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

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2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. PAULIN, CASTRO, ROBINSON, COOK, GALEF, GIBSON, GUNTHER, JAFFEE, MILLMAN, SCARBOROUGH, ZEBROWSKI -- Multi-Sponsored by -- M. of A. GOTTFRIED, WEISENBERG -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to permanency planning in juvenile delinquency and persons in need of supervision proceedings in family court

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

Section 1. Section 312.1 of the family court act is amended by adding a new subdivision 4 to read as follows:

4. UPON THE FILING OF A PETITION UNDER THIS ARTICLE, THE PRESENTMENT AGENCY SHALL NOTIFY ANY NON-CUSTODIAL PARENTS OF THE RESPONDENT WHO HAD NOT BEEN ISSUED A SUMMONS IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION, PROVIDED THAT THE ADDRESSES OF ANY SUCH PARENTS HAVE BEEN PROVIDED. THE PROBATION DEPARTMENT AND PRESENTMENT AGENCY SHALL ASK THE CUSTODIAL PARENT OR PERSON LEGALLY RESPONSIBLE FOR INFORMATION REGARDING ANY OTHER PARENT OR PARENTS OF THE RESPONDENT. THE NOTICE SHALL INFORM THE PARENT OR PARENTS OF THE RIGHT TO APPEAR AND PARTICIPATE IN THE PROCEEDING AND TO SEEK TEMPORARY RELEASE OR, UPON DISPOSITION, DIRECT PLACEMENT OF THE RESPONDENT. THE PRESENTMENT AGENCY SHALL SEND THE NOTICE TO THE NON-CUSTODIAL PARENT AT LEAST FIVE DAYS BEFORE THE RETURN DATE. THE FAILURE OF A PARENT ENTITLED TO NOTICE TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE RESPONDENT'S INITIAL APPEARANCE, AS DEFINED BY SECTION 320.1 OF THIS ARTICLE.

S 2. Subdivision 2 of section 320.2 of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

2. At the initial appearance the court must appoint an attorney to represent the respondent pursuant to the provisions of section two

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

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hundred forty-nine OF THIS ACT if independent legal representation is not available to such respondent. WHENEVER AN ATTORNEY HAS BEEN APPOINTED BY THE FAMILY COURT TO REPRESENT A CHILD IN A PROCEEDING UNDER THIS ARTICLE, SUCH APPOINTMENT SHALL CONTINUE WITHOUT FURTHER COURT ORDER OR APPOINTMENT DURING THE PERIOD COVERED BY ANY ORDER OF DISPOSITION ISSUED BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR ANY EXTENSION OR VIOLATION THEREOF, OR DURING ANY PERMANENCY HEARING, OTHER POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE BY THE COURT OR UNLESS SUCH 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 ATTORNEY TO WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE ATTORNEY FOR THE RESPONDENT SHALL BE ENTITLED TO COMPENSATION PURSUANT TO APPLICABLE PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUDING DISPOSITION OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLICATION, BE ENTITLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE DISPOSITION OF THE PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR HER ASSIGNMENT.

S 3. Section 353.3 of the family court act is amended by adding a new subdivision 4-a to read as follows:

4-A. (A) WHERE THE RESPONDENT IS PLACED WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES OR THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO SUBDIVISION TWO, THREE OR FOUR OF THIS SECTION, THE DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED BY REFERENCE INTO THE ORDER SHALL INCLUDE:

(I) A DESCRIPTION OF THE PLAN TO FACILITATE VISITATION BETWEEN THE RESPONDENT AND HIS OR HER FAMILY;

(II) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET BEEN DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND DELIVERED TO THE PRESENTMENT AGENCY, ATTORNEY FOR THE RESPONDENT AND PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT NO LATER THAN SIXTY DAYS FROM THE DATE THE DISPOSITION WAS MADE; AND

(III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

(B) A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY WITH WHICH THE CHILD IS PLACED MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 4. Paragraphs (a), (b) and (c) of subdivision 7 of section 353.3 of the family court act, as amended by section 6 of part G of chapter 58 of the laws of 2010, are amended to read as follows:

(a) Where the respondent is placed pursuant to subdivision two [or], three OR FOUR of this section and where the agency is not seeking an extension of the placement pursuant to section 355.3 of this part, such

report shall be submitted not later than thirty days prior to the conclusion of the placement.

