING THAT THE COURT PLACE THE CHILD IN THE
37 TEMPORARY CARE AND CUSTODY OF SUCH COMMISSIONER WHILE AN INVESTIGATION
38 IS COMMENCED TO DETERMINE WHETHER THE CHILD IS AN ABUSED OR NEGLECTED
39 CHILD SUBJECT TO THE PROVISIONS OF ARTICLE TEN OF THE FAMILY COURT ACT
40 OR A DESTITUTE CHILD AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION THREE OF
41 SECTION THREE HUNDRED SEVENTY-ONE OF THIS TITLE. THE PROCEDURES OUTLINED
42 IN THIS SECTION SHALL NOT APPLY IN THE CASE OF A DESTITUTE CHILD AS
43 DEFINED BY PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION THREE HUNDRED
44 SEVENTY-ONE OF THIS TITLE.

45 2. CONTENTS OF PETITION. THE PETITION SHALL ALLEGE THE BASIS FOR THE
46 BELIEF THAT THE CHILD IS A DESTITUTE CHILD; WHETHER THE WHEREABOUTS OF
47 THE PARENT, PARENTS, GUARDIAN, OR OTHER PERSON LEGALLY RESPONSIBLE ARE
48 KNOWN, AND IF SO, THE ALLEGED ADDRESS OF THAT PERSON, ANY OTHER KNOWN
49 PERSONS LEGALLY RESPONSIBLE FOR THE CHILD, AND ANY OTHER RELATIVES OF
50 THE CHILD. THE PETITION SHALL CONTAIN A NOTICE IN CONSPICUOUS PRINT
51 PROVIDING THAT IF THE CHILD REMAINS IN FOSTER CARE FOR FIFTEEN OF THE
52 TWENTY-TWO MONTHS THAT FOLLOW, THE AGENCY MAY BE REQUIRED BY LAW TO FILE
53 A PETITION TO TERMINATE PARENTAL RIGHTS. THE PETITION SHALL ALSO SET
54 FORTH THE EFFORTS THAT WERE MADE, PRIOR TO THE PLACEMENT OF THE CHILD
55 INTO FOSTER CARE, TO PREVENT REMOVAL OF THE CHILD FROM HIS OR HER HOME
56 AND THE EFFORTS WHICH WERE MADE, PRIOR TO THE FILING OF THE PETITION, TO

1 MAKE IT POSSIBLE FOR THE CHILD TO RETURN SAFELY HOME. IF SUCH EFFORTS
2 WERE NOT MADE, THE PETITION SHALL SET FORTH THE REASONS WHY THESE
3 EFFORTS WERE NOT MADE. THE PETITION SHALL REQUEST THAT A TEMPORARY ORDER
4 BE MADE TRANSFERRING THE CARE AND CUSTODY OF THE CHILD TO THE SOCIAL
5 SERVICES OFFICIAL.

6 3. INITIAL APPEARANCE. AT THE INITIAL APPEARANCE:

7 (A) THE COURT SHALL APPOINT AN ATTORNEY FOR THE CHILD TO REPRESENT THE
8 CHILD; AND

9 (B) THE COURT SHALL DETERMINE WHETHER PLACEMENT OF THE CHILD IN TEMPO-
10 RARY CARE AND CUSTODY OF THE LOCAL COMMISSIONER IS IN THE BEST INTERESTS
11 OF THE CHILD; WHETHER IT WOULD BE CONTRARY TO THE WELFARE OF THE CHILD
12 TO CONTINUE IN HIS OR HER OWN HOME; THAT, WHERE APPROPRIATE, REASONABLE
13 EFFORTS WERE MADE PRIOR TO THE PLACEMENT OF THE CHILD INTO FOSTER CARE
14 TO PREVENT REMOVAL OF THE CHILD FROM HIS OR HER HOME; AND THAT PRIOR TO
15 THE INITIATION OF THE COURT PROCEEDING REQUIRED TO BE HELD BY THIS
16 SUBDIVISION, REASONABLE EFFORTS WERE MADE TO MAKE IT POSSIBLE FOR THE
17 CHILD TO RETURN SAFELY HOME. THE COURT SHALL INCLUDE SUCH FINDINGS IN
18 ITS ORDER. IF THE COURT DETERMINES THAT REASONABLE EFFORTS TO PREVENT
19 THE NEED FOR REMOVAL OF THE CHILD FROM THE HOME WERE NOT MADE BUT THAT
20 THE LACK OF SUCH EFFORTS WAS APPROPRIATE UNDER THE CIRCUMSTANCES, THE
21 COURT ORDER SHALL INCLUDE SUCH FINDINGS.

