STATE OF NEW YORK

2433

2017-2018 Regular Sessions

IN ASSEMBLY

January 20, 2017

Introduced by M. of A. PAULIN, WRIGHT, PRETLOW, GUNTHER, ROSENTHAL, HOOPER, GALEF, JAFFEE, SCHIMMINGER, ZEBROWSKI, ABBATE, KAVANAGH -- Multi-Sponsored by -- M. of A. BENEDETTO, CAHILL, DINOWITZ, ENGLEBRIGHT, FARRELL, GOTTFRIED, HEVESI, LUPARDO, MAGEE, ORTIZ, PERRY -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the social services law, in relation to abandoned infants

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

Section 1. Paragraph (ii) of subdivision (f) and subdivision (j) of section 1012 of the family court act, paragraph (ii) of subdivision (f) as amended by chapter 666 of the laws of 1976 and subdivision (j) as amended by section 3 of part B of chapter 3 of the laws of 2005, are amended and a new subdivision (l) is added to read as follows:

(ii) who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b of the social services law, by his parents or other person legally responsible for his care**, but shall not include an abandoned infant as defined in subdivision (l) of this section**.

(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

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

LBD06294-01-7

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 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.

(l) "Abandoned infant" means a child who has been left by his or her parent when thirty days old or younger, in a manner that indicated the parent's intent to wholly abandon such child by relinquishing and foregoing responsibility for and rights to the care and custody of such child with the intent that the child be safe from physical injury and cared for in an appropriate manner.

§ 2. The family court act is amended by adding a new section 1031-a to read as follows:

§ 1031-a. Abandoned infants, preliminary procedure. (a) Upon receipt of notice that a child who appears to be an abandoned infant has been found in the jurisdiction of the local social services district, the local commissioner of social services shall immediately take protective custody of the child pursuant to section one thousand twenty-four of this article until further order of the court.

(b) A proceeding to determine whether a child is an abandoned infant pursuant to subdivision (l) of section one thousand twelve of this article shall be commenced by such local commissioner forthwith. The petition for such proceeding shall:

(i) allege the location and date of and the circumstances by which it is alleged that the child was abandoned; and

(ii) allege that upon information and belief, the child in question was thirty days old or younger when found.

(c) The court upon receipt of the petition shall appoint an attorney for the child to represent the child alleged to be an abandoned infant.

(d) If the identity of the parents of the child is unknown, the court upon receipt of the petition shall hold a hearing to determine whether the child appears to have been abandoned in accordance with the definition of abandoned infant provided in subdivision (1) of section one thousand twelve of this article.

(i) At such hearing, if the court determines that the circumstances of the abandonment meet the definition of abandoned infant in subdivision (1) of section one thousand twelve of this article, the court shall:

(A) order that the local commissioner of social services shall not be required to commence a diligent search to locate the parent or parents or other relatives of the child; and

(B) require the local commissioner of social services to cause notice of the proceeding to be published in accordance with the provisions of subdivision (a) of rule three hundred sixteen of the civil practice law and rules in the county in which such child was found, at least once in

each of three successive weeks. Service by publication is complete on the twenty-first day after the day of the first publication. The notice shall state:

(1) the date, time and purpose of the proceeding;

(2) the date, time and place that the abandoned infant was found;

(3) a description of the infant including its approximate date of birth;

(4) that upon failure of the parent to appear, the child may be deemed an abandoned infant pursuant to subdivision (l) of section one thousand twelve of this article and placed into the care and custody of the commissioner of the local social services district in the parent's absence; and

(5) the name, address, and telephone number of the person designated by the local commissioner of social services to contact for information regarding such child.

(ii) In determining whether removal or continuing the removal of a child is necessary to avoid imminent risk to the child's life or health, the court shall consider and determine in its order whether continuation in the child's home would be contrary to the best interests of the child and where appropriate, whether reasonable efforts were made prior to the date of the hearing held under this subdivision to prevent or eliminate the need for removal of the child from the home and, if the child was removed from his or her home prior to the date of the hearing held under this subdivision, where appropriate, that reasonable efforts were made to make it possible for the child to safely return home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding.