(b) Where the respondent is placed pursuant to subdivision two [or], three OR FOUR of this section and where the agency is seeking an extension of the placement pursuant to section 355.3 of this part and a permanency hearing pursuant to section 355.5 of this part, such report shall be submitted not later than sixty days prior to the date on which the permanency hearing must be held and shall be annexed to the petition for a permanency hearing and extension of placement.

(c) Where the respondent is placed pursuant to subdivision two [or], three OR FOUR of this section, such report shall contain a plan for the release, or conditional release (pursuant to section five hundred ten-a of the executive law), of the respondent to the custody of his or her parent or other person legally responsible, to independent living or to another permanency alternative as provided in paragraph (d) of subdivision seven of section 355.5 of this part. FOR PURPOSES OF THIS PARAGRAPH, "PLACEMENT AGENCY" SHALL REFER TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT OR THE AUTHORIZED AGENCY UNDER CONTRACT WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES OR COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT WITH WHOM THE RESPONDENT HAS BEEN PLACED. THE RELEASE OR CONDITIONAL RELEASE PLAN SHALL PROVIDE AS FOLLOWS:

(I) If the respondent is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY to [facilitate] ENSURE the IMMEDIATE enrollment of the respondent in [a] AN APPROPRIATE school or educational program leading to a high school diploma [following] WITHIN FIVE DAYS OF release, or, if such release occurs during the summer recess, IMMEDIATELY upon the commencement of the next school term. THE PLACEMENT AGENCY SHALL ASCERTAIN THE SCHOOL CALENDAR FROM THE SCHOOL DISTRICT AND SHALL, TO THE EXTENT POSSIBLE, WORK WITH THE SCHOOL DISTRICT SO THAT THE TIMING OF RESPONDENT'S RELEASE FROM THE PROGRAM AND ENROLLMENT IN SCHOOL ARE MINIMALLY DISRUPTIVE FOR THE RESPONDENT AND FURTHER HIS OR HER BEST INTERESTS. NOT LESS THAN FOURTEEN DAYS PRIOR TO THE RESPONDENT'S RELEASE, THE PLACEMENT AGENCY SHALL NOTIFY THE SCHOOL DISTRICT WHERE THE RESPONDENT WILL BE ATTENDING SCHOOL AND TRANSFER ALL NECESSARY RECORDS, INCLUDING, BUT NOT LIMITED TO, THE RESPONDENT'S COURSE OF STUDY, CREDITS EARNED AND ACADEMIC RECORD.

(II) IF THE PLACEMENT AGENCY HAS REASON TO BELIEVE THAT THE RESPONDENT MAY HAVE A DISABILITY OR IF THE RESPONDENT HAD BEEN FOUND ELIGIBLE TO RECEIVE SPECIAL EDUCATION SERVICES PRIOR TO OR DURING THE PLACEMENT, IN ACCORDANCE WITH ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE PLACEMENT AGENCY HAS TAKEN AND WILL BE TAKING TO ENSURE THAT THE LOCAL EDUCATION AGENCY MAKES ANY NECESSARY REFERRALS OR ARRANGES FOR SPECIAL EDUCATIONAL EVALUATIONS OR SERVICES, AS APPROPRIATE, AND PROVIDES NECESSARY RECORDS IMMEDIATELY IN ACCORDANCE WITH STATE AND FEDERAL LAW.

(III) If the respondent is not subject to article sixty-five of the education law and does not elect to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to assist the respondent to

become gainfully employed or enrolled in a vocational program following release.

