

STATE OF NEW YORK

8724--B

Cal. No. 929

IN SENATE

March 4, 2024

Introduced by Sens. HOYLMAN-SIGAL, CLEARE, COONEY, FERNANDEZ, GOUNARDES, HARCKHAM, JACKSON, PARKER, RIVERA, SALAZAR, SEPULVEDA, SERRANO, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the family court act and the social services law, in relation to enacting the "safe landings for youth leaving foster care act" or "safe landings act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "safe landings for youth leaving foster care act" or the "safe land-
3 ings act".

4 § 2. Section 249 of the family court act is amended by adding a new
5 subdivision (c) to read as follows:

6 (c) In any proceeding under subdivision eleven of section 355.5 of
7 this act, subdivision (j) of section seven hundred fifty-six-a of this
8 act, section one thousand fifteen-a of this act, subdivision (d) of
9 section one thousand eighty-eight of this act, clause (C-1) of subpara-
10 graph (viii) of paragraph two of subdivision (d) of section one thousand
11 eighty-nine of this act, and/or paragraph (c) of subdivision two-a of
12 section three hundred fifty-eight-a of the social services law, the
13 court shall appoint an attorney to represent a youth who was formerly in
14 foster care and is seeking to enforce an order made on their behalf
15 before their twenty-first birthday while they were still in foster care,
16 if independent legal representation is not available to such youth. Such
17 representation shall continue for all further proceedings thereon,
18 including all motions and any related appeals.

19 § 3. Section 255 of the family court act, as amended by chapter 563 of
20 the laws of 1980, is amended to read as follows:

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

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§ 255. Cooperation of officials and organizations. (a) It is hereby made the duty of, and the family court or a judge thereof may order, any state, county, municipal and school district officer and employee to render such assistance and cooperation as shall be within [his] their legal authority, as may be required, to further the objects of this act provided, however, that with respect to a school district an order made pursuant to this section shall be limited to requiring the performance of the duties imposed upon the school district and board of education or trustees thereof pursuant to sections four thousand five, forty-four hundred two and forty-four hundred four of the education law, to review, evaluate, recommend, and determine the appropriate special services or programs necessary to meet the needs of a handicapped child, but shall not require the provisions of a specific special service or program, and such order shall be made only where it appears to the court or judge that adequate administrative procedure to require the performance of such duties is not available. It is hereby made the duty of and the family court or judge thereof may order, any agency or other institution to render such information, assistance and cooperation as shall be within its legal authority concerning a child who is or shall be under its care, treatment, supervision or custody as may be required to further the objects of this act. The court is authorized to seek the cooperation of, and may use, within its authorized appropriation therefor, the services of all societies or organizations, public or private, having for their object the protection or aid of children or families, including family counselling services, to the end that the court may be assisted in every reasonable way to give the children and families within its jurisdiction such care, protection and assistance as will best enhance their welfare.

(b) An order of the family court or a judge thereof directing a social services district and/or social services official, as defined in section two of the social services law, and/or an authorized agency, as defined by subdivision ten of section three hundred seventy-one of the social services law, to perform an action for the purpose of assisting a youth placed in foster care, shall remain enforceable after such youth is discharged from foster care pursuant to subdivision (d) of section one thousand eighty-eight of this act.

§ 4. Section 355.5 of the family court act is amended by adding a new subdivision 11 to read as follows:

11. Where placement will end prior to a subsequent permanency hearing due to the respondent's age and/or failure to consent to continuation of placement, court orders made pursuant to this section shall be enforceable against the agency with whom such respondent was placed after such respondent was discharged from care.