22 (C) IF THE COURT PLACES THE CHILD IN THE TEMPORARY CUSTODY OF THE
23 LOCAL COMMISSIONER, THE COURT SHALL:

24 (I) ORDER AN INVESTIGATION INTO THE FAMILY CIRCUMSTANCES OF THE CHILD;

25 (II) SET A RETURN DATE FOR AN INVESTIGATION REVIEW PROCEEDING WITHIN
26 FORTY-FIVE DAYS IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION.

27 (III) SET A DATE CERTAIN FOR AN INITIAL PERMANENCY HEARING PURSUANT TO
28 PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION ONE THOUSAND EIGHTY-NINE OF
29 THE FAMILY COURT ACT, WHICH DATE CERTAIN SHALL BE IN NO LATER THAN EIGHT
30 MONTHS FROM THE DATE THE SOCIAL SERVICES OFFICIAL ACCEPTED CARE OF THE
31 CHILD. THE DATE CERTAIN SHALL BE INCLUDED IN THE WRITTEN ORDER OF THE
32 COURT PLACING THE CHILD IN THE TEMPORARY CARE AND CUSTODY OF THE LOCAL
33 COMMISSIONER.

34 4. NOTICE. AT THE INITIAL APPEARANCE AND AT ANY HEARING THEREAFTER,
35 THE COURT MAY DIRECT THAT SERVICE OF A NOTICE OF THE PROCEEDING AND A
36 COPY OF THE PETITION SHALL BE MADE UPON THE PARENT, PARENTS, GUARDIAN,
37 OR OTHER LEGALLY RESPONSIBLE PERSON IN SUCH MANNER AS THE COURT MAY
38 DIRECT. IN THE EVENT THE COURT DETERMINES THAT SERVICE BY PUBLICATION
39 IS NECESSARY AND ORDERS SERVICE BY PUBLICATION, SERVICE SHALL BE MADE IN
40 ACCORDANCE WITH THE PROVISIONS OF RULE THREE HUNDRED SIXTEEN OF THE
41 CIVIL PRACTICE LAW AND RULES, PROVIDED, HOWEVER, THAT A SINGLE PUBLICA-
42 TION OF THE SUMMONS OR OTHER PROCESS WITH A NOTICE AS SPECIFIED HEREIN
43 IN ONLY ONE NEWSPAPER DESIGNATED IN THE ORDER SHALL BE SUFFICIENT. IN NO
44 EVENT SHALL THE WHOLE PETITION BE PUBLISHED. THE NOTICE TO BE PUBLISHED
45 WITH THE SUMMONS OR OTHER PROCESS SHALL STATE THE DATE, TIME, PLACE AND
46 PURPOSE OF THE PROCEEDING.

