STATE OF NEW YORK

7179

2021-2022 Regular Sessions

IN SENATE

June 4, 2021

Introduced by Sen. PERSAUD -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act and the executive law, in relation to reentry of former foster care children into foster care

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

Section 1. Subdivision 6 of section 355.3 of the family court act, as 1 amended by section 75 of part WWW of chapter 59 of the laws of 2017, is 2 amended and a new subdivision 7 is added to read as follows: 3 4 6. Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the respondent's 5 eighteenth birthday without [the child's] his or her consent [for acts б 7 committed before the respondent's sixteenth birthday] and in no event past [the child's] his or her twenty-first birthday except as provided 8 9 for in subdivision four of section 353.5 of this part. 10 7. A youth who was formerly a respondent pursuant to this article may be eligible to file a motion pursuant to article ten-B of this act and 11 12 may be subsequently placed into foster care, in a supervised setting as 13 defined in subdivision twenty-two of section three hundred seventy-one of the social services law or placement in a foster family home, which 14 shall include a kinship placement or a placement with fictive kin. 15 § 2. Section 756-a of the family court act is amended by adding a new 16 17 subdivision (i) to read as follows: (i) A youth who was formerly a respondent pursuant to this article 18 19 shall be eligible to file a motion pursuant to article ten-B of this act 20 and may be subsequently placed into foster care, in a supervised setting

21 <u>as defined in subdivision twenty-two of section three hundred seventy-</u> 22 <u>one of the social services law or placement in a foster family home,</u> 23 <u>which shall include a kinship placement or a placement with fictive kin.</u>

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

LBD10135-05-1

1 § 3. Paragraph (i) and the opening paragraph of subparagraph (A) of 2 paragraph (ii) of subdivision (e) of section 1055 of the family court act, as amended by chapter 34 of the laws of 2021, are amended to read 3 4 as follows: 5 (i) No placement may be made or continued under this section beyond б the child's eighteenth birthday without his or her consent and in no 7 event past his or her twenty-first birthday. However, a former foster 8 care youth [under the age of twenty-one who was previously discharged from foster care due to a failure to consent to continuation of place-9 ment], as defined in section one thousand ninety-one of this act, may 10 make a motion pursuant to such section [one thousand ninety one of this 11 **act**] to return to the custody of the local commissioner of social services or other officer, board or department authorized to receive 12 13 14 children as public charges. In such motion, the youth must consent to 15 enrollment in and attendance at a vocational or educational program in 16 accordance with paragraph [two] three of subdivision [(a)] (d) of 17 section one thousand ninety-one of this act. A former foster care youth [under the age of twenty-one who was previ-18 ously discharged from foster care due to a failure to consent to contin-19 uation of placement purguant to], as defined in section one thousand 20 21 ninety-one of this act, may: § 4. Section 1088 of the family court act, as amended by chapter 605 22 of the laws of 2011, is amended to read as follows: 23 24 § 1088. Continuing court jurisdiction. (a) If a child is placed pursu-25 ant to section three hundred fifty-eight-a, three hundred eighty-four, 26 or three hundred eighty-four-a of the social services law, or pursuant 27 to section one thousand seventeen, one thousand twenty-two, one thousand twenty-seven, one thousand fifty-two, one thousand eighty-nine, one 28 29 thousand ninety-one, one thousand ninety-four or one thousand ninetyfive of this act, or directly placed with a relative pursuant to section 30 31 one thousand seventeen or one thousand fifty-five of this act; or if the 32 child is freed for adoption pursuant to section six hundred thirty-one 33 of this act or section three hundred eighty-three-c, three hundred 34 eighty-four or three hundred eighty-four-b of the social services law, 35 the case shall remain on the court's calendar and the court shall main-36 tain jurisdiction over the case until the child is discharged from 37 placement and all orders regarding supervision, protection or services 38 have expired. 39 (b) The court shall rehear the matter whenever it deems necessary or 40 desirable, or upon motion by any party entitled to notice in proceedings 41 under this article, or by the attorney for the child, and whenever a 42 permanency hearing is required by this article. While the court main-43 tains jurisdiction over the case, the provisions of section one thousand 44 thirty-eight of this act shall continue to apply. 45 (c) The court shall also maintain jurisdiction over a case for 46 purposes of hearing a motion to permit a former foster care youth [under 47 the age of twenty one who was discharged from foster care due to a failure to consent to continuation of placement], as defined in article 48 ten-B of this act, to return to the custody of the [local commissioner 49 50 of] social services [or other officer, board or department authorized to 51 receive children as public charges] district from which the youth was 52 most recently discharged or, in the case of a youth previously placed 53 with the office of children and family services for placement, to be 54 placed in the custody of the social services district of the child's 55 residence or, in the case of a child freed for adoption, the authorized 56 agency into whose custody and guardianship the child has been placed.

