

STATE OF NEW YORK

9321--B

IN ASSEMBLY

February 29, 2024

Introduced by M. of A. HEVESI, CLARK, STECK, ARDILA, BURDICK, REYES, L. ROSENTHAL, EPSTEIN, TAPIA, SEAWRIGHT, KELLES, SIMONE, SIMON, GONZALEZ-ROJAS, O'DONNELL, BURGOS, KIM, DICKENS, DE LOS SANTOS, WALKER, PAULIN, DAVILA, DINOWITZ, BEEPHAN, STERN, BORES, BRONSON, LUNSFORD, CRUZ, SHRESTHA, LEVENBERG, TAYLOR, GIBBS, LAVINE, McDONALD, RAGA, CARROLL, GALLAHAN, BICHOTTE HERMELYN, GUNTHER, GALLAGHER, MAMDANI, PRETLOW, MEEKS, FORREST -- read once and referred to the Committee on Children and Families -- reported and referred to the Committee on Ways and Means -- 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 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

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

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representation shall continue for all further proceedings thereon, including all motions and any related appeals.

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

§ 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

1 not possible due solely to the youth's refusal to consent to continua-
2 tion of foster care placement where such refusal is documented in a
3 signed, notarized letter executed by the youth after consultation with
4 their attorney for the child.

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

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

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

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

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

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

55 (B) For the purposes of this paragraph, "stable housing" shall mean
56 housing where the youth respondent shall be reasonably expected to

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

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

16 § 1015-a. Court-ordered services. In any proceeding under this arti-
17 cle, the court may order a social services official to provide or
18 arrange for the provision of services or assistance to the child and
19 [~~his or her~~] their family to facilitate the protection of the child, the
20 rehabilitation of the family and, as appropriate, the discharge of the
21 child from foster care. Such order shall not include the provision of
22 any service or assistance to the child and [~~his or her~~] their family
23 which is not authorized or required to be made available pursuant to the
24 comprehensive annual services program plan then in effect. In any order
25 issued pursuant to this section the court may require a social services
26 official to make periodic progress reports to the court on the implemen-
27 tation of such order. Nothing in such order shall preclude any party
28 from exercising its rights under this article or any other provision of
29 law relating to the return of the care and custody of the child by a
30 social services official to the parent, parents or guardian. Violation
31 of such order shall be subject to punishment pursuant to section seven
32 hundred fifty-three of the judiciary law. Such order relating to
33 services for a child placed in foster care shall be enforceable after
34 such child is discharged from foster care pursuant to subdivision (d) of
35 section one thousand eighty-eight of this act.

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

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

54 (ii) (A) The court shall maintain jurisdiction over a motion described
55 in paragraph (i) of this subdivision if such motion is filed before the
56 former foster care youth or young adult attains the age of twenty-two,

1 or after the former foster care youth or young adult attains the age of
2 twenty-two and upon a showing of good cause, which may include, but
3 shall not be limited to, a failure to obtain stable housing. The
4 court's jurisdiction over any such motion shall continue until such
5 motion and any related appeals are finally resolved.

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

21 § 8. Subparagraph (viii) of paragraph 2 of subdivision (