47 5. INVESTIGATION REVIEW PROCEEDING. AT THE INVESTIGATION REVIEW
48 PROCEEDING, THE COURT SHALL:

49 (A) REVIEW THE INVESTIGATION CONDUCTED BY THE LOCAL SOCIAL SERVICES
50 DISTRICT OF THE FAMILY CIRCUMSTANCES OF THE CHILD;

51 (B) DETERMINE WHETHER FURTHER INVESTIGATION IS NECESSARY, AND IF SO,
52 SET A DATE FOR ANOTHER INVESTIGATION REVIEW PROCEEDING;

53 (C) DETERMINE WHETHER NOTICE SHALL BE MADE UPON ANY PARENT, GUARDIAN,
54 OR OTHER LEGALLY RESPONSIBLE PERSON AND THE METHOD OF SUCH NOTICE;

55 (D) DETERMINE WHETHER A MOTION MUST BE MADE TO SUBSTITUTE A PETITION
56 UNDER ARTICLE TEN OF THE FAMILY COURT ACT; OR

1 (E) IF THE COURT DETERMINES THAT NO FURTHER INVESTIGATION OR NOTICE IS
2 NECESSARY, DETERMINE WHETHER THE CHILD IS A DESTITUTE CHILD WITHIN THE
3 MEANING OF SECTION THREE HUNDRED SEVENTY-ONE OF THIS TITLE.

4 6. DISPOSITION AND ORDER. IF THE COURT DETERMINES THAT THE CHILD IS A
5 DESTITUTE CHILD WITHIN THE MEANING OF PARAGRAPH (A) OF SUBDIVISION THREE
6 OF SECTION THREE HUNDRED SEVENTY-ONE OF THIS TITLE, THE COURT SHALL
7 ISSUE AN ORDER PLACING THE CHILD IN THE CARE AND CUSTODY OF THE LOCAL
8 COMMISSIONER. SUCH ORDER SHALL CONTAIN THE DATE CERTAIN PREVIOUSLY SET
9 FOR THE INITIAL PERMANENCY HEARING. CHILDREN PLACED UNDER THIS SECTION
10 SHALL BE PLACED UNTIL THE COURT COMPLETES THE INITIAL PERMANENCY HEAR-
11 ING. SHOULD THE COURT DETERMINE THAT PLACEMENT WILL CONTINUE BEYOND
12 COMPLETION OF THE INITIAL PERMANENCY HEARING, SUBSEQUENT PERMANENCY
13 HEARINGS SHALL BE SCHEDULED PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (A)
14 OF SECTION ONE THOUSAND EIGHTY-NINE OF THE FAMILY COURT ACT.

15 S 6. Subdivision 1 of section 398 of the social services law is
16 amended to read as follows:

17 1. As to destitute children: Assume charge of, and provide CARE AND
18 support for, any destitute child who cannot be properly cared for in his
19 OR HER home, AND FILE A PETITION TO OBTAIN CUSTODY OF SUCH CHILD PURSU-
20 ANT TO SECTION THREE HUNDRED EIGHTY-FOUR-D OF THIS ARTICLE.

21 S 7. The opening paragraph and paragraph (a) of subdivision 2 of
22 section 398 of the social services law, as amended by chapter 880 of the
23 laws of 1976, are amended to read as follows:

24 As to neglected, abused [or], abandoned, OR DESTITUTE children:

25 (a) Investigate [the] ANY alleged neglect, abuse or abandonment of a
26 child[,]; offer protective social services to prevent injury to the
27 child, to safeguard his OR HER welfare, and to preserve and stabilize
28 family life wherever possible [and,]; if necessary, bring the case
29 before the family court for adjudication and care for the child until
30 the court acts in the matter; and, in the case of an abandoned OR DESTI-
31 TUTE child, [shall] promptly petition the family court to obtain custody
32 of such child.

33 S 8. Paragraph (b) of subdivision 2 of section 398 of the social
34 services law, as amended by chapter 555 of the laws of 1978, is amended
35 to read as follows:

36 (b) Receive and care for any child alleged to be neglected, abused
37 [or], abandoned, OR DESTITUTE who is temporarily placed in [his] THE
38 care OF THE LOCAL COMMISSIONER by the family court pending adjudication
39 by such court of the alleged neglect, abuse or abandonment, OR FINDING
40 THAT THE CHILD IS A DESTITUTE CHILD, including the authority to estab-
41 lish, operate, maintain and approve facilities for such purpose in
42 accordance with the regulations of the [department] OFFICE OF CHILDREN
43 AND FAMILY SERVICES; and receive and care for any neglected, abused [or]
44 , abandoned, OR DESTITUTE child placed or discharged to [his]THE care OF
45 THE LOCAL COMMISSIONER by the family court.