(e) If a person claiming to be a parent of the child in question who is alleged to be an abandoned infant, comes forward, the local commissioner of social services shall:

(i) provide written notification to the court and the attorney for the child forthwith; and

(ii) cause a test to be conducted to confirm maternity or paternity of the persons claiming to be the mother or father of the child in question; and if maternity or paternity is confirmed, notify the court which shall order an investigation pursuant to subdivision one of section one thousand thirty-four of this part. The existing order of custody of the child to the local commissioner of social services shall continue pending the result of the investigation.

(A) If there are grounds pursuant to subdivision (e) or (f) of section one thousand twelve of this article to file a petition to determine abuse or neglect pursuant to section one thousand thirty-one of this part, the local commissioner of social services shall file such petition within three court days of the completion of the investigation. The parent or parents shall be informed of the date and the time that the petition shall be filed, the address of the court where the petition shall be filed, of the right of the parent to be present at any hearing held thereon and of the right to be represented by counsel, including procedures for obtaining counsel if indigent. Upon such filing, a hearing pursuant to section one thousand twenty-seven of this article shall be held forthwith.

(B) If no such grounds exist, the court shall dismiss the petition and order that the child be returned to his or her parent or parents.

§ 3. 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.

§ 4. Subdivision (a) of section 1041 of the family court act, as amended by chapter 1015 of the laws of 1972, is amended to read as follows:

(a) that the parent or other person legally responsible for the child's care is present at the hearing and has been served with a copy of the petition, unless the child is alleged to be an abandoned infant pursuant to section one thousand thirty-one-a of this article, in which event, the provisions of subparagraph (B) of paragraph (i) of subdivision (d) of section one thousand thirty-one-a of this article shall apply; or

§ 5. Section 1044 of the family court act, as added by chapter 962 of the laws of 1970, is amended to read as follows:

§ 1044. Definition of "fact-finding hearing". When used in this article, "fact-finding hearing" means a hearing to determine whether the child is an abused or neglected child or an abandoned infant as defined by this article.

§ 6. The family court act is amended by adding a new section 1051-a to read as follows:

§ 1051-a. Sustaining or dismissing a petition alleging a child is an abandoned infant. (a) At the fact-finding hearing scheduled pursuant to section one thousand thirty-one-a of this article, the court shall determine that the child is an abandoned infant and sustain the petition filed under section one thousand thirty-one-a of this article if facts sufficient to constitute clear and convincing evidence are established to find that the child was thirty days old or younger when abandoned and that the child was left in a manner that indicated his or her parent's intent to wholly abandon such child by relinquishing and foregoing responsibility for and rights to the care and custody of such child with the intent that the child be safe from physical injury and cared for in an appropriate manner. For purposes of finding that the child was thirty days old or younger when abandoned, an affidavit or other official record of a determination of a qualified health care practitioner, licensed or certified under title eight of the education law, acting within his or her lawful scope of practice who examined the child that such child was thirty days old or younger when abandoned and the date of birth of the child, to a reasonable degree of medical certainty; an affidavit or official record, including a police report or testimony regarding the manner of the abandonment of the child; and an affidavit or official record of the result of the inquiries made to the putative father registry and to local law enforcement officials regarding a missing person report, shall be sufficient evidence of the child's age and date of birth and the intent to wholly abandon the child.

(b) If the court sustains the petition and finds that the child is an abandoned infant, the court shall determine and find and shall state in its order:

(i) that the child was thirty days old or younger when abandoned to a reasonable degree of medical certainty;

(ii) the date the child was born, to a reasonable degree of medical certainty;

(iii) that the child was left in a manner that indicated his or her parent's intent to wholly abandon the child by relinquishing and foregoing responsibility for and rights to the care and custody of such child with the intent that the child be safe from physical injury and cared for in an appropriate manner;

(iv) that based upon the findings of paragraphs (i) and (iii) of this subdivision, aggravated circumstances within the meaning of subdivision (j) of section one thousand twelve of this article exist; and

(v) that based upon such finding of aggravated circumstances, reasonable efforts to return the child to his or her home are not required.