(a) The court shall maintain jurisdiction over a case for purposes of hearing a motion for contempt against the agency with whom the respondent was placed pursuant to section seven hundred fifty-three of the judiciary law. Such a motion may be brought by a respondent who was formerly placed with a commissioner of social services or the office of children and family services pursuant to section 353.3 of this part and resided in a foster home or non-secure facility. In addition to any other defense, it shall be an affirmative defense to a motion filed in accordance with this paragraph that compliance with the court order was not possible due solely to the youth's refusal to consent to continuation of foster care placement where such refusal is documented in a signed, notarized letter executed by the youth after consultation with their attorney for the child.

1 (b) (i) The court shall maintain jurisdiction over a motion described
2 in paragraph (a) of this subdivision if such motion is filed before the
3 respondent attains the age of twenty-two, or after such respondent
4 attains the age of twenty-two and upon a showing of good cause, which
5 may include, but shall not be limited to, a failure to obtain stable
6 housing. The court's jurisdiction over any such motion shall continue
7 until such motion and any related appeals are finally resolved.

8 (ii) For the purposes of this paragraph, "stable housing" shall mean
9 housing where the youth respondent shall be reasonably expected to
10 reside for at least twelve months; provided, however, that a homeless
11 shelter, temporary accommodations with family or friends, a single-room
12 occupancy hotel, or any other congregate living arrangement which houses
13 more than ten unrelated persons, or remaining in a foster care setting
14 pursuant to a local social services district policy or practice after
15 the respondent attains the age of twenty-one, shall not be considered
16 stable housing; provided, however, that discharge into a congregate
17 living arrangement licensed by the office of mental health or the office
18 for people with developmental disabilities, in accordance with a youth's
19 permanency plan or discharge plan, to receive residential services which
20 are reasonably expected to continue for at least twelve months, includ-
21 ing a congregate living arrangement which houses more than ten unrelated
22 persons, shall constitute stable housing.

23 § 5. Section 756-a of the family court act is amended by adding a new
24 subdivision (j) to read as follows:

25 (j) Where placement will end prior to a subsequent permanency hearing
26 due to the respondent's age and/or failure to consent to continuation of
27 placement, court orders made pursuant to this section shall be enforcea-
28 ble against the social services district and/or social services offi-
29 cial, as defined in section two of the social services law, and/or the
30 authorized agency, as defined by subdivision ten of section three
31 hundred seventy-one of the social services law, with whom such respond-
32 ent was placed after such respondent was discharged from care.

33 (i) The court shall maintain jurisdiction over a case for purposes of
34 hearing a motion for contempt against the agency with whom the respond-
35 ent was placed pursuant to section seven hundred fifty-three of the
36 judiciary law. Such a motion may be brought by such respondent who was
37 formerly placed pursuant to section seven hundred fifty-six of this part
38 or this section. In addition to any other defense, it shall be an
39 affirmative defense to a motion filed in accordance with this paragraph
40 that compliance with the court order was not possible due solely to the
41 youth's refusal to consent to continuation of foster care placement
42 where such refusal is documented in a signed, notarized letter executed
43 by the youth after consultation with their attorney for the child.

44 (ii) (A) The court shall maintain jurisdiction over a motion described
45 in paragraph (i) of this subdivision if such motion is filed before the
46 respondent attains the age of twenty-two, or after such respondent
47 attains the age of twenty-two and upon a showing of good cause, which
48 may include, but shall not be limited to, a failure to obtain stable
49 housing. The court's jurisdiction over any such motion shall continue
50 until such motion and any related appeals are finally resolved.

51 (B) For the purposes of this paragraph, "stable housing" shall mean
52 housing where the youth respondent shall be reasonably expected to
53 reside for at least twelve months; provided, however, that a homeless
54 shelter, temporary accommodations with family or friends, a single-room
55 occupancy hotel, or any other congregate living arrangement which houses
56 more than ten unrelated persons, or remaining in a foster care setting

pursuant to a local social services district policy or practice after the respondent attains the age of twenty-one, shall not be considered stable housing; provided, however, that discharge into a congregate living arrangement licensed by the office of mental health or the office for people with developmental disabilities, in accordance with a youth's permanency plan or discharge plan, to receive residential services which are reasonably expected to continue for at least twelve months, including a congregate living arrangement which houses more than ten unrelated persons, shall constitute stable housing.

