

STATE OF NEW YORK

8470--A

IN SENATE

June 3, 2020

Introduced by Sens. MONTGOMERY, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to the placement of children under the age of twenty-one during and shortly following a state of emergency; and to establish a temporary moratorium on aging out of foster care at the age of twenty-one during and shortly following a 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) 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, except pursuant to subdivi-
7 sion (k) of this section. However, a former foster care youth under the
8 age of twenty-one who was previously discharged from foster care due to
9 a failure to consent to continuation of placement may make a motion
10 pursuant to section one thousand ninety-one of this act to return to the
11 custody of the local commissioner of social services or other officer,
12 board or department authorized to receive children as public charges. In
13 such motion, the youth must consent to enrollment in and attendance at a
14 vocational or educational program in accordance with paragraph two of
15 subdivision (a) of section one thousand ninety-one of this act.
16 Provided, however, that during a state of emergency and for one hundred
17 eighty days following the end of such state of emergency, a former
18 foster care youth may request to return to the custody of the local
19 commissioner of social services or other officer, board or department
20 authorized to receive children as public charges without making a motion
21 pursuant to section one thousand ninety-one of this act and any require-
22 ment regarding participation in a vocational or educational program
23 shall be waived for the duration of the state of emergency and for one

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

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1 hundred eighty days following the end of such state of emergency. During
2 state of emergency and one hundred eighty days following the end of such
3 state of emergency, the local commissioner of social services or other
4 officer, board or department authorized to receive children as public
5 charges shall grant the request of any such former foster care youth to
6 return to foster care placement.

7 § 2. Section 1055 of the family court act is amended by adding a new
8 subdivision (k) to read as follows:

9 (k) During a state of emergency and for one hundred eighty days
10 following the end of such state of emergency, the local commissioner of
11 social services or other officer, board or department authorized to
12 receive children as public charges shall not discharge a youth between
13 the ages of eighteen and twenty-one years of age from foster care with-
14 out the express consent of the youth and the youth's attorney. A youth
15 who has reached his or her twenty-first birthday in foster care may
16 remain in foster care during a state of emergency and for one hundred
17 eighty days following the end of such state of emergency.

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

20 A motion to return a former foster care youth under the age of twen-
21 ty-one, who was discharged from foster care due to a failure to consent
22 to continuation of placement, to the custody of the local commissioner
23 of social services or other officer, board or department authorized to
24 receive children as public charges, may be made by such former foster
25 care youth, or by a local social services official upon the consent of
26 such former foster care youth, if there is a compelling reason for such
27 former foster care youth to return to foster care; provided however,
28 that the court shall not entertain a motion filed after twenty-four
29 months from the date of the first final discharge that occurred on or
30 after the former foster care youth's eighteenth birthday; provided
31 further, however, that during a state of emergency and for one hundred
32 eighty days following the end of such state of emergency, a former
33 foster care youth shall be entitled to return to the custody of the
34 local commissioner of social services or other officer, board or depart-
35 ment authorized to receive children as public charges without making a
36 motion pursuant to this section and any requirement regarding partic-
37 ipation in an educational or vocational program shall be waived for the
38 duration of the state of emergency.

39 § 4. This act shall take effect immediately.