(c) If facts sufficient to sustain the petition are not established due to a determination that either the child was older than thirty days at the time of abandonment or the child is not otherwise an abandoned infant as provided in this section, the court shall convert the petition to a proceeding to determine abuse or neglect pursuant to section one thousand thirty-one of this article and shall state on the record the grounds for the conversion.

(i) The court shall determine whether temporary custody of the child to the local commissioner of social services shall continue until further order of the court. In determining whether removal or continuing the removal of a child is necessary to avoid imminent risk to the child's life or health, the court shall consider and determine in its order whether continuation in the child's home would be contrary to the best interests of the child and where appropriate, whether reasonable efforts were made prior to the date of the hearing held under subdivision (a) of this section to prevent or eliminate the need for removal of the child from the home and, if the child was removed from his or her home prior to the date of the hearing held under subdivision (a) of this section, where appropriate, that reasonable efforts were made to make it possible for the child to safely return home.

(ii) If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, the court order shall include such a finding.

(d) At the conclusion of the dispositional hearing that shall be commenced immediately upon completion of the fact-finding hearing when the petition has been sustained, the court shall enter an order of disposition:

(i) placing the child in the custody of the local commissioner of social services, who shall make reasonable efforts to place the child into a pre-adoptive home, in accordance with the provisions of section one thousand fifty-five of this part, upon a determination that:

(A) continuation in the child's home would be contrary to the best interests of the child; and

(B) where the court has determined that the parent of such child has subjected the child to aggravated circumstances, as defined in subdivision (j) of section one thousand twelve of this article, reasonable efforts to prevent or eliminate the need for removing the child from the home of the child or to make it possible for the child to return safely to his or her home are not required;

(ii) requiring the local commissioner of social services to commence a proceeding to commit the guardianship and custody of such child to an authorized agency pursuant to section three hundred eighty-four-b of the social services law within sixty days; and

(iii) if the initial permanency hearing has not been held, setting a date certain for an initial permanency hearing pursuant to paragraph one of subdivision (b) of section one thousand eighty-nine of this act.

§ 7. Paragraph (i) of subdivision (a) of section 1055 of the family court act, as amended by section 12 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

(i) For purposes of section one thousand fifty-two of this part the court may place the child in the custody of a relative or other suitable person pursuant to this article, or of the local commissioner of social services or of such other officer, board or department as may be authorized to receive children as public charges, or a duly authorized association, agency, society or in an institution suitable for the placement of a child. The court may also place a child who it finds to be a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law with the local commissioner of social services for placement in an available long-term safe house. The court may also place the child in the custody of the local commissioner of social services and may direct such commissioner to have the child reside with a relative or other suitable person who has indicated a desire to become a foster parent for the child and further direct such commissioner, pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours and thereafter expedite approval or certification of such relative or other suitable person, if qualified, as a foster parent. If such home is found to be unqualified for approval or certification, the local commissioner shall report such fact to the court forthwith so that the court may make a placement determination that is in the best interests of the child. **For purposes of section one thousand fifty-one-a of this part, the court may place the child in the custody of the local commissioner of social services or of such other officer, board or department as may be authorized to receive children as public charges, or a duly authorized association, agency, society or in an institution suitable for the placement of a child.**

§ 8. Paragraph (ii) of subdivision (b) of section 1055 of the family court act, as amended by section 18 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(ii) **(A)** Upon placing a child under the age of one, who has been abandoned **as defined in paragraph (ii) of subdivision (f) of section one thousand twelve of this article**, with a local commissioner of social services, the court shall, where either of the parents do not appear after due notice, include in its order of disposition pursuant to section one thousand fifty-two of this part, a direction that such commissioner shall promptly commence a diligent search to locate the child's non-appearing parent or parents or other known relatives who are legally responsible for the child, and to commence a proceeding to commit the guardianship and custody of such child to an authorized agency pursuant to section three hundred eighty-four-b of the social services law, six months from the date that care and custody of the child was transferred to the **local** commissioner, unless there has been communication and visitation between such child and such parent or parents or other known relatives or persons legally responsible for the child. In addition to such diligent search**,** the local commissioner of social services shall provide written notice to the child's parent or parents or other known relatives or persons legally responsible as provided for in this paragraph. Such notice shall be served upon such