§ 6. Section 1015-a of the family court act, as added by chapter 760 of the laws of 1987, is amended to read as follows:

§ 1015-a. Court-ordered services. In any proceeding under this article, the court may order a social services official to provide or arrange for the provision of services or assistance to the child and ~~his or her~~ their family to facilitate the protection of the child, the rehabilitation of the family and, as appropriate, the discharge of the child from foster care. Such order shall not include the provision of any service or assistance to the child and ~~his or her~~ their family which is not authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect. In any order issued pursuant to this section the court may require a social services official to make periodic progress reports to the court on the implementation of such order. Nothing in such order shall preclude any party from exercising its rights under this article or any other provision of law relating to the return of the care and custody of the child by a social services official to the parent, parents or guardian. Violation of such order shall be subject to punishment pursuant to section seven hundred fifty-three of the judiciary law. Such order relating to services for a child placed in foster care shall be enforceable after such child is discharged from foster care pursuant to subdivision (d) of section one thousand eighty-eight of this act.

§ 7. Section 1088 of the family court act is amended by adding a new subdivision (d) to read as follows:

(d) (i) Subject to the provisions of paragraph (ii) of this subdivision, the court shall also maintain jurisdiction over a case for purposes of hearing a motion brought by a former foster care youth, as defined in article ten-B of this act, or by a young adult who left foster care upon or after attaining the age of twenty-one, for contempt pursuant to section seven hundred fifty-three of the judiciary law, against a social services district and/or social services official, as defined in section two of the social services law, and/or an authorized agency, as defined in subdivision ten of section three hundred seventy-one of the social services law. In addition to any other defense, it shall be an affirmative defense to a motion filed in accordance with this paragraph that compliance with the court order was not possible due solely to the youth's refusal to consent to continuation of foster care placement where such refusal is documented in a signed, notarized letter executed by the youth after consultation with their attorney for the child.

(ii) (A) The court shall maintain jurisdiction over a motion described in paragraph (i) of this subdivision if such motion is filed before the former foster care youth or young adult attains the age of twenty-two, or after the former foster care youth or young adult attains the age of twenty-two and upon a showing of good cause, which may include, but shall not be limited to, a failure to obtain stable housing. The

1 court's jurisdiction over any such motion shall continue until such
2 motion and any related appeals are finally resolved.

3 (B) For the purposes of this paragraph, "stable housing" shall mean
4 housing where the youth shall be reasonably expected to reside for at
5 least twelve months; provided, however, that a homeless shelter, tempo-
6 rary accommodations with family or friends, a single-room occupancy
7 hotel, or any other congregate living arrangement which houses more than
8 ten unrelated persons, or remaining in a foster care setting pursuant to
9 a local social services district policy or practice after the youth
10 attains the age of twenty-one, shall not be considered stable housing;
11 provided, however, that discharge into a congregate living arrangement
12 licensed by the office of mental health or the office for people with
13 developmental disabilities, in accordance with a youth's permanency plan
14 or discharge plan, to receive residential services which are reasonably
15 expected to continue for at least twelve months, including a congregate
16 living arrangement which houses more than ten unrelated persons, shall
17 constitute stable housing.

18 § 8. Subparagraph (viii) of paragraph 2 of subdivision (d) of section
19 1089 of the family court act is amended by adding a new clause (C-1) to
20 read as follows:

21 (C-1) Where placement will be ending prior to a subsequent permanency
22 hearing due to the child attaining twenty-one years of age, the court
23 may direct the social services district and/or the social services offi-
24 cial, as defined by section two of the social services law, and/or an
25 authorized agency, as defined by subdivision ten of section three
26 hundred seventy-one of the social services law, to provide assistance or
27 services to such child and such orders shall be enforceable after such
28 child is discharged from foster care pursuant to subdivision (d) of
29 section one thousand eighty-eight of this article.