1	§ 5. Section 1091 of the family court act, as added by chapter 342 of
2	the laws of 2010 and the opening paragraph as amended by chapter 34 of
3	the laws of 2021, is amended to read as follows:
4	§ 1091. Motion to return to foster care placement. (a) For purposes
5	of this article:
б	(1) "Former foster care youth" shall mean a youth:
7	(i) who has attained the age of eighteen but is under the age of twen-
8	ty-one and who had been discharged from a foster care setting on or
9	after:
10	(A) attaining the age of eighteen due to a failure to consent to
11	continuation in foster care; or
12	(B) attaining the age of sixteen but who is or is likely to be home-
13	less unless returned to foster care; and
14	(ii)(A) placed in foster care with a local social services district or
15	authorized agency, as applicable, pursuant to article three, seven, ten,
16	ten-A or ten-C of this act or section three hundred fifty-eight-a of the
17	social services law; or
18	(B) freed for adoption in accordance with section six hundred thirty-
19	one of this act or section three hundred eighty-three-c, three hundred
20	eighty-four or three hundred eighty-four-b of the social services law
21	but has not yet been adopted; or
22	(C) placed with the office of children and family services as a juve-
23	nile delinquent for a non-secure level of care pursuant to article three
24	of this act.
25	(2) "Foster care setting" shall not include placements in:
26	(i) (A) a limited secure or secure level of care with the office of
27	children and family services; or
28	(B) a limited secure level of care where the placement was made in a
29	county that has an approved "close to home" program pursuant to section
29 30	county that has an approved "close to home" program pursuant to section four hundred four of the social services law.
30 31 32	four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a
30 31 32 33	four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth
30 31 32 33 34	four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting.
30 31 32 33 34 35	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) A motion to return a former foster care youth [under the age of</pre>
30 31 32 33 34 35 36	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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 </pre>
30 31 32 33 34 35 36 37	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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</pre>
30 31 32 33 34 35 36 37 38	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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</pre>
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30 31 32 33 34 35 36 37 38 39 40	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth</pre>
30 31 32 33 34 35 36 37 38 39 40 41	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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 authorised to receive children as public charges,] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42 43	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42 43 44	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian-</pre>
30 31 32 33 34 35 36 37 38 39 40 412 43 44 45	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care</pre>
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30 31 32 33 35 36 37 38 39 41 42 43 445 46 47	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the local social services [official] district, authorized agency or the office of children and residence. [official]</pre>
30 31 32 33 35 36 37 38 39 40 41 42 43 445 46 47 48	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the local social services [official] district, authorized agency or the office of children and family services upon the consent of such former foster care youth, if </pre>
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30 31 32 33 35 36 37 38 39 41 423 445 467 489 50	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and quardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the local social services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office of children and family services [official] district, authorized agency or the office [official] district, authorized [official]]. </pre>
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30 312 334 35 36 3739 412 434 456 478 490 512 52	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) A motion to return a former foster care youth [under</pre>
30 312 334 35 367 390 412 434 45678 90123 523 523	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the local social services [official] district, authorized agency or the office of children and family services upon the consent of such former foster care youth, if there is a compelling reason for such former foster care youth, if there is a compelling reason for such former foster care youth, if there is or her eighteenth birthday, the court shall not entertain a motion filed after twenty-four months from the date of the first final</pre>
30 312 334 35 3733 3733 41234 456789 51234 551235 54	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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, beard or department authorized to receive children as public charges] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the foster care youth, if there is a compelling reason for such former foster care youth to return to foster care[; provided however, that the]. (c) (1) With respect to a former foster care youth discharged on or after his or her eighteenth birthday, 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 eigh- </pre>
30 312 334 35 3733 367339 4123445 44547890152 51253	<pre>four hundred four of the social services law. (ii) Provided however, a youth who was previously placed in a limited secure or secure level of care but was subsequently transferred to a non-secure level of care may still be eligible to re-enter if such youth was ultimately released from a non-secure setting. (b) 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] district from which the youth was most recently discharged, or, in the case of a youth previously placed with the office of children and family services, to be placed in the custody of the social services district of the child's residence, or, in the case of a child freed for adoption, the social services district or authorized agency into whose custody and guardian- ship such child has been placed, may be made by such former foster care youth, or by [a] the applicable official of the local social services [official] district, authorized agency or the office of children and family services upon the consent of such former foster care youth, if there is a compelling reason for such former foster care youth, if there is a compelling reason for such former foster care youth, if there is or her eighteenth birthday, the court shall not entertain a motion filed after twenty-four months from the date of the first final</pre>

