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I N   A S S E M B L Y

May 20, 2014

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Introduced by M. of A. JAFFEE -- read once and referred to the Committee  
on Mental Health

AN ACT to amend the mental hygiene law, in relation to transitional care

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

1     Section 1. Subdivision (a) of section 13.37-a of the mental hygiene  
2 law, as added by chapter 405 of the laws of 1998, is amended to read as  
3 follows:  
4     (a) For purposes of this section, "transitional care" shall mean care  
5 and maintenance of persons:  
6     1. who were placed in foster care by a social services district pursu-  
7 ant to article six of the social services law and who have become twen-  
8 ty-one years of age, or who were placed in a residential educational  
9 placement by a school district pursuant to article eighty-nine of the  
10 education law and who are no longer eligible for free educational  
11 services because they have completed the school year in which they  
12 became twenty-one;  
13     2. who were disabled and in need of residential care prior to becoming  
14 age twenty-one or prior to becoming ineligible for free education  
15 services and who have since remained continuously disabled and contin-  
16 uously in need of residential care;  
17     3. [who became twenty-one or became ineligible for free educational  
18 services prior to July first, nineteen hundred ninety-six;  
19     4.]with respect to whom the office has approved a plan of continued  
20 out of home care for the person but has not yet identified a currently  
21 available appropriate placement; AND  
22     [5.] 4. whose residential needs can be met by the facility in which  
23 the persons resided prior to becoming age twenty-one or becoming ineli-  
24 gible for free educational services[; and].  
25     [6. who on July first, nineteen hundred ninety-eight are in receipt of  
26 transitional care, or who have continuously remained in the foster care  
27 or residential education placement where they had received transitional  
28 care.]  
29     S 2. Subdivision (a) of section 13.38 of the mental hygiene law, as  
30 amended by chapter 405 of the laws of 1998, is amended to read as  
31 follows:

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

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1 (a) The office shall, in consultation with the department of social  
2 services, the education department, the office of mental health, and the  
3 council on children and families, develop a plan and implement  
4 procedures to help assure that all persons who are at the age or time  
5 to first qualify for transitional care, as described in section 13.37-a  
6 of this article, and for whom the office has accepted planning respon-  
7 sibilities, receive assistance in locating an appropriate and available  
8 residential placement or plan of services, within the state and within  
9 the system of care subject to the jurisdiction of the office, prior to  
10 the age or time at which they would otherwise have qualified for transi-  
11 tional care[, if such individuals had become twenty-one or become ineli-  
12 gible for educational services prior to July first, nineteen hundred  
13 ninety-six]. For purposes of this section, the age or time at which a  
14 person would qualify for transitional care is twenty-one for persons in  
15 foster care, and the end of the school year in which they become  
16 twenty-one for persons in residential schools.

17 S 3. Subdivision (e) of section 13.38 of the mental hygiene law, as  
18 amended by chapter 405 of the laws of 1998, is amended to read as  
19 follows:

20 (e) Upon making a determination that a person who is receiving transi-  
21 tional care can be appropriately cared for in an available adult care  
22 facility or service licensed, certified or approved by the office, and  
23 whose removal from a child care facility is not required on an expedited  
24 basis, the office shall notify BY CERTIFIED MAIL, RETURN RECEIPT  
25 REQUESTED, the person and the person's guardian, if one has been  
26 appointed, [or] AND, WHEN APPLICABLE, another individual who has been  
27 involved in the care of the person and who [can] MAY represent the  
28 person's interests, of the DESCRIPTION OF THE PROPOSED NEW PLACEMENT,  
29 THE availability of an administrative appeal to review the determi-  
30 nation INCLUDING A DESCRIPTION OF THE APPEAL PROCEDURE, CONSISTENT WITH  
31 THE NEW YORK STATE ADMINISTRATIVE PROCEDURE ACT, CONTACT INFORMATION AS  
32 IT RELATES TO MAKING AN OBJECTION, and of the need to request such an  
33 appeal IN WRITING within thirty days of the notice. SUCH NOTIFICATION  
34 SHALL BE PROVIDED TO THE PERSON AND THE PERSON'S GUARDIAN, IF ONE HAS  
35 BEEN APPOINTED AND, WHEN APPLICABLE, ANOTHER INDIVIDUAL WHO HAS BEEN  
36 INVOLVED IN THE CARE OF THE PERSON AND WHO MAY REPRESENT THE PERSON'S  
37 INTERESTS NO LATER THAN FORTY-FIVE DAYS PRIOR TO THE DATE OF THE  
38 OFFICE'S INTENDED CHANGE IN PLACEMENT. If the person, guardian or other  
39 individual requests an administrative appeal within the time required,  
40 the office shall WITHIN FIVE DAYS OF RECEIPT OF THE WRITTEN REQUEST FOR  
41 APPEAL, schedule a hearing [and the] PROVIDING NO LESS THAN TEN DAYS  
42 NOTICE TO THE OBJECTING PARTY. THE commissioner or his or her designee  
43 shall issue a WRITTEN determination TO THE INVOLVED INDIVIDUALS within  
44 thirty days of the adjournment of the hearing, on whether the adult  
45 placement identified by the office is appropriate to the needs of the  
46 person and is available or will become available on an identified date  
47 certain. THE WRITTEN DETERMINATION SHALL BE THE FINAL ADMINISTRATIVE  
48 REMEDY AVAILABLE AND SHALL BE SUBJECT TO REVIEW IN ACCORDANCE WITH THE  
49 PROVISIONS OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.  
50 If the person, guardian or other individual does not request a hearing  
51 within the time required, or if the hearing results in a determination  
52 that the proposed adult services or placement is appropriate to the  
53 needs of the person and is available or will be available on an identi-  
54 fied date certain, the office shall discontinue transitional care fund-  
55 ing for the person as of a date certain.

56 S 4. This act shall take effect immediately.