S 5. The opening paragraph of subdivision 2, the opening paragraph of subdivision 3, subdivision 5, subdivision 6 and paragraphs (b) and (d) of subdivision 7 of section 355.5 of the family court act, the opening paragraph of subdivision 2 and the opening paragraph of subdivision 3 as amended by chapter 145 of the laws of 2000, subdivision 5 and paragraph (b) of subdivision 7 as added by chapter 7 of the laws of 1999, subdivision 6 as amended by section 1 of part B of chapter 327 of the laws of 2007, and paragraph (d) of subdivision 7 as amended by chapter 181 of the laws of 2000, are amended and a new subdivision 10 is added to read as follows:

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to SUBDIVISION TWO, THREE OR FOUR OF section 353.3 of this [article] PART for a period of twelve or fewer months and resides in a foster home or IN A non-secure OR LIMITED SECURE facility[;]:

Where a respondent is placed with a commissioner of social services or the office of children and family services pursuant to SUBDIVISION TWO, THREE OR FOUR OF section 353.3 of this [article] PART for a period in excess of twelve months and resides in a foster home or in a non-secure OR LIMITED SECURE facility[;]:

5. A petition for an initial or subsequent permanency hearing shall be filed by the office of children and family services or by the commissioner of social services with whom the respondent was placed. Such petition shall be filed no later than sixty days prior to the end of the month in which an initial or subsequent permanency hearing must be held, as directed in subdivision two of this section. THE PETITION SHALL BE ACCOMPANIED BY A PERMANENCY REPORT THAT CONFORMS TO THE REQUIREMENTS OF SUBDIVISION (C) OF SECTION ONE THOUSAND EIGHTY-NINE OF THIS ACT.

6. THE RESPONDENT AND HIS OR HER ATTORNEY SHALL BE NOTIFIED OF THE HEARING AND OF THE RESPONDENT'S RIGHT TO BE HEARD AND A COPY OF THE PERMANENCY PETITION AND ACCOMPANYING REPORT FILED IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION SHALL BE SERVED ON THE RESPONDENT'S ATTORNEY. The foster parent caring for the respondent or any pre-adoptive parent or relative providing care for the respondent shall be provided with notice of any permanency hearing held pursuant to this section by the office of children and family services or the LOCAL commissioner of social services with whom the respondent was placed. Such foster parent, pre-adoptive parent and relative shall have the right to be heard at any such hearing; provided, however, no such foster parent, pre-adoptive parent or relative shall be construed to be a party to the hearing solely on the basis of such notice and right to be heard. The failure of the foster parent, pre-adoptive parent, or relative caring for the [child] RESPONDENT to appear at a permanency hearing shall constitute a waiver of the right to be heard and such failure to appear shall not cause a delay of the permanency hearing nor shall such failure to appear be a ground for the invalidation of any order issued by the court pursuant to this section.

(b) in the case of a respondent who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the respondent to make the transition from foster care to independent living;

(d) with regard to the completion of placement ordered by the court pursuant to section 353.3 or 355.3 of this [article] PART: whether and when the respondent: (i) will be returned to the parent OR PARENTS; (ii) should be placed for adoption with the local commissioner of social

services filing a petition for termination of parental rights; (iii) should be referred for legal guardianship; (iv) should be placed permanently with a fit and willing relative; or (v) should be placed in another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE CHILD if the office of children and family services or the local commissioner of social services has documented to the court a compelling reason for determining that it would not be in the best interest of the respondent to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and

10. (A) IF THE ORDER RESULTING FROM THE PERMANENCY HEARING EXTENDS THE RESPONDENT'S PLACEMENT PURSUANT TO SECTION 355.3 OF THIS PART IN A FOSTER HOME OR NON-SECURE OR LIMITED SECURE FACILITY OR IF THE RESPONDENT CONTINUES IN SUCH PLACEMENT UNDER A PRIOR ORDER OF PLACEMENT OR AN EXTENSION THEREOF, THE ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED INTO THE ORDER BY REFERENCE SHALL INCLUDE:

(I) A DESCRIPTION OF THE PLAN TO FACILITATE VISITATION BETWEEN THE RESPONDENT AND HIS OR HER FAMILY;

(II) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

(III) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES, INCLUDING THOSE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

