

STATE OF NEW YORK

8834

IN SENATE

July 20, 2020

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act, in relation to the placement of a former foster care youth during a certain state of emergency

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

1 Section 1. Subdivision (e) of section 1055 of the family court act, as
2 amended by chapter 342 of the laws of 2010, is amended to read as
3 follows:

4 (e) (i) No placement may be made or continued under this section
5 beyond the child's eighteenth birthday without his or her consent and in
6 no event past his or her twenty-first birthday. However, a former foster
7 care youth under the age of twenty-one who was previously discharged
8 from foster care due to a failure to consent to continuation of place-
9 ment may make a motion pursuant to section one thousand ninety-one of
10 this act to return to the custody of the local commissioner of social
11 services or other officer, board or department authorized to receive
12 children as public charges. In such motion, the youth must consent to
13 enrollment in and attendance at a vocational or educational program in
14 accordance with paragraph two of subdivision (a) of section one thousand
15 ninety-one of this act. (ii) Provided, however, that during the state of
16 emergency declared pursuant to Executive Order 202 of 2020 in response
17 to the novel coronavirus (COVID-19) pandemic, a former foster care youth
18 may request to return to the custody of the local commissioner of social
19 services or other officer, board or department authorized to receive
20 children as public charges without making a motion pursuant to section
21 one thousand ninety-one of this act and any requirement to enroll in and
22 attend a vocational or educational program shall be waived for the dura-
23 tion of the state of emergency; provided further, however, that during a
24 state of emergency, the local commissioner of social services or other
25 officer, board or department authorized to receive children as public
26 charges shall be authorized to place such former foster care youth
27 requesting to return to foster care placement; and provided further,
28 however, that the local commissioner of social services or other offi-

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

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1 cer, board or department authorized to receive children as public charg-
2 es shall, when determining whether to return such former foster care
3 youth to foster care placement, take into consideration the factors the
4 court would take into consideration upon making such a determination to
5 return a child to foster care placement pursuant to section one thousand
6 ninety-one of this act. To the extent a former foster care youth is
7 denied the request to return to the custody of the local commissioner of
8 social services, or other board or department authorized to receive
9 children as public charges pursuant to this paragraph, the youth shall
10 still have the opportunity to file a motion as authorized pursuant to
11 section one thousand ninety-one of this act.

12 § 2. The opening paragraph of section 1091 of the family court act, as
13 added by chapter 342 of the laws of 2010, is amended to read as follows:

14 A motion to return a former foster care youth under the age of twen-
15 ty-one, who was discharged from foster care due to a failure to consent
16 to continuation of placement, to the custody of the local commissioner
17 of social services or other officer, board or department authorized to
18 receive children as public charges, may be made by such former foster
19 care youth, or by a local social services official upon the consent of
20 such former foster care youth, if there is a compelling reason for such
21 former foster care youth to return to foster care; provided however,
22 that the court shall not entertain a motion filed after twenty-four
23 months from the date of the first final discharge that occurred on or
24 after the former foster care youth's eighteenth birthday; provided
25 further, however, that during the state of emergency declared pursuant
26 to Executive Order 202 of 2020 in response to the novel coronavirus
27 (COVID-19) pandemic, a former foster care youth shall be entitled to
28 return to the custody of the local commissioner of social services or
29 other officer, board or department authorized to receive children as
30 public charges without making a motion pursuant to this section and any
31 requirement to enroll and attend an educational or vocational program
32 shall be waived for the duration of the state of emergency. Subsequent
33 to a former foster youth's return to placement without making a motion,
34 as authorized under this section during the state of emergency declared
35 pursuant to Executive Order 202 of 2020 in response to the novel corona-
36 virus (COVID-19) pandemic, nothing herein shall prohibit the local
37 social services district from filing a motion for requisite findings
38 needed to claim reimbursement under Title IV-E of the federal social
39 security act to support the youth's care, and the family court shall
40 hear and determine such motions.

41 § 3. This act shall take effect immediately.