sion or subsequent executive order issued in response to the novel coro-1 (COVID-19) pandemic, such motion shall be heard and determined 2 navirus on an expedited basis; provided further, a former foster care youth 3 4 shall be entitled to return to the custody of the local commissioner of 5 social services or other officer, board or department authorized to б receive children as public charges without making a motion pursuant to 7 this section and, to the extent federally allowable, any requirement to 8 enroll in and attend an educational or vocational program shall be 9 waived for the duration of such state of emergency. Subsequent to a 10 former foster youth's return to placement without making a motion, as 11 authorized under this section during the state of emergency declared pursuant to Executive Order 202 of 2020 or any extension or subsequent 12 13 executive order issued in response to the novel coronavirus (COVID-19) 14 pandemic, nothing herein shall prohibit the local social services 15 district from filing a motion for requisite findings needed to subse-16 quently claim reimbursement under Title IV-E of the federal social secu-17 rity act to support the youth's care, and the family court shall hear 18 and determine such motions on an expedited basis.

19 [(a)] (2) With respect to a former foster care youth discharged prior 20 to his or her eighteenth birthday, the court shall not entertain a 21 motion filed after his or her twentieth birthday; provided further, however, that during the state of emergency declared pursuant to Execu-22 tive Order 202 of 2020, or any extension or subsequent order issued, 23 such former foster youth shall be entitled to return to the custody of 24 25 the local commissioner of social services or other officer, board or 26 department authorized to receive children as public charges without 27 making a motion in accordance with paragraph one of this subdivision 28 and, to the extent federally allowable, any requirement to enroll in 29 and attend an educational or vocational program shall be waived for the 30 duration of the state of emergency. Subsequent to a former foster 31 youth's return to placement without making a motion, as authorized under 32 this section during the state of emergency declared pursuant to Execu-33 tive Order 202 of 2020 or any extension or subsequent executive order issued in response to the novel coronavirus (COVID-19) pandemic, nothing 34 35 herein shall prohibit the local social services district from filing a 36 motion for requisite findings needed to subsequently claim reimbursement 37 under Title IV-E of the federal social security act to support the 38 youth's care, and the family court shall hear and determine such motions 39 on an expedited basis. 40 (d) A motion made pursuant to this [section] article by [a] the applicable official of the local social services [official] district, author-41

42 <u>ized agency or the office of children and family services</u> shall be made 43 by order to show cause. Such motion shall show by affidavit or other 44 evidence that:

45 (1) the former foster care youth has no reasonable alternative to 46 foster care;

47 (2) the former foster care youth consents to enrollment in and attend-48 ance at an appropriate educational or vocational program, unless 49 evidence is submitted that such enrollment or attendance is unnecessary 50 or inappropriate, given the particular circumstances of the youth;

51 (3) re-entry into foster care is in the best interests of the former 52 foster care youth; [and]

53 (4) the former foster care youth consents to the re-entry into foster 54 care<u>; and</u> S. 7179