(B) WHERE THE COURT DETERMINES THAT REASONABLE EFFORTS IN THE FORM OF SERVICES OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY WOULD FURTHER THE RESPONDENT'S NEEDS AND BEST INTERESTS AND THE NEED FOR PROTECTION OF THE COMMUNITY AND WOULD MAKE IT POSSIBLE FOR THE RESPONDENT TO SAFELY RETURN HOME OR TO MAKE THE TRANSITION TO INDEPENDENT LIVING, THE COURT MAY INCLUDE IN ITS ORDER A DIRECTION FOR A LOCAL SOCIAL SERVICES, MENTAL HEALTH OR PROBATION OFFICIAL OR AN OFFICIAL OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR OFFICE OF METAL HEALTH, AS APPLICABLE, TO PROVIDE OR ARRANGE FOR THE PROVISION OF SERVICES OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY. SUCH ORDER REGARDING A LOCAL SOCIAL SERVICES OFFICIAL SHALL NOT INCLUDE THE PROVISION OF ANY SERVICE OR ASSISTANCE TO THE RESPONDENT AND HIS OR HER FAMILY THAT IS NOT AUTHORIZED OR REQUIRED TO BE MADE AVAILABLE PURSUANT TO THE COUNTY CHILD AND FAMILY SERVICES PLAN THEN IN EFFECT. IN ANY ORDER ISSUED PURSUANT TO THIS SECTION, THE COURT MAY REQUIRE THE OFFICIAL TO MAKE PERIODIC PROGRESS REPORTS TO THE COURT ON THE IMPLEMENTATION OF SUCH ORDER. VIOLATION OF SUCH ORDER SHALL BE SUBJECT TO PUNISHMENT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-THREE OF THE JUDICIARY LAW.

(C) A COPY OF THE COURT'S ORDER AND THE ATTACHMENTS SHALL BE GIVEN TO THE RESPONDENT AND HIS OR HER ATTORNEY AND TO THE RESPONDENT'S PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY WITH WHICH THE RESPONDENT IS PLACED MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 6. Section 736 of the family court act is amended by adding a new subdivision 4 to read as follows:

(4) IN ANY PROCEEDING UNDER THIS ARTICLE, THE COURT SHALL CAUSE A COPY OF THE PETITION AND NOTICE OF THE TIME AND PLACE TO BE HEARD TO BE

SERVED UPON ANY NON-CUSTODIAL PARENT OF THE RESPONDENT, PROVIDED THAT THE ADDRESS OF SUCH PARENT IS KNOWN TO OR IS ASCERTAINABLE BY THE COURT. SERVICE SHALL BE MADE BY ORDINARY FIRST CLASS MAIL AT SUCH PARENT'S LAST KNOWN RESIDENCE. THE FAILURE OF SUCH PARENT TO APPEAR SHALL NOT BE CAUSE FOR DELAY OF THE PROCEEDINGS.

S 7. Subdivision (a) of section 741 of the family court act, as amended by chapter 41 of the laws of 2010, is amended and a new subdivision (d) is added 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 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 an attorney assigned by the court under part four of article two OF THIS ACT. [Provided, however, that in] 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 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 attorney and any guardian ad litem.

(D) WHENEVER AN ATTORNEY HAS BEEN APPOINTED BY THE FAMILY COURT TO REPRESENT A RESPONDENT IN A PROCEEDING UNDER THIS ARTICLE PURSUANT TO SUBDIVISION (A) OF THIS SECTION, SUCH APPOINTMENT SHALL CONTINUE WITHOUT FURTHER COURT ORDER OR APPOINTMENT DURING AN ORDER OF DISPOSITION ISSUED BY THE COURT, AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL, OR ANY EXTENSION OR VIOLATION THEREOF, OR ANY PERMANENCY HEARING, OTHER POST-DISPOSITIONAL PROCEEDING OR APPEAL. ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED TO SUCH ATTORNEY. SUCH APPOINTMENT SHALL CONTINUE UNLESS ANOTHER APPOINTMENT OF AN ATTORNEY HAS BEEN MADE BY THE COURT OR UNLESS SUCH 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 ATTORNEY TO WHOM ALL NOTICES AND REPORTS REQUIRED BY LAW SHALL BE PROVIDED. THE ATTORNEY SHALL BE ENTITLED TO COMPENSATION PURSUANT TO APPLICABLE PROVISIONS OF LAW FOR SERVICES RENDERED UP TO AND INCLUDING DISPOSITION OF THE PETITION. THE ATTORNEY SHALL, BY SEPARATE APPLICATION, BE ENTITLED TO COMPENSATION FOR SERVICES RENDERED AFTER THE DISPOSITION OF THE PETITION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COURT TO REMOVE AN ATTORNEY FROM HIS OR HER ASSIGNMENT.