parent or parents or other known relatives or persons legally responsible in the manner required for service of process pursuant to section six hundred seventeen of this act. Information regarding such diligent search, including, but not limited to, the name, last known address, social security number, employer's address and any other identifying information to the extent known regarding the non-appearing parent, shall be recorded in the uniform case record maintained pursuant to section four hundred nine-f of the social services law.

(B) The requirements of this paragraph shall not apply to an abandoned infant, as defined in subdivision (l) of section one thousand twelve of this article.

§ 9. Subparagraph (i) of paragraph 1 of subdivision (b) of section 1089 of the family court act, as amended by chapter 573 of the laws of 2015, is amended to read as follows:

(i) the child's parent, including any non-respondent parent, unless the parental rights of the parent have been terminated or surrendered **, or unless the child has been alleged or found to be an abandoned infant pursuant to section one thousand thirty-one-a of this act and the identity of the parent or parents is unknown,** and any other person legally responsible for the child's care at the most recent address or addresses known to the local social services district or agency, and the foster parent in whose home the child currently resides, each of whom shall be a party to the proceeding; **and**

§ 10. Subdivision (b) of section 1089 of the family court act is amended by adding two new paragraphs 3 and 4 to read as follows:

(3) In the case of a child who is not free for adoption who has been alleged or found to be an abandoned infant pursuant to section one thousand thirty-one-a of this act where the identity of the parent or parents is unknown, the local commissioner of social services shall cause notice of the permanency hearing to be published in accordance with the provisions of rule three hundred sixteen of the civil practice law and rules in the county in which such child was found. The notice shall state:

(i) the date, time and purpose of the proceeding;

(ii) the date, time and place that the abandoned infant was found;

(iii) a description of the infant including its approximate date of birth;

(iv) that upon failure of the parent to appear the child may continue to be placed into the care and custody of the commissioner of the local social services district in the parent's absence; and

(v) the name, address, and telephone number of the person designated by the local commissioner of social services to contact for information regarding such child.

(4) In the case of a child who has been alleged or found to be an abandoned infant pursuant to section one thousand thirty-one-a of this act but not later than six months after the initial publication of notice of such proceeding, if the maternity or paternity of a person claiming to be the mother or father of the infant is confirmed by a test to be conducted to confirm maternity or paternity,

(i) the court shall order an investigation pursuant to subdivision one of section one thousand thirty-four of this act and

(A) if there are grounds pursuant to subdivision (e) or (f) of section one thousand twelve of this act to file a petition to determine abuse or neglect pursuant to section one thousand thirty-one of this act, the local commissioner of social services shall file such petition within

three court days. Upon such filing, a hearing pursuant to section one thousand twenty-seven of this act shall be held forthwith; or

(B) if there are no grounds to file a petition pursuant to section one thousand thirty-one of this act, the court shall hold a best interests hearing as to whether it is in the best interests of the child to return the child to his or her home or to continue the custody of the child with the local commissioner of social services. Except for good cause shown such hearing shall commence within three court days. The custody of the child with the local commissioner of social services shall continue pending the result of the best interests hearing;

(ii) if the child is free for adoption, the court shall also vacate the order committing guardianship and custody of the child.

§ 11. Section 352 of the social services law is amended by adding a new subdivision 4 to read as follows:

4. The provisions of this section shall not apply to the parents of an abandoned infant as defined in subdivision (l) of section one thousand twelve of the family court act and section three hundred ninety-two-a of this chapter.

§ 12. Subdivision 1 of section 352-a of the social services law is amended by adding a new paragraph (g) to read as follows:

(g) the provisions of this section shall not apply to the parents of an abandoned infant as defined in subdivision (l) of section one thousand twelve of the family court act and section three hundred ninety-two-a of this chapter.