1 (5) in the case of a former foster youth discharged from foster care on or after attaining the age of sixteen, the youth is or is likely to 2 3 be homeless unless returned to foster care. 4 [(b)] (e) A motion made pursuant to this [section] article by a former 5 foster care youth shall be made by order to show cause [or days б notice to the applicable official of the local social services [offi-7 eial district, authorized agency or the office of children and family 8 services. Such motion shall show by affidavit or other evidence that: 9 (1) the requirements outlined in paragraphs one, two [and], three, four and, if applicable, paragraph five of subdivision [(a)] (d) of this 10 11 section are met; and (2) (i) the applicable official of the local social services district 12 13 authorized agency or the office of children and family services consents 14 to the re-entry of such former foster care youth, or $[\frac{14}{14}]$ 15 (ii) the applicable official of the local social services district 16 authorized agency or the office of children and family services refuses 17 to consent to the re-entry of such former foster care youth [and that such refusal is unreasonable]. 18 19 [(c)] (f) (1) If at any time during the pendency of a proceeding 20 brought pursuant to this [section] article, the court finds a compelling 21 reason that it is in the best interests of the former foster care youth to be returned immediately to the custody of the applicable local 22 commissioner of social services or [other officer, board or department 23 24 authorized to receive children as public charges] official of the applicable authorized agency or the office of children and family services, 25 26 pending a final decision on the motion, the court may issue a temporary 27 order returning the youth to the custody of [the] such local commissioner of social services or other [officer, board or department authorized 28 29 to receive children as public charges] official. 30 (2) Where the applicable official of the local social services 31 district, authorized agency or the office of children and family 32 services has refused to consent to the re-entry of a former foster care 33 youth, [and where it is alleged pursuant to paragraph two of subdivision (b) of this section, that such refusal by such social services district 34 35 is unreasonable, the court shall grant a motion made pursuant to subdi-36 vision [(b)] (e) of this section if the court finds and states in writ-37 ing that the refusal [by the local social services district] is unrea-38 sonable. For purposes of this [section] article, a court shall find that 39 a refusal [by a local social services district] to allow a former foster 40 care youth to re-enter care is unreasonable if: 41 (i) the youth has no reasonable alternative to foster care; 42 (ii) the youth consents to enrollment in and attendance at an appro-43 priate educational or vocational program, unless the court finds a compelling reason that such enrollment or attendance is unnecessary or 44 45 inappropriate, given the particular circumstances of the youth; and 46 (iii) re-entry into foster care is in the best interests of the former 47 foster <u>care</u> youth. 48 (3) Upon making a determination on a motion filed pursuant to this 49 [section] article, where a motion has previously been granted pursuant to this [section] article, in addition to the applicable findings 50 required by this [section] article, the court shall grant the motion to 51 52 return a former foster care youth to the custody of the applicable local 53 commissioner of social services or [other officer, board or department

54 authorized to receive children as public charges] official of the appli-55 cable authorized agency or the office of children and family services, 56 only:

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1 (i) upon a finding that there is a compelling reason for such former 2 foster care youth to return to care; (ii) if the court has not previously granted a subsequent motion for 3 4 such former foster care youth to return to care pursuant to this para-5 graph; and б (iii) upon consideration of the former foster care youth's compliance 7 with previous orders of the court, including the youth's previous 8 participation in an appropriate educational or vocational program, if 9 applicable. § 6. Subdivision 5 of section 507-a of the executive law, as amended 10 11 by section 80 of part WWW of chapter 59 of the laws of 2017, is amended 12 to read as follows: 5. Consistent with other provisions of law, in the discretion of the 13 14 commissioner of the office of children and family services, youth placed 15 within the office under the family court act who attain the age of eigh-16 teen while in custody of the office and who are not required to remain 17 in the placement with the office as a result of a dispositional order of the family court may reside in a **placement in an authorized agency or a** 18 non-secure facility until the age of twenty-one, provided that such 19 20 youth attend a full-time vocational or educational program and are like-21 ly to benefit from such program. § 7. This act shall take effect immediately; provided, however, that 22 23 the amendments to section 1055 and the opening paragraph of section 1091 24 of the family court act made by sections three and five of this act shall not affect the expiration of such subdivision and paragraph and 25

26 shall be deemed to expire therewith.