STATE OF NEW YORK

4203--A

Cal. No. 764

2019-2020 Regular Sessions

IN SENATE

March 4, 2019

Introduced by Sens. SAVINO, MONTGOMERY, RIVERA, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the family court act and the social services law, in relation to orders committing guardianship and custody of a child

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

Section 1. Section 634 of the family court act, as amended by chapter 666 of the laws of 1976, is amended to read as follows:

§ 634. Commitment of guardianship and custody; further orders. The court may enter an order under section six hundred thirty-one committing the guardianship and custody of the child to the petitioner on such conditions, if any, as it deems proper**, including but not limited to, an order of post-termination visitation and/or contact pursuant to section three hundred eighty-four-b of the social services law**.

§ 2. Section 384-b of the social services law is amended by adding three new subdivisions 14, 15 and 16 to read as follows:

14. Upon application by any party to a proceeding under this section, the court shall conduct a post-termination visitation and/or contact hearing, which may be held concurrently with a dispositional hearing.

(a) Parents and subject children who are parties to the termination proceeding under article six of the family court act or this section, as well as the subject child's foster parents, or kinship caregiver, shall have notice of and standing to participate in the best interest post-termination visitation and/or contact hearing.

(b) The applicant shall have the burden of proof that post-termination visitation and/or contact is in the child's best interest.

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

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(c) The court may grant the application and include in the order committing the guardianship and custody of a child pursuant to this section, the granting of visitation and/or contact to the parent, custodian, half sibling and/or sibling who is a party to the proceeding, provided such visitation and/or contact with the child is found by the court to be in the best interest of the child. If the application for post-termination contact is denied after this dispositional hearing, the applicant shall not have standing to bring the same application in any other proceeding regarding the same child. However, if the court grants any visitation and/or contact, an application to modify the order, upon a showing of substantial change in circumstances, may still be brought.

(d) The court shall have discretion, depending on the best interest of the child, to determine the level of supervision of any visitation and/or contact.

(e) The court in its order shall indicate such person or persons that were given notice of the proceeding and whether such person or persons appeared.

15. All parties to a post-termination visitation and/or contact order pursuant to subdivision fourteen of this section, as well as any person who subsequently becomes the child's legal guardian, custodian or adoptive parent, may move the court to enforce or modify the order. Any modification shall be based on a showing of a substantial change in circumstances and the best interests of the child.

16. Nothing in subdivision fourteen or fifteen of this section shall be construed to limit the rights of half siblings or siblings to seek contact pursuant to subdivision nine of this section or section seventy-one of the domestic relations law following a termination of parental rights or adoption.

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