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

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:

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

(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 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 child's attorney in such manner and at such times as the court may direct. IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, THE COURT SHALL SET A DATE CERTAIN FOR AN EXPIRATION OF ORDER HEARING, TO BE PRESIDED OVER BY A JUDGE OF THE FAMILY COURT, FOR THE PURPOSE OF HAVING THE CHILD PROTECTIVE AGENCY REPORT TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD AND FAMILY AND ON ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH RESPECT TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER, AND THE COURT SHALL SPECIFY THE HEARING DATE IN THE DISPOSITIONAL ORDER.

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

(D) IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, WHERE THE 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.

LBD15450-01-4

CHILD IS RELEASED 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 WITH SUPERVISION, THE COURT SHALL SET A DATE CERTAIN FOR AN EXPIRATION OF ORDER HEARING, TO BE PRESIDED OVER BY A JUDGE OF THE FAMILY COURT, FOR THE PURPOSE OF HAVING THE CHILD PROTECTIVE AGENCY REPORT TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD AND FAMILY AND ON ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH RESPECT TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER, AND THE COURT SHALL SPECIFY THE HEARING DATE IN THE DISPOSITIONAL ORDER.

S 3. Subdivision (a) of section 1054 of the family court act, as amended by chapter 41 of the laws of 2010, 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 one thousand fifty-six OF THIS PART, 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 attorney on the implementation of such order. Where the order of disposition is issued upon the consent of the parties and the child's attorney, such agency shall report to the court, the parties and the child's 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. IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, AT THE CONCLUSION OF A DISPOSITIONAL HEARING AT WHICH THE CHILD IS RELEASED 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 WITH SUPERVISION, THE COURT SHALL SET A DATE CERTAIN FOR AN EXPIRATION OF ORDER HEARING, TO BE PRESIDED OVER BY A JUDGE OF THE FAMILY COURT, FOR THE PURPOSE OF HAVING THE CHILD PROTECTIVE AGENCY REPORT TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND THE CHILD'S ATTORNEY, ON THE STATUS AND CIRCUMSTANCES OF THE CHILD AND FAMILY AND ON ANY ACTIONS TAKEN OR CONTEMPLATED BY SUCH AGENCY WITH RESPECT TO SUCH CHILD AND FAMILY. THE HEARING SHALL BE COMMENCED NO LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER, AND THE COURT SHALL SPECIFY THE HEARING DATE IN THE DISPOSITIONAL ORDER.

S 4. Section 1058 of the family court act, as amended by chapter 41 of the laws of 2010, 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, OR FOURTEEN DAYS PRIOR TO AN EXPIRATION OF ORDER HEARING HELD PURSUANT TO SUBDIVISION (C) OF SECTION ONE THOUSAND THIRTY-NINE, SUBDIVISION (D) OF SECTION ONE THOUSAND FIFTY-THREE, OR SUBDIVISION (A) OF SECTION ONE THOUSAND FIFTY-FOUR OF THIS PART WHERE ONE HAS BEEN ORDERED, the child protective agency shall, whether or not the child has been or will be returned to the family, SUBMIT AN EXPIRATION OF ORDER report to the court[,] AND the parties, including any non-respondent parent and the child's 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. WHERE AN EXPIRATION OF ORDER HEARING HAS BEEN SCHEDULED, THE COURT SHALL REVIEW THE EXPIRATION OF ORDER REPORT AT THE HEARING. AT THE HEARING, TO BE PRESIDED OVER BY A JUDGE OF THE FAMILY COURT, THE CHILD PROTECTIVE AGENCY SHALL REPORT TO THE COURT AND THE PARTIES, INCLUDING ANY NON-RESPONDENT PARENT AND THE CHILD'S 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. THE HEARING SHALL BE COMMENCED NO LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE SUPERVISION ORDER.

S 5. This act shall take effect immediately.