S 8. Subdivision (a) of section 756 of the family court act is amended by adding two new paragraphs (iii) and (iv) to read as follows:

(III) THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR THE RELATIVE OR SUITABLE PERSON WITH WHOM THE RESPONDENT HAS BEEN PLACED UNDER THIS SECTION SHALL SUBMIT A REPORT TO THE COURT, THE ATTORNEY FOR THE RESPONDENT AND THE PRESENTMENT AGENCY, IF ANY, NOT LATER THAN THIRTY DAYS PRIOR TO THE CONCLUSION OF THE PLACEMENT PERIOD; PROVIDED, HOWEVER, THAT WHERE THE LOCAL COMMISSIONER OF SOCIAL SERVICES OR THE RELATIVE OR SUITABLE PERSON WITH WHOM THE RESPONDENT HAS BEEN PLACED FILES A PETITION FOR AN EXTENSION OF THE PLACEMENT AND A PERMANENCY HEARING PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART, SUCH REPORT SHALL BE SUBMITTED NOT LATER THAN SIXTY DAYS PRIOR TO THE DATE ON WHICH THE PERMANENCY HEARING MUST BE HELD AND SHALL BE ANNEXED TO THE PETITION.

(IV) THE PERMANENCY HEARING REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH (III) OF THIS SUBDIVISION SHALL CONFORM TO THE REQUIREMENTS OF SUBDIVISION (C) OF SECTION ONE THOUSAND EIGHTY-NINE OF THIS ACT AND SHALL CONTAIN RECOMMENDATIONS AND SUCH SUPPORTING DATA AS IS APPROPRIATE. THE PERMANENCY HEARING REPORT, AS WELL AS THE REPORT SUBMITTED NOT LATER THAN THIRTY DAYS PRIOR TO THE CONCLUSION OF THE PLACEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, A PLAN FOR THE RELEASE OF THE RESPONDENT TO THE CUSTODY OF HIS OR HER PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE RESPONDENT'S CARE, OR TO ANOTHER PERMANENCY ALTERNATIVE AS PROVIDED IN PARAGRAPH (IV) OF SUBDIVISION (D) OF SECTION SEVEN HUNDRED FIFTY-SIX-A OF THIS PART. FOR PURPOSES OF THIS PARAGRAPH, "PLACEMENT AGENCY" SHALL REFER TO THE COMMISSIONER OF SOCIAL SERVICES OR AN AUTHORIZED AGENCY UNDER CONTRACT WITH THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT WITH WHOM THE RESPONDENT HAS BEEN PLACED. THE RELEASE PLAN SHALL PROVIDE AS FOLLOWS:

(1) IF THE RESPONDENT IS SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW OR ELECTS TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA FOLLOWING RELEASE, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE PLACEMENT AGENCY HAS TAKEN AND WILL BE TAKING IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY TO ENSURE THE IMMEDIATE ENROLLMENT OF THE RESPONDENT IN AN APPROPRIATE SCHOOL OR EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA WITHIN FIVE BUSINESS DAYS OF RELEASE OR, IF SUCH RELEASE OCCURS DURING THE SUMMER RECESS, IMMEDIATELY UPON THE COMMENCEMENT OF THE NEXT SCHOOL TERM. THE PLACEMENT AGENCY SHALL ASCERTAIN THE SCHOOL CALENDAR FROM THE SCHOOL DISTRICT AND SHALL, TO THE EXTENT POSSIBLE, WORK WITH THE SCHOOL DISTRICT SO THAT THE TIMING OF RESPONDENT'S RELEASE FROM THE PROGRAM AND ENROLLMENT IN SCHOOL ARE MINIMALLY DISRUPTIVE FOR THE RESPONDENT AND FURTHER HIS OR HER BEST INTERESTS. NOT LESS THAN FOURTEEN DAYS PRIOR TO THE RESPONDENT'S RELEASE, THE PLACEMENT AGENCY SHALL NOTIFY THE SCHOOL DISTRICT WHERE THE RESPONDENT WILL BE ATTENDING SCHOOL AND TRANSFER ALL NECESSARY RECORDS, INCLUDING BUT NOT LIMITED TO, THE RESPONDENT'S COURSE OF STUDY, CREDITS EARNED AND ACADEMIC RECORD.