46 S 9. Paragraph (f) of subdivision 2 of section 398 of the social
47 services law, as added by chapter 627 of the laws of 1984, is amended to
48 read as follows:

49 (f) Report to the local criminal justice agency and to the statewide
50 central register for missing children as described in section eight
51 hundred thirty-seven-e of the executive law such information as required
52 on a form prescribed by the commissioner of the division of criminal
53 justice services within forty-eight hours after an abandoned OR DESTI-
54 TUTE child is found.

55 S 10. Paragraph (i) of subdivision 6 of section 398 of the social
56 services law is REPEALED.

1 S 11. Section 398-e of the social services law, as amended by chapter
2 584 of the laws of 2008, is amended to read as follows:

3 S 398-e. Eligibility for protective services, FOSTER CARE SERVICES,
4 and residential services for victims of domestic violence. An alien,
5 including a non-qualified alien, as determined by applicable federal
6 statute and regulation, is eligible for protective services for adults
7 and children, FOSTER CARE SERVICES, and residential services for victims
8 of domestic violence, to the extent such person is otherwise eligible
9 pursuant to this chapter and the regulations of the office of children
10 and family services and the office of temporary and disability assist-
11 ance.

12 S 12. Subdivision (a) of section 249 of the family court act, as
13 amended by chapter 41 of the laws of 2010, is amended to read as
14 follows:

15 (a) In a proceeding under article three, seven, ten or ten-A of this
16 act or where a revocation of an adoption consent is opposed under
17 section one hundred fifteen-b of the domestic relations law or in any
18 proceeding under section three hundred fifty-eight-a, three hundred
19 eighty-three-c, three hundred eighty-four [or], three hundred eighty-
20 four-b OR THREE HUNDRED EIGHTY-FOUR-D of the social services law or when
21 a minor is sought to be placed in protective custody under section one
22 hundred fifty-eight of this act, the family court shall appoint an
23 attorney to represent a minor who is the subject of the proceeding or
24 who is sought to be placed in protective custody, if independent legal
25 representation is not available to such minor. In any proceeding to
26 extend or continue the placement of a juvenile delinquent or person in
27 need of supervision pursuant to section seven hundred fifty-six or 353.3
28 of this act or any proceeding to extend or continue a commitment to the
29 custody of the commissioner of mental health or the commissioner of
30 [mental retardation and] developmental disabilities pursuant to section
31 322.2 of this act, the court shall not permit the respondent to waive
32 the right to be represented by counsel chosen by the respondent,
33 respondent's parent, or other person legally responsible for the
34 respondent's care, or by assigned counsel. In any other proceeding in
35 which the court has jurisdiction, the court may appoint an attorney to
36 represent the child, when, in the opinion of the family court judge,
37 such representation will serve the purposes of this act, if independent
38 legal counsel is not available to the child. The family court on its own
39 motion may make such appointment.

40 S 13. The opening paragraph and subdivisions (a), (b) and (d) of
41 section 635 of the family court act, as added by chapter 343 of the laws
42 of 2010, are amended to read as follows:

43 A petition to VACATE OR modify a disposition ordered pursuant to
44 subdivision (c) of section six hundred thirty-one of this article or
45 paragraph (a) of subdivision three of section three hundred
46 eighty-four-b of the social services law in order to restore parental
47 rights may be filed in accordance with this part where the following
48 conditions are met:

49 (a) the order committing guardianship and custody of the child had
50 been issued [two] THREE or more years prior to the date of filing of the
51 petition under this section; and

52 (b) the order committing guardianship and custody of the child had NOT
53 been based upon an adjudication upon grounds [enumerated in paragraph
54 (b), (c) or (d) of subdivision four] OF SEVERE OR REPEATED ABUSE AS
55 DEFINED IN SUBDIVISION EIGHT of section three hundred eighty-four-b of
56 the social services law; and

1 (d) the child is fourteen years of age or older, remains under the
2 jurisdiction of the family court, has not been adopted, does not have a
3 permanency goal of adoption and, IF THE CHILD'S ATTORNEY IS NOT THE
4 PETITIONER, and consents to the relief requested in the petition.

