

# STATE OF NEW YORK

8470--B

## 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 -- 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 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) 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 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

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

LBD16556-08-0

1 officer, board or department authorized to receive children as public  
2 charges shall be authorized to place such former foster care youth  
3 requesting to return to foster care placement; and provided further,  
4 however, that the local commissioner of social services or other offi-  
5 cer, board or department authorized to receive children as public charg-  
6 es shall, when determining whether to return such former foster care  
7 youth to foster care placement, take into consideration the factors the  
8 court would take into consideration upon making such a determination to  
9 return a child to foster care placement pursuant to section one thousand  
10 ninety-one of this act.

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

13 A motion to return a former foster care youth under the age of twen-  
14 ty-one, who was discharged from foster care due to a failure to consent  
15 to continuation of placement, to the custody of the local commissioner  
16 of social services or other officer, board or department authorized to  
17 receive children as public charges, may be made by such former foster  
18 care youth, or by a local social services official upon the consent of  
19 such former foster care youth, if there is a compelling reason for such  
20 former foster care youth to return to foster care; provided however,  
21 that the court shall not entertain a motion filed after twenty-four  
22 months from the date of the first final discharge that occurred on or  
23 after the former foster care youth's eighteenth birthday; provided  
24 further, however, that during the state of emergency declared pursuant  
25 to Executive Order 202 of 2020 in response to the novel coronavirus  
26 (COVID-19) pandemic, a former foster care youth shall be entitled to  
27 return to the custody of the local commissioner of social services or  
28 other officer, board or department authorized to receive children as  
29 public charges without making a motion pursuant to this section and any  
30 requirement to enroll and attend an educational or vocational program  
31 shall be waived for the duration of the state of emergency.

32 § 3. This act shall take effect immediately.