§ 13. Subdivision 2 of section 371 of the social services law, as amended by chapter 666 of the laws of 1976, is amended and a new subdivision 2-a is added to read as follows:

2. "Abandoned child" means a child under the age of eighteen years who is abandoned by both parents, or by the parent having [~~its~~] his or her custody, or by any other person or persons lawfully charged with [~~its~~] his or her care or custody, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b of this title;

2-a. "Abandoned infant" means a child as defined in subdivision (l) of section one thousand twelve of the family court act and section three hundred ninety-two-a of this title;

§ 14. Paragraph (ii) of subdivision 4-a of section 371 of the social services law, as added by chapter 782 of the laws of 1971, is amended to read as follows:

(ii) who has been abandoned by his or her parents or other person legally responsible for his or her care, including an abandoned child as defined in subdivision two or an abandoned infant as defined in subdivision two-a of this section.

§ 15. The opening paragraph and paragraphs (b), (c) and (d) of subdivision 1 of section 372 of the social services law are amended to read as follows:

Every court, and every public board, commission, institution, or officer having powers or charged with duties in relation to abandoned children, including abandoned infants, delinquent, destitute, neglected or dependent children who shall receive, accept or commit any child shall provide and keep a record showing:

(b) his or her sex and date and place of birth, if ascertainable, or his or her apparent age and in the case of an abandoned infant as defined in subdivision two-a of section three hundred seventy-one of this title, the affidavit or other official record of the determination of a qualified health care practitioner, licensed or certified under

title eight of the education law, acting within his or her lawful scope of practice attesting that the child was thirty days old or younger at the time of abandonment and the date of birth of the child, to a reasonable degree of medical certainty,

(c) the full and true names and places of birth of his or her parents, and their actual residence if living, or their latest known residence, if deceased or whereabouts unknown and the name and actual residence of any other person having custody of the child, as nearly as the same can reasonably be ascertained, and in the case of an abandoned infant as defined in subdivision two-a of section three hundred seventy-one of this title, a certified copy of the court order determining that the child was an abandoned infant pursuant to section one thousand fifty-one-a of the family court act,

(d) the religious faith of the parents and of the child, if known,

§ 16. Paragraph (e) of subdivision 3 of section 384-b of the social services law, as amended by section 55 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(e) (i) A proceeding under this section is originated by a petition on notice served upon the child's parent or parents, the attorney for the child's parent or parents and upon such other persons as the court may in its discretion prescribe. Such notice shall inform the parents and such other persons that the proceeding may result in an order freeing the child for adoption without the consent of or notice to the parents or such other persons. Such notice also shall inform the parents and such other persons of their right to the assistance of counsel, including any right they may have to have counsel assigned by the court in any case where they are financially unable to obtain counsel. The petition shall set forth the names and last known addresses of all persons required to be given notice of the proceeding, pursuant to this section and section three hundred eighty-four-c of this title, and there shall be shown by the petition or by affidavit or other proof satisfactory to the court that there are no persons other than those set forth in the petition who are entitled to notice pursuant to the provisions of this section or of section three hundred eighty-four-c of this title. When the proceeding is initiated in family court service of the petition and other process shall be made in accordance with the provisions of section six hundred seventeen of the family court act, and when the proceeding is initiated in surrogate's court, service shall be made in accordance with the provisions of section three hundred seven of the surrogate's court procedure act. When the proceeding is initiated on the grounds of abandonment of a child less than one year of age at the time of the transfer of the care and custody of such child to a local social services official, the court shall take judicial notice of efforts to locate the child's parents or other known relatives or other persons legally responsible pursuant to paragraph (ii) of subdivision (b) of section one thousand fifty-five of the family court act. The provisions of this paragraph shall not apply to a child determined to be an abandoned infant as defined in subdivision two-a of section three hundred seventy-one of this title.

