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

5682

2015-2016 Regular Sessions

I N S E N A T E

May 27, 2015

Introduced by Sen. SKELOS -- 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 and the social services law, in relation to destitute and abandoned infant proceedings

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

Section 1. Subdivision (j) of section 1012 of the family court act, as amended by section 3 of part B of chapter 3 of the laws of 2005, is amended to read as follows:

(j) "Aggravated circumstances" means where a child has been either severely or repeatedly abused, as defined in subdivision eight of section three hundred eighty-four-b of the social services law; or where a child has subsequently been found to be an abused child, as defined in paragraph (i) or (iii) of subdivision (e) of this section, within five years after return home following placement in foster care as a result of being found to be a neglected child, as defined in subdivision (f) of this section, provided that the respondent or respondents in each of the foregoing proceedings was the same; or where the court finds by clear and convincing evidence that the parent of a child in foster care has refused and has failed completely, over a period of at least six months from the date of removal, to engage in services necessary to eliminate the risk of abuse or neglect if returned to the parent, and has failed to secure services on his or her own or otherwise adequately prepare for the return home and, after being informed by the court that such an admission could eliminate the requirement that the local department of social services provide reunification services to the parent, the parent has stated in court under oath that he or she intends to continue to refuse such necessary services and is unwilling to secure such services independently or otherwise prepare for the child's return home; provided, however, that if the court finds that adequate justification exists for the failure to engage in or secure such services, including

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

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but not limited to a lack of child care, a lack of transportation, and an inability to attend services that conflict with the parent's work schedule, such failure shall not constitute an aggravated circumstance; or where a court has determined a child [five] THIRTY days old or younger was abandoned by a parent with an intent to wholly abandon such child and with the intent that the child be safe from physical injury and cared for in an appropriate manner.

S 2. Subdivision (a) of section 1039-b of the family court act, as added by chapter 7 of the laws of 1999, is amended to read as follows:

(a) In conjunction with, or at any time subsequent to, the filing of a petition under section [ten hundred] ONE THOUSAND thirty-one of this [chapter] PART, the social services official may file a motion upon notice requesting a finding that reasonable efforts to return the child to his or her home are no longer required, EXCEPT THAT WHEN A PETITION IS FILED PURSUANT TO ARTICLE TEN-C OF THIS ACT, NO REASONABLE EFFORTS TO RETURN THE CHILD TO HIS OR HER HOME SHALL BE REQUIRED BY THE LOCAL SOCIAL SERVICES OFFICIAL.

S 3. The article heading of article 10-C of the family court act, as added by chapter 605 of the laws of 2011, is amended to read as follows:

DESTITUTE CHILDREN AND ABANDONED INFANT PROCEEDINGS

S 4. The opening paragraph of subdivision (a) of section 1092 of the family court act, as amended by chapter 3 of the laws of 2012, is amended to read as follows:

"destitute child" shall mean AN INFANT DETERMINED TO BE THIRTY DAYS OF AGE OR YOUNGER WHO HAS BEEN ABANDONED BY HIS OR HER PARENT OR PARENTS WITH THE INTENT TO WHOLLY ABANDON SUCH INFANT, AND WITH THE INTENT THAT THE INFANT BE SAFE FROM PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER; OR a child under the age of eighteen who is in a state of want or suffering due to lack of sufficient food, clothing, shelter, or medical or surgical care and:

S 5. Subdivisions (f) and (g) of section 1095 of the family court act, as amended by chapter 3 of the laws of 2012, are amended to read as follows:

(f) If the child has been placed pursuant to paragraph one of subdivision (d) of this section, the provisions of SECTION ONE THOUSAND THIRTY-NINE-B AND part eight of article ten of this act shall be applicable.

(g) If the court makes an order pursuant to paragraph one of subdivision (d) of this section, the court may include a direction for the commissioner of social services to provide or arrange for services or assistance, limited to those authorized or required to be made available under the comprehensive annual services program plan then in effect, to ameliorate the conditions that formed the basis for the fact-finding under this section and, if the child has been placed in the care and custody of the commissioner of social services, to facilitate the child's permanency plan, AND THE COURT MAY ALSO APPLY THE PROVISIONS OF SECTION ONE THOUSAND THIRTY-NINE-B OF THIS ACT IF APPLICABLE.

S 6. Paragraph (e) of subdivision 4 of section 384-b of the social services law, as amended by section 56 of part A of chapter 3 of the laws of 2005, is amended and a new paragraph (f) is added to read as follows:

(e) The parent or parents, whose consent to the adoption of the child would otherwise be required in accordance with section one hundred eleven of the domestic relations law, severely or repeatedly abused such child. Where a court has determined that reasonable efforts to reunite the child with his or her parent are not required, pursuant to the family court act or this chapter, a petition to terminate parental rights on

the ground of severe abuse as set forth in subparagraph (iii) of paragraph (a) of subdivision eight of this section may be filed immediately upon such determination[.]; OR

(F) IN THE CASE OF A CHILD WHO ENTERED FOSTER CARE UNDER CIRCUMSTANCES WHERE THE CHILD WAS DETERMINED TO BE THIRTY DAYS OF AGE OR YOUNGER AND WAS ABANDONED BY HIS OR HER PARENT OR PARENTS WITH AN INTENT TO WHOLLY ABANDON SUCH CHILD, AND WITH THE INTENT THAT THE CHILD BE SAFE FROM PHYSICAL INJURY AND CARED FOR IN AN APPROPRIATE MANNER, AND HAS REMAINED IN FOSTER CARE FOR A PERIOD OF AT LEAST SIXTY DAYS, AND CONTINUES TO BE ABANDONED BY HIS OR HER PARENT OR PARENTS.

S 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.