(2) IF THE PLACEMENT AGENCY HAS REASON TO BELIEVE THAT THE RESPONDENT MAY HAVE A DISABILITY OR IF THE RESPONDENT HAD BEEN FOUND ELIGIBLE TO RECEIVE SPECIAL EDUCATION SERVICES PRIOR TO OR DURING THE PLACEMENT, IN ACCORDANCE WITH ARTICLE EIGHTY-NINE OF THE EDUCATION LAW, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE PLACEMENT AGENCY HAS TAKEN AND WILL BE TAKING TO ENSURE THAT THE LOCAL EDUCATION AGENCY MAKES ANY NECESSARY REFERRALS OR ARRANGES FOR SPECIAL EDUCATIONAL EVALUATIONS OR SERVICES, AS APPROPRIATE, AND PROVIDES NECESSARY RECORDS IMMEDIATELY IN ACCORDANCE WITH STATE AND FEDERAL LAW.

(3) IF THE RESPONDENT IS NOT SUBJECT TO ARTICLE SIXTY-FIVE OF THE EDUCATION LAW AND ELECTS NOT TO PARTICIPATE IN AN EDUCATIONAL PROGRAM LEADING TO A HIGH SCHOOL DIPLOMA, SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE STEPS THAT THE PLACEMENT AGENCY HAS TAKEN AND WILL BE TAKING TO ASSIST THE RESPONDENT TO BECOME GAINFULLY EMPLOYED OR TO BE ENROLLED IN A VOCATIONAL PROGRAM IMMEDIATELY UPON RELEASE.

S 9. Section 756 of the family court act is amended by adding a new subdivision (d) to read as follows:

(D)(I) WHERE THE RESPONDENT IS PLACED PURSUANT TO THIS SECTION, THE DISPOSITIONAL ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED BY REFERENCE INTO THE ORDER SHALL INCLUDE:

(1) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR VISITS AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

(2) A SERVICE PLAN, IF AVAILABLE. IF THE SERVICE PLAN HAS NOT YET BEEN DEVELOPED, THEN THE SERVICE PLAN MUST BE FILED WITH THE COURT AND DELIVERED TO THE PRESENTMENT AGENCY, ATTORNEY FOR THE RESPONDENT AND PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT NO LATER THAN NINETY DAYS FROM THE DATE THE DISPOSITION WAS MADE; AND

(3) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR CARE OF THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES, AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

(II) A COPY OF THE COURT'S ORDER AND ATTACHMENTS SHALL BE GIVEN TO THE RESPONDENT AND HIS OR HER ATTORNEY AND TO THE RESPONDENT'S PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN PLACEMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY WITH WHICH THE RESPONDENT IS PLACED MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 10. Subdivision (a), subdivision (b) and the opening paragraph and paragraphs (ii), (iii) and (iv) of subdivision (d) of section 756-a of the family court act, subdivision (a) as amended by chapter 309 of the laws of 1996, subdivision (b) and the opening paragraph and paragraphs (ii), (iii) and (iv) of subdivision (d) as amended by section 4 of part B of chapter 327 of the laws of 2007, are amended and a new paragraph (v) is added to subdivision (d) to read as follows:

(a) In any case in which the [child] RESPONDENT has been placed pursuant to section seven hundred fifty-six OF THIS PART, the [child] RESPONDENT, the person with whom the [child] RESPONDENT has been placed or the LOCAL commissioner of social services may petition the court to extend such placement. Such petition shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown, but in no event shall such petition be filed after the original expiration date. THE PETITION SHALL BE ACCOMPANIED BY A PERMANENCY REPORT THAT CONFORMS TO THE REQUIREMENTS OF PARAGRAPH (III) OF SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART.

(b) The court shall conduct a permanency hearing concerning the need for continuing the placement. The [child] RESPONDENT, the person with whom the [child] RESPONDENT has been placed and the LOCAL commissioner of social services shall be notified of such hearing and shall have the right to be heard thereat. A COPY OF THE PETITION AND ACCOMPANYING PERMANENCY REPORT SHALL BE SERVED ON THE RESPONDENT'S ATTORNEY.