5 S 14. Subdivisions (a) and (b) of section 636 of the family court act,
6 as added by chapter 343 of the laws of 2010, are amended to read as
7 follows:

8 (a) A proceeding to VACATE OR modify the disposition in order to
9 restore parental rights may be originated by the filing of a petition by
10 the child's attorney, by the agency or individual to whom guardianship
11 and custody of the child had been committed or by the respondent or
12 respondents in the termination of parental rights proceeding. The peti-
13 tion shall be served upon the child's attorney, the agency or individual
14 to whom guardianship and custody of the child had been committed and the
15 respondent or respondents in the termination of parental rights proceed-
16 ing, as well as the attorney or attorneys who represented the respondent
17 or respondents in the termination of parental rights proceeding. A
18 certified copy of the order committing guardianship and custody AND
19 AFFIRMATIONS CONTAINING THE CONSENTS REQUIRED BY SECTION SIX HUNDRED
20 THIRTY-FIVE OF THIS PART shall be attached to the petition.

21 (b) Upon the filing of a petition under this part, the court [may]
22 SHALL cause a summons to be issued to the child, the agency or individ-
23 ual to whom guardianship and custody of the child had been committed and
24 the respondent or respondents in the termination of parental rights
25 proceeding, EACH OF WHOM SHALL BE PARTY TO THE PROCEEDING. The summons
26 shall be served in accordance with section six hundred seventeen of this
27 article, accompanied by a copy of the petition [and], the certified
28 order of commitment sought to be modified AND THE AFFIDAVITS OF CONSENT.

29 S 15. Section 637 of the family court act, as added by chapter 343 of
30 the law as of 2010, is amended to read as follows:

31 S 637. Burden of proof, disposition and findings. (a) The petitioner
32 shall have the burden of proof by clear and convincing evidence that
33 restoration of parental rights is in the child's best interests, that
34 the requirements of section six hundred thirty-five of this part have
35 been met and that all of the parties and the child have consented or, if
36 the petitioner in the proceeding in which guardianship and custody have
37 been committed failed to consent to the relief requested, that such
38 failure was without good cause. IN DETERMINING WHETHER THE BURDEN OF
39 PROOF HAS BEEN MET, THE COURT SHALL TAKE INTO ACCOUNT THE FOLLOWING
40 FACTORS:

41 (I) THE BOND BETWEEN THE CHILD AND THE PARENT OR PARENTS;

42 (II) THE ABILITY OF THE PARENT OR PARENTS TO SAFELY PARENT THE CHILD;
43 AND

44 (III) THE LIKELIHOOD OF THE CHILD BEING ADOPTED, INCLUDING THE CHILD'S
45 WILLINGNESS TO BE ADOPTED.

46 (b) The court shall [state on the record] ISSUE A WRITTEN DECISION
47 WHICH SETS FORTH the reason or reasons for its disposition of the peti-
48 tion. The court may make the following orders of disposition:

49 (i) The court may grant the petition, VACATE OR modify the order of
50 disposition previously entered in the termination of parental rights
51 proceeding and transfer guardianship and custody of the child to the
52 birth parent or parents, provided, however, that the findings of fact
53 rendered pursuant to section six hundred twenty-two of this article or
54 subdivision four of section three hundred eighty-four-b of the social
55 services law that formed the basis for the adjudication terminating
56 parental rights shall remain; or

1 (ii) The court may dismiss the petition, in which case the commitment
2 of guardianship and custody of the child to the authorized agency or
3 individual would continue and a permanency hearing would be required to
4 be held as scheduled in accordance with article ten-A of this act; or