(ii) If the identity of the parents of the child is unknown, and the child has been found to be an abandoned infant pursuant to subdivision (l) of section one thousand twelve or section one thousand thirty-one-a of the family court act, the court upon receipt of the petition shall require the local commissioner to cause notice to be published in accordance with the provisions of rule three hundred sixteen of the

civil practice law and rules in the county in which such child was found, for a period of at least thirty days. The notice shall state:

(A) the date, time and purpose of the proceeding;

(B) the date, time and place that the abandoned newborn infant was found;

(C) a description of the infant including its approximate date of birth;

(D) that upon failure to appear, all parental rights of the parents of such abandoned newborn infant may be terminated;

(E) that a parent's failure to appear shall constitute a denial of his or her interest in the child, which denial may result, without further notice, in the commitment of the custody and guardianship of the child to the local commissioner of social services and in the child's adoption; and

(F) the name, address, and telephone number of the person designated by the local commissioner to contact for information regarding such child.

(iii) At any time prior to or subsequent to the entry of an order committing the guardianship and custody of the child pursuant to this section but not later than six months after the initial publication of notice of the proceeding pursuant to section one thousand thirty-one-a of the family court act, if the maternity or paternity of a person claiming to be the mother or father of the infant is confirmed by a test to be conducted to confirm maternity or paternity, the proceeding shall be stayed pending an investigation pursuant to subdivision one of section one thousand thirty-four of the family court act. Within three court days of the completion of the investigation,

(A) if there are grounds pursuant to subdivision (e) or (f) of section one thousand twelve of the family court act to file a petition to determine abuse or neglect pursuant to section one thousand thirty-one of the family court act, the local commissioner of social services shall file such petition, or

(B) if there are no such grounds, the court shall hold a hearing as to the best interests of the child.

(iv) The custody of the child with the local commissioner of social services shall continue pending the result of the best interests hearing.

(v) If the child is free for adoption, the court shall vacate the order committing guardianship and custody of the child.

§ 17. Subparagraph (iii) of paragraph (l) of subdivision 3 of section 384-b of the social services law, as amended by chapter 145 of the laws of 2000, is amended and a new subparagraph (vi) is added to read as follows:

(iii) For the purposes of this paragraph, the date of the child's entry into foster care is the earlier of sixty days after the date on which the child was removed from the home or the date the child was found by a court to be an abandoned infant, or an abused or neglected child pursuant to article ten of the family court act.

(vi) For the purposes of this paragraph, a petition for termination of parental rights shall be filed within sixty days after a court's determination that the child is an abandoned infant pursuant to section one thousand fifty-one-a of the family court act.

§ 18. Paragraphs (d) and (e) of subdivision 4 of section 384-b of the social services law, paragraph (d) as amended by chapter 739 of the laws of 1981 and paragraph (e) as amended by section 56 of part A of chapter

3 of the laws of 2005, are amended and a new paragraph (f) is added to read as follows:

(d) The child is a permanently neglected child; [~~or~~]

(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) The parent or parents abandoned the child when the child was thirty days old or younger in a manner that indicated the parent's or parents' intent to wholly relinquish and forgo responsibility for and rights to the care and custody of such child with the intent that the child be safe from physical injury and cared for in an appropriate manner, and such parent or parents, after a period of two months from the date of abandonment, have not communicated with the child or agency regarding the child.

§ 19. Subdivision 5 of section 384-b of the social services law is amended by adding a new paragraph (c) to read as follows:

(c) The provisions of this subdivision shall not apply to an abandoned infant as defined in subdivision two-a of section three hundred seventy-one of this title.

§ 20. The social services law is amended by adding a new section 392-a to read as follows:

§ 392-a. Abandoned infants; special provisions. 1. A child is an "abandoned infant" where a court of competent jurisdiction has determined pursuant to section one thousand fifty-one-a of the family court act that such child is an abandoned infant.

