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:

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

(e) **(i)** No placement may be made or continued under this section beyond the child's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday. However, a former foster care youth under the age of twenty-one who was previously discharged from foster care due to a failure to consent to continuation of placement may make a motion pursuant to section one thousand ninety-one of this act to return to the custody of the local commissioner of social services or other officer, board or department authorized to receive children as public charges. In such motion, the youth must consent to enrollment in and attendance at a vocational or educational program in accordance with paragraph two of subdivision (a) of section one thousand ninety-one of this act. **(ii) Provided, however, that during the state of emergency declared pursuant to Executive Order 202 of 2020 in response to the novel coronavirus (COVID-19) pandemic, a former foster care youth may request to return to the custody of the local commissioner of social services or other officer, board or department authorized to receive children as public charges without making a motion pursuant to section one thousand ninety-one of this act and any requirement to enroll in and attend a vocational or educational program shall be waived for the duration of the state of emergency; provided further, however, that during a state of emergency, the local commissioner of social services or other officer, board or department authorized to receive children as public charges shall be authorized to place such former foster care youth requesting to return to foster care placement; and provided further, 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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cer, board or department authorized to receive children as public charges shall, when determining whether to return such former foster care youth to foster care placement, take into consideration the factors the court would take into consideration upon making such a determination to return a child to foster care placement pursuant to section one thousand ninety-one of this act. To the extent a former foster care youth is denied the request to return to the custody of the local commissioner of social services, or other board or department authorized to receive children as public charges pursuant to this paragraph, the youth shall still have the opportunity to file a motion as authorized pursuant to section one thousand ninety-one of this act.

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

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

§ 3. This act shall take effect immediately.