30 § 9. Subdivision (a) of section 1090 of the family court act, as
31 amended by chapter 605 of the laws of 2011, is amended to read as
32 follows:

33 (a) If an attorney for the child has been appointed by the family
34 court in a proceeding pursuant to this article or section three hundred
35 fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four,
36 or three hundred eighty-four-b of the social services law, or article
37 ten, ten-B or ten-C of this act, the appointment of the attorney for the
38 child shall continue without further court order or appointment, unless
39 another appointment of an attorney for the child has been made by the
40 court, until the child is discharged from placement and all orders
41 regarding supervision, protection or services have expired. The attorney
42 for the child shall also represent the child without further order or
43 appointment in any proceedings under article ten-B or ten-C of this act.
44 The attorney for the child shall also represent the child without
45 further order or appointment in any proceeding brought by a youth who
46 was formerly in foster care to enforce orders that were made prior to
47 such child's discharge from care when such child was between the ages of
48 eighteen and twenty-one. All notices, reports and motions required by
49 law shall be provided to such attorney. The attorney for the child may
50 be relieved of [~~his or her~~] their representation upon application to the
51 court for termination of the appointment. Upon approval of the applica-
52 tion, the court shall immediately appoint another attorney to whom all
53 notices, reports, and motions required by law shall be provided.

54 § 10. Subdivision 2-a of section 358-a of the social services law is
55 amended by adding a new paragraph (c) to read as follows:

1 (c) (i) Subject to the provisions of subparagraph (ii) of this para-
2 graph, the court shall also maintain jurisdiction over a case for the
3 purposes of hearing and deciding a motion brought by a former foster
4 care youth, as defined in article ten-B of the family court act, or by a
5 young adult who left foster care upon or after attaining the age of
6 twenty-one, for contempt pursuant to section seven hundred fifty-three
7 of the judiciary law against a social services district and/or social
8 services official, as defined by section two of this chapter, and/or an
9 authorized agency, as defined by subdivision ten of section three
10 hundred seventy-one of this chapter. In addition to any other defense,
11 it shall be an affirmative defense to a motion filed in accordance with
12 this paragraph that compliance with the court order was not possible due
13 solely to the youth's refusal to consent to continuation of foster care
14 placement where such refusal is documented in a signed, notarized letter
15 executed by the youth after consultation with their attorney for the
16 child.

17 (ii) (A) The court shall maintain jurisdiction over a motion described
18 in subparagraph (i) of this paragraph if such motion is filed before the
19 former foster care youth or young adult attains the age of twenty-two,
20 or after the former foster care youth or young adult attains the age of
21 twenty-two and upon a showing of good cause, which may include, but
22 shall not be limited to, a failure to obtain stable housing. The
23 court's jurisdiction over any such motion shall continue until such
24 motion and any related appeals are finally resolved.

25 (B) For the purposes of this paragraph, "stable housing" shall mean
26 housing where the youth respondent shall be reasonably expected to
27 reside for at least twelve months; provided, however, that a homeless
28 shelter, temporary accommodations with family or friends, a single-room
29 occupancy hotel, or any other congregate living arrangement which houses
30 more than ten unrelated persons, or remaining in a foster care setting
31 pursuant to a local social services district policy or practice after
32 the youth attains the age of twenty-one, shall not be considered stable
33 housing; provided, however, that discharge into a congregate living
34 arrangement licensed by the office of mental health or the office for
35 people with developmental disabilities, in accordance with a youth's
36 permanency plan or discharge plan, to receive residential services which
37 are reasonably expected to continue for at least twelve months, includ-
38 ing a congregate living arrangement which houses more than ten unrelated
39 persons, shall constitute stable housing.

40 § 11. This act shall take effect on the thirtieth day after it shall
41 have become a law.