

7708

I N S E N A T E

June 2, 2014

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

AN ACT to amend the family court act, in relation to mandating the scheduling and holding of expiration of order hearings in certain cities

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

1 Section 1. Subdivision (c) of section 1039 of the family court act, as
2 amended by chapter 41 of the laws of 2010, is amended to read as
3 follows:

4 (c) Such order may include terms and conditions agreeable to the
5 parties and to the court, provided that such terms and conditions shall
6 include a requirement that the child and the respondent be under the
7 supervision of a child protective agency during the adjournment period.
8 In any order issued pursuant to this section, such agency shall be
9 directed to make a progress report to the court, the parties and the
10 child's attorney on the implementation of such order, no later than
11 ninety days after the issuance of such order, unless the court deter-
12 mines that the facts and circumstances of the case do not require such
13 reports to be made. The child protective agency shall make further
14 reports to the court, the parties and the child's attorney in such
15 manner and at such times as the court may direct. IN CITIES WITH A
16 POPULATION OF ONE MILLION OR MORE, THE COURT SHALL SET A DATE CERTAIN
17 FOR AN EXPIRATION OF ORDER HEARING, TO BE PRESIDED OVER BY A JUDGE OF
18 THE FAMILY COURT, FOR THE PURPOSE OF HAVING THE CHILD PROTECTIVE AGENCY
19 REPORT TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT
20 AND THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD
21 AND FAMILY AND ON ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH
22 RESPECT TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO
23 LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER,
24 AND THE COURT SHALL SPECIFY THE HEARING DATE IN THE DISPOSITIONAL ORDER.

25 S 2. Section 1053 of the family court act is amended by adding a new
26 subdivision (d) to read as follows:

27 (D) IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, WHERE THE
28 DISPOSITION OF A DISPOSITIONAL HEARING IS A SUSPENDED JUDGMENT, AND THE

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

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1 CHILD IS RELEASED TO THE CUSTODY OF HIS OR HER PARENT OR OTHER PERSON
2 LEGALLY RESPONSIBLE FOR HIS OR HER CARE AT THE TIME OF THE FILING OF THE
3 PETITION WITH SUPERVISION, THE COURT SHALL SET A DATE CERTAIN FOR AN
4 EXPIRATION OF ORDER HEARING, TO BE PRESIDED OVER BY A JUDGE OF THE FAMI-
5 LY COURT, FOR THE PURPOSE OF HAVING THE CHILD PROTECTIVE AGENCY REPORT
6 TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND
7 THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD AND
8 FAMILY AND ON ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH
9 RESPECT TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO
10 LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER,
11 AND THE COURT SHALL SPECIFY THE HEARING DATE IN THE DISPOSITIONAL ORDER.

12 S 3. Subdivision (a) of section 1054 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) If the order of disposition releases the child to the custody of
16 his or her parent or other person legally responsible for his or her
17 care at the time of the filing of the petition, the court may place the
18 person to whose custody the child is released under supervision of a
19 child protective agency or of a social services official or duly author-
20 ized agency, or may enter an order of protection under section one thou-
21 sand fifty-six OF THIS PART, or both. An order of supervision entered
22 under this section shall set forth the terms and conditions of such
23 supervision that the respondent must meet and the actions that the child
24 protective agency, social services official or duly authorized agency
25 must take to exercise such supervision. Except as provided for herein,
26 in any order issued pursuant to this section, the court may require the
27 child protective agency to make progress reports to the court, the
28 parties, and the child's attorney on the implementation of such order.
29 Where the order of disposition is issued upon the consent of the parties
30 and the child's attorney, such agency shall report to the court, the
31 parties and the child's attorney no later than ninety days after the
32 issuance of the order, unless the court determines that the facts and
33 circumstances of the case do not require such report to be made. IN
34 CITIES WITH A POPULATION OF ONE MILLION OR MORE, AT THE CONCLUSION OF A
35 DISPOSITIONAL HEARING AT WHICH THE CHILD IS RELEASED TO THE CUSTODY OF
36 HIS OR HER PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR HIS OR HER
37 CARE AT THE TIME OF THE FILING OF THE PETITION WITH SUPERVISION, THE
38 COURT SHALL SET A DATE CERTAIN FOR AN EXPIRATION OF ORDER HEARING, TO BE
39 PRESIDED OVER BY A JUDGE OF THE FAMILY COURT, FOR THE PURPOSE OF HAVING
40 THE CHILD PROTECTIVE AGENCY REPORT TO THE COURT AND THE PARTIES, INCLUD-
41 ING ANY NON-RESPONDENT PARENT AND THE CHILD'S ATTORNEY, ON THE STATUS
42 AND CIRCUMSTANCES OF THE CHILD AND FAMILY AND ON ANY ACTIONS TAKEN OR
43 CONTEMPLATED BY SUCH AGENCY WITH RESPECT TO SUCH CHILD AND FAMILY. THE
44 HEARING SHALL BE COMMENCED NO LATER THAN THIRTY DAYS BEFORE THE EXPIRA-
45 TION OF THE SUPERVISION ORDER, AND THE COURT SHALL SPECIFY THE HEARING
46 DATE IN THE DISPOSITIONAL ORDER.

47 S 4. Section 1058 of the family court act, as amended by chapter 41 of
48 the laws of 2010, is amended to read as follows:

49 S 1058. Expiration of orders. No later than sixty days prior to the
50 expiration of an order issued pursuant to paragraph (i), (ii), [(iv),]
51 or (v) of subdivision (a) of section one thousand fifty-two of this part
52 or [prior to] the conclusion of the period of an adjournment in contem-
53 plation of dismissal pursuant to section one thousand thirty-nine of
54 this article, where no application has been made seeking extension of
55 such orders or adjournments and, with respect to an adjournment in
56 contemplation of dismissal, no violations of the court's order are

1 before the court, OR FOURTEEN DAYS PRIOR TO AN EXPIRATION OF ORDER HEAR-
2 ING HELD PURSUANT TO SUBDIVISION (C) OF SECTION ONE THOUSAND
3 THIRTY-NINE, SUBDIVISION (D) OF SECTION ONE THOUSAND FIFTY-THREE, OR
4 SUBDIVISION (A) OF SECTION ONE THOUSAND FIFTY-FOUR OF THIS PART WHERE
5 ONE HAS BEEN ORDERED, the child protective agency shall, whether or not
6 the child has been or will be returned to the family, SUBMIT AN EXPIRA-
7 TION OF ORDER report to the court[,] AND the parties, including any
8 non-respondent parent and the child's attorney on the status and circum-
9 stances of the child and family and any actions taken or contemplated by
10 such agency with respect to such child and family. WHERE AN EXPIRATION
11 OF ORDER HEARING HAS BEEN SCHEDULED, THE COURT SHALL REVIEW THE EXPIRA-
12 TION OF ORDER REPORT AT THE HEARING. AT THE HEARING, TO BE PRESIDED OVER
13 BY A JUDGE OF THE FAMILY COURT, THE CHILD PROTECTIVE AGENCY SHALL REPORT
14 TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND
15 THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD AND
16 FAMILY AND ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH RESPECT
17 TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO LATER THAN
18 THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER.

19 S 5. This act shall take effect immediately.