2. (a) Notwithstanding any other provision of law, upon notification that an alleged abandoned infant is found within the county or jurisdiction, the local commissioner shall:

(i) immediately cause a physical examination of the child to be performed by a qualified health care practitioner, licensed or certified under title eight of the education law, acting within his or her lawful scope of practice to determine the health status of the child and the age and date of birth of the child to a reasonable degree of medical certainty. Such health care practitioner shall certify by affidavit or other official record his or her reasonable medical conclusion as to whether the child was thirty days old or younger when abandoned and the child's date of birth. The affidavit or other official record of the determination shall be placed in the infant's records in place of those required by subdivision one of section three hundred seventy-two of this title; and

(ii) forthwith commence a proceeding pursuant to section one thousand thirty-one-a of the family court act.

(b) Upon assumption of protective custody of a child alleged to be an "abandoned infant" the local commissioner shall:

(i) provide necessary services or assistance, including authorizing a qualified health care practitioner, licensed or certified under title eight of the education law, acting within his or her lawful scope of practice or hospital to provide emergency medical treatment or surgical procedures necessary to safeguard the life or health of the child;

(ii) at the time of assumption of custody of the child, at the time of the fact-finding hearing and at the time of the dispositional hearing regarding the petition to commit guardianship and custody of the child to an authorized agency pursuant to section three hundred eighty-four-b of this title, make inquiry of the putative father registry regarding the existence of a notice of intent filed with the registry that may pertain to the child and of local law enforcement officials regarding the existence of a missing person report that may pertain to the child. Notwithstanding any other provision of law, the local commissioner shall not be required to pursue any other efforts to locate the parents or relatives of such child;

(iii) publicize: (A) notwithstanding any other provision of law, in an effort to allow a parent or other relative of the child to come forward, the abandonment of the child through local media outlets and specifically in the community where the abandonment occurred with the information regarding the child to be provided at the discretion of the local commissioner, including, but not limited to photos of the child; and (B) the availability of (1) prevention services, personal counseling and support services as contemplated under titles four and four-B of this article; (2) information and referral services, advocacy, counseling and hotline services to victims of domestic violence as contemplated under section four hundred fifty-nine-c of this chapter; and (3) safe placement alternatives for newborn infants as provided under this section and section one thousand thirty-one-a of the family court act, including information regarding termination of parental rights and adoption procedures and that an abandoned infant is not a neglected child under this chapter or the family court act; and

(iv) if the maternity or paternity of a person claiming to be the mother or father of the infant is confirmed by a test to be conducted to confirm maternity or paternity, conduct an investigation pursuant to subdivision one of section one thousand thirty-four of the family court act and if there are no grounds pursuant to subdivision (e) or (f) of section one thousand twelve of the family court act, withdraw the petition to determine whether a child is an abandoned infant pursuant to subdivision (1) of section one thousand twelve of the family court act. If there are grounds pursuant to subdivision (e) and (f) of section one thousand twelve of the family court act, the local commissioner of social services shall file a petition to determine abuse or neglect pursuant to section one thousand thirty-one of the family court act within three court days of the completion of the investigation.

§ 21. Section 372-g of the social services law, as added by chapter 156 of the laws of 2000, is amended to read as follows:

§ 372-g. Abandoned infant protection program. 1. The office of children and family services shall develop and implement a public information program to inform the general public of the provisions of the abandoned infant protection act and the availability of safe placement alternatives for newborn infants as provided under section three hundred ninety-two-a of this title and section one thousand thirty-one-a of the family court act, including information regarding termination of parental rights and adoption procedures and that an abandoned infant is not a neglected child under this chapter or the family court act. Such public information program shall also inform the general public of the availability of prevention services, personal counseling and support services as contemplated under titles four and four-B of this article, and information and referral services, advocacy, counseling and hotline services to victims of domestic violence as contemplated under section

four hundred fifty-nine-c of this chapter. The program may include but not be limited to the following elements:

[~~1.~~] (a) educational and informational materials in print, audio, video, electronic, or other media;

[~~2.~~] (b) public service announcements and advertisements; and

[~~3.~~] (c) establishment of toll-free telephone hotlines to provide information.

2. The office of children and family services shall develop and implement the public information program within amounts appropriated or available by the state.

§ 22. This act shall take effect on the one hundred eightieth day after it shall have become a law.