5 (iii) The court may grant the petition conditionally for a designated
6 period of up to six months, during which time guardianship and custody
7 of the child shall remain with the local social services district or
8 authorized agency while the child may visit with, or be placed on a
9 trial discharge with, the birth parent or parents. The court shall
10 direct the district or agency to supervise the child's birth parent or
11 parents, develop a reunification plan and provide appropriate transi-
12 tional services to the child and birth parent or parents and report to
13 the parties, attorney for the child and the court not later than thirty
14 days prior to the expiration of the designated period. The court shall
15 schedule the proceeding to be heard AT LEAST THIRTY DAYS prior to the
16 expiration of the designated period, AT WHICH TIME THE PARTIES MAY
17 SUBMIT ANY ADDITIONAL EVIDENCE ARISING SINCE THE FILING OF THE PETITION,
18 and shall determine whether to grant the petition permanently in accord-
19 ance with paragraph (i) of this subdivision or dismiss the petition in
20 accordance with paragraph (ii) of this subdivision. The court shall
21 state its reasons for its determination. If the petition is permanently
22 granted, the child's custody and guardianship shall be transferred to
23 the birth parent or parents. If the child has been removed from the
24 custody of the birth parent or parents prior to the expiration of the
25 designated period by reason of a report of suspected child abuse or
26 maltreatment, the court shall schedule the proceeding to be heard on
27 notice to the parties and attorney for the child, may terminate the
28 trial discharge and may dismiss the petition in accordance with para-
29 graph (ii) of this subdivision.

30 S 16. Section 1086 of the family court act, as added by section 27 of
31 part A of chapter 3 of the laws of 2005, is amended to read as follows:

32 S 1086. Purpose. The purpose of this article is to establish uniform
33 procedures for permanency hearings for all children who are placed in
34 foster care pursuant to section three hundred fifty-eight-a, three
35 hundred eighty-four [or], three hundred eighty-four-a, OR THREE HUNDRED
36 EIGHTY-FOUR-D of the social services law or pursuant to section one
37 thousand twenty-two, one thousand twenty-seven, or one thousand fifty-
38 two of this act; children who are directly placed with a relative pursu-
39 ant to section one thousand seventeen or one thousand fifty-five of this
40 act; and children who are freed for adoption. It is meant to provide
41 children placed out of their homes timely and effective judicial review
42 that promotes permanency, safety and well-being in their lives.

43 S 17. Subdivision (a) of section 1087 of the family court act, as
44 amended by chapter 342 of the laws of 2010, is amended to read as
45 follows:

46 (a) "Child" shall mean a person under the age of eighteen who is
47 placed in foster care pursuant to section three hundred fifty-eight-a,
48 three hundred eighty-four [or], three hundred eighty-four-a OR THREE
49 HUNDRED EIGHTY-FOUR-D of the social services law or pursuant to section
50 one thousand twenty-two, one thousand twenty-seven, or one thousand
51 fifty-two of this act; or directly placed with a relative pursuant to
52 section one thousand seventeen or one thousand fifty-five of this act;
53 or who has been freed for adoption or a person between the ages of eigh-
54 teen and twenty-one who has consented to continuation in foster care or
55 trial discharge status; or a former foster care youth under the age of
56 twenty-one for whom a court has granted a motion to permit the former

1 foster care youth to return to the custody of the local commissioner of
2 social services or other officer, board or department authorized to
3 receive children as public charges.

4 S 18. Section 1088 of the family court act, as separately amended by
5 chapters 41 and 342 of the laws of 2010, is amended to read as follows:

