STATE OF NEW YORK

7557

2017-2018 Regular Sessions

IN ASSEMBLY

May 2, 2017

Introduced by M. of A. DAVILA, JAFFEE -- (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 truancy allegations in persons in need of supervision and child protective proceedings in family court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (iii) of subdivision (d) and paragraph (ii) of subdivision (g) of section 735 of the family court act, paragraph (iii) of subdivision (d) and paragraph (ii) of subdivision (g) as added by section 7 of part E of chapter 57 of the laws of 2005, are amended to read as follows:

(iii) where the entity seeking to file a petition is a school district or local educational agency **or where the parent or other potential petitioner indicates that the proposed petition will include truancy and/or conduct in school as an allegation**, the designated lead agency shall review the steps taken by the school district or local educational agency to improve the youth's attendance and/or conduct in school and attempt to engage the school district or local educational agency in further diversion attempts, if it appears from review that such attempts will be beneficial to the youth. **Where the school district or local educational agency is not the potential petitioner, the designated lead agency shall contact such district or agency to resolve the truancy or school behavioral problems of the youth in order to obviate the need to file a petition or, at minimum, to remediate the education-related allegations of the proposed petition.**

(ii) The clerk of the court shall accept a petition for filing only if it has attached thereto the following:

(A) if the potential petitioner is the parent or other person legally responsible for the youth, a notice from the designated lead agency

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

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indicating there is no bar to the filing of the petition as the potential petitioner consented to and actively participated in diversion services; and

(B) a notice from the designated lead agency stating that it has terminated diversion services because it has determined that there is no substantial likelihood that the youth and his or her family will benefit from further attempts, and that the case has not been successfully diverted**; and**

(C) where the proposed petition contains allegations of truancy and/or school misbehavior, whether or not the school district or local educational agency is the proposed petitioner, a notice from the designated lead agency regarding the diversion efforts undertaken and/or services provided by the designated lead agency and/or by the school district or local educational agency to the youth and the grounds for concluding that the education-related allegations could not be resolved absent the filing of a petition under this article.

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

(4) Where the petition contains allegations of truancy and/or school misbehavior and where the school district or local educational agency is not the petitioner and where, at any stage of the proceeding, the court determines that assistance by the school district or local educational agency may aid in the resolution of the education-related allegations in the petition, the school district or local educational agency may be notified by the court and given an opportunity to be heard.

§ 3. Subdivision (b) of section 742 of the family court act, as amended by section 9 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

(b) At the initial appearance of the respondent, the court shall review any termination of diversion services pursuant to such section, and the documentation of diligent attempts to provide appropriate services and determine whether such efforts or services provided are sufficient [~~and~~]**. The court** may, **at any time,** subject to the provisions of section seven hundred forty-eight of this article, order that additional diversion attempts be undertaken by the designated lead agency. The court may order the youth and the parent or other person legally responsible for the youth to participate in diversion services. If the designated lead agency thereafter determines that [~~the~~] **a** case **referred for diversion efforts under this section** has been successfully resolved, it shall so notify the court, and the court shall dismiss the petition.

§ 4. Subparagraph (A) of paragraph (i) of subdivision (f) of section 1012 of the family court act, as amended by chapter 469 of the laws of 1971, is amended to read as follows:

(A) in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so**, or, in the case of an alleged failure of the respondent to provide education to the child, notwithstanding the efforts of the school district or local educational agency and child protective agency to ameliorate such alleged failure prior to the filing of the petition**; or

§ 5. Section 1031 of the family court act is amended by adding a new subdivision (g) to read as follows:

(g) Where a petition under this article contains an allegation of a failure by the respondent to provide education to the child in accord-

ance with article sixty-five of the education law, regardless of whether such allegation is the sole allegation of the petition, the petition shall recite the efforts undertaken by the petitioner and the school district or local educational agency to remediate such alleged failure prior to the filing of the petition and the grounds for concluding that the education-related allegations could not be resolved absent the filing of a petition under this article.

§ 6. Section 1035 of the family court act is amended by adding a new subdivision (g) to read as follows:

(g) Where the petition filed under this article contains an allegation of a failure by the respondent to provide education to the child in accordance with article sixty-five of the education law, and where at any stage of the proceeding, the court determines that assistance by the school district or local educational agency would aid in the resolution of the education-related allegation, the school district or local educational agency may be notified by the court and given an opportunity to be heard.

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