

# STATE OF NEW YORK

8470

## IN SENATE

June 3, 2020

Introduced by Sen. MONTGOMERY -- 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, in relation to the placement of  
children under the age of twenty-one during a state of emergency

The People of the State of New York, represented in Senate and Assem-  
bly, 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) No placement may be made or continued under this section beyond  
5 the child's eighteenth birthday without his or her consent and in no  
6 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. Provided, however, that during a state of emer-  
16 gency, a former foster care youth may request to return to the custody  
17 of the local commissioner of social services or other officer, board or  
18 department authorized to receive children as public charges without  
19 making a motion pursuant to section one thousand ninety-one of this act  
20 and any requirement to enroll in and attend a vocational or educational  
21 program shall be waived for the duration of the state of emergency;  
22 provided further, however, that during a state of emergency, the local  
23 commissioner of social services or other officer, board or department  
24 authorized to receive children as public charges shall be authorized to  
25 place such former foster care youth requesting to return to foster care  
26 placement; and provided further, however, that the local commissioner of  
27 social services or other officer, board or department authorized to  
28 receive children as public charges shall, when determining whether to

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

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1 return such former foster care youth to foster care placement, take into  
2 consideration the factors the court would take into consideration upon  
3 making such a determination to return a child to foster care placement  
4 pursuant to section one thousand ninety-one of this act.

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

7 A motion to return a former foster care youth under the age of twen-  
8 ty-one, who was discharged from foster care due to a failure to consent  
9 to continuation of placement, to the custody of the local commissioner  
10 of social services or other officer, board or department authorized to  
11 receive children as public charges, may be made by such former foster  
12 care youth, or by a local social services official upon the consent of  
13 such former foster care youth, if there is a compelling reason for such  
14 former foster care youth to return to foster care; provided however,  
15 that the court shall not entertain a motion filed after twenty-four  
16 months from the date of the first final discharge that occurred on or  
17 after the former foster care youth's eighteenth birthday; provided  
18 further, however, that during a state of emergency, a former foster care  
19 youth shall be entitled to return to the custody of the local commis-  
20 sioner of social services or other officer, board or department author-  
21 ized to receive children as public charges without making a motion  
22 pursuant to this section and any requirement to enroll and attend an  
23 educational or vocational program shall be waived for the duration of  
24 the state of emergency.

25 § 3. This act shall take effect immediately.