6 S 1088. Continuing court jurisdiction. If a child is placed pursuant
7 to section three hundred fifty-eight-a, three hundred eighty-four, [or]
8 three hundred eighty-four-a OR THREE HUNDRED EIGHTY-FOUR-D of the social
9 services law, or pursuant to section one thousand seventeen, one thou-
10 sand twenty-two, one thousand twenty-seven or one thousand fifty-two of
11 this act, or directly placed with a relative pursuant to section one
12 thousand seventeen or one thousand fifty-five of this act; or if the
13 child is freed for adoption pursuant to section three hundred eighty-
14 three-c, three hundred eighty-four or three hundred eighty-four-b of the
15 social services law, the case shall remain on the court's calendar and
16 the court shall maintain jurisdiction over the case until the child is
17 discharged from placement and all orders regarding supervision,
18 protection or services have expired. The court shall rehear the matter
19 whenever it deems necessary or desirable, or upon motion by any party
20 entitled to notice in proceedings under this article, or by the attorney
21 for the child, and whenever a permanency hearing is required by this
22 article. While the court maintains jurisdiction over the case, the
23 provisions of section one thousand thirty-eight of this act shall
24 continue to apply. The court shall also maintain jurisdiction over a
25 case for purposes of hearing a motion to permit a former foster care
26 youth under the age of twenty-one who was discharged from foster care
27 due to a failure to consent to continuation of placement to return to
28 the custody of the local commissioner of social services or other offi-
29 cer, board or department authorized to receive children as public charg-
30 es.

31 S 19. Paragraph 2 of subdivision (a) of section 1089 of the family
32 court act, as amended by chapter 437 of the laws of 2006, is amended to
33 read as follows:

34 (2) All other permanency hearings. At the conclusion of the hearing
35 pursuant to section one thousand twenty-two, one thousand twenty-seven,
36 or one thousand fifty-two of this act, OR SECTION THREE HUNDRED EIGHTY-
37 FOUR-D OF THE SOCIAL SERVICES LAW, at which the child was remanded or
38 placed and upon the court's approval of a voluntary placement instrument
39 pursuant to section three hundred fifty-eight-a of the social services
40 law, the court shall set a date certain for an initial permanency hear-
41 ing, advise all parties in court of the date set and include the date in
42 the order. Orders issued in subsequent court hearings prior to the
43 permanency hearing, including, but not limited to, the order of place-
44 ment issued pursuant to section one thousand fifty-five of this act, OR
45 SECTION THREE HUNDRED EIGHTY-FOUR-D OF THE SOCIAL SERVICES LAW, shall
46 include the date certain for the permanency hearing. The initial perman-
47 ency hearing shall be commenced no later than six months from the date
48 which is sixty days after the child was removed from his or her home;
49 provided, however, that if a sibling or half-sibling of the child has
50 previously been removed from the home and has a permanency hearing date
51 certain scheduled within the next eight months, the permanency hearing
52 for each child subsequently removed from the home shall be scheduled on
53 the same date certain that has been set for the first child removed from
54 the home, unless such sibling or half-sibling has been removed from the
55 home pursuant to article three or seven of this act. The permanency

1 hearing shall be completed within thirty days of the scheduled date
2 certain.

3 S 20. Subdivision (a) of section 1090 of the family court act, as
4 separately amended by chapters 41 and 342 of the laws of 2010, is
5 amended to read as follows:

6 (a) If an attorney for the child has been appointed by the family
7 court in a proceeding pursuant to section three hundred fifty-eight-a,
8 three hundred eighty-three-c, three hundred eighty-four, [or] three
9 hundred eighty-four-b OR THREE HUNDRED EIGHTY-FOUR-D of the social
10 services law, or article ten of this act, the appointment of the attor-
11 ney for the child shall continue without further court order or appoint-
12 ment, unless another appointment of an attorney for the child has been
13 made by the court, until the child is discharged from placement and all
14 orders regarding supervision, protection or services have expired. The
15 attorney shall also represent the child without further order or
16 appointment in any proceedings under article ten-B of this act. All
17 notices, reports and motions required by law shall be provided to the
18 child's attorney. The child's attorney may be relieved of his or her
19 representation upon application to the court for termination of the
20 appointment. Upon approval of the application, the court shall imme-
21 diately appoint another attorney to whom all notices, reports, and
22 motions required by law shall be provided.

23 S 21. This act shall take effect on the ninetieth day after it shall
24 have become a law.