At the conclusion of the permanency hearing the court may, in its discretion, order an extension of the placement for not more than one year, WHICH MAY INCLUDE A PERIOD OF POST-RELEASE SUPERVISION AND AFTERCARE, OR MAY DIRECT THAT THE RESPONDENT BE PLACED ON PROBATION FOR NOT MORE THAN ONE YEAR, PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SEVEN OF THIS PART, OR MAY ORDER THAT THE PETITION FOR AN EXTENSION OF PLACEMENT BE DISMISSED. The court must consider and determine in its order:

(ii) in the case of a [child] RESPONDENT who has attained the age of [sixteen] FOURTEEN, the services needed, if any, to assist the [child] RESPONDENT to make the transition from foster care to independent living;

(iii) in the case of a [child] RESPONDENT placed outside New York state, whether the out-of-state placement continues to be appropriate and in the best interests of the [child] RESPONDENT; [and]

(iv) whether and when the [child] RESPONDENT: (A) will be returned to the parent; (B) should be placed for adoption with the social services official filing a petition for termination of parental rights; (C) should be referred for legal guardianship; (D) should be placed permanently with a fit and willing relative; or (E) should be placed in another planned permanent living arrangement THAT INCLUDES A SIGNIFICANT CONNECTION TO AN ADULT WILLING TO BE A PERMANENCY RESOURCE FOR THE RESPONDENT if the social services official has documented to the court a compelling reason for determining that it would not be in the best interest of the [child] RESPONDENT to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and where the [child] RESPONDENT will not be returned home, consideration of appropriate in-state and out-of-state placements[.]; AND

(V) WITH REGARD TO THE PLACEMENT OR EXTENSION OF PLACEMENT ORDERED BY THE COURT PURSUANT TO SECTION SEVEN HUNDRED FIFTY-SIX OF THIS PART, THE STEPS THAT MUST BE TAKEN BY THE AGENCY WITH WHICH THE RESPONDENT IS PLACED TO IMPLEMENT THE PLAN FOR RELEASE SUBMITTED PURSUANT TO PARAGRAPHS (III) AND (IV) OF SUBDIVISION (A) OF SUCH SECTION, THE ADEQUACY OF SUCH PLAN AND ANY MODIFICATIONS THAT SHOULD BE MADE TO SUCH PLAN.

S 11. Subdivisions (e) and (f) of section 756-a of the family court act are relettered subdivisions (f) and (g) and a new subdivision (e) is added to read as follows:

(E)(I) IF THE ORDER FROM THE PERMANENCY HEARING EXTENDS THE RESPONDENT'S PLACEMENT OR IF THE RESPONDENT CONTINUES IN PLACEMENT UNDER A PRIOR ORDER, THE ORDER OR AN ATTACHMENT TO THE ORDER INCORPORATED INTO THE ORDER BY REFERENCE SHALL INCLUDE:

(1) A DESCRIPTION OF THE VISITATION PLAN, INCLUDING ANY PLANS FOR VISITATION AND/OR CONTACT WITH THE RESPONDENT'S SIBLINGS;

(2) A SERVICE PLAN AIMED AT EFFECTUATING THE PERMANENCY GOAL; AND

(3) A DIRECTION THAT THE PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT SHALL BE NOTIFIED OF ANY PLANNING CONFERENCES TO BE HELD PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED NINE-E OF THE SOCIAL SERVICES LAW, OF THEIR RIGHT TO ATTEND THE CONFERENCES AND OF THEIR RIGHT TO HAVE COUNSEL OR ANOTHER REPRESENTATIVE OR COMPANION WITH THEM.

(II) A COPY OF THE COURT'S ORDER AND THE SERVICE PLAN SHALL BE GIVEN TO THE RESPONDENT AND HIS OR HER ATTORNEY AND TO THE RESPONDENT'S PARENT OR PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR THE CARE OF THE RESPONDENT. THE ORDER SHALL ALSO CONTAIN A NOTICE THAT IF THE RESPONDENT REMAINS IN FOSTER CARE FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE THE PARENTAL RIGHTS OF THE PARENT OR PARENTS OF THE RESPONDENT.

S 12. This act shall take effect on the ninetieth day after it shall have become a law.