

3517

2011-2012 Regular Sessions

I N   S E N A T E

February 24, 2011

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

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

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

1     Section 1. Subdivision 7 of section 358-a of the social services law,  
2     as amended by section 39 of part A of chapter 3 of the laws of 2005, is  
3     amended to read as follows:  
4     (7) Return of child. If an instrument provides for the return of the  
5     care and custody of a child by the local social services official to the  
6     parent, parents or guardian upon any terms and conditions or at any  
7     time, the local social services official shall comply with such terms of  
8     such instrument without further court order. Every order approving an  
9     instrument providing for the transfer of the care and custody of a child  
10    to a local social services official shall be served upon the parent,  
11    parents or guardian who executed such instrument in such manner as the  
12    family court judge may provide in such order, together with a notice of  
13    the terms and conditions under which the care and custody of such child  
14    may be returned to the parent, parents or guardian. If an instrument  
15    provides for the return of the care and custody of a child by the local  
16    social services official to the parent, parents or guardian without  
17    fixing a definite date for such return, or if the local social services  
18    official shall fail to return a child to the care and custody of the  
19    child's parent, parents or guardian in accordance with the terms of the  
20    instrument, the parent, parents or guardian may seek such care and  
21    custody by motion for return of such child and order to show cause in  
22    such proceeding or by writ of habeas corpus in the supreme court. IN A  
23    CASE WHERE A CHILD HAS BEEN IN THE CARE AND CUSTODY OF A SOCIAL SERVICES  
24    OFFICIAL FOR A PERIOD OF SIX MONTHS OR MORE WITHOUT VISITATION BY THE

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

LBD05452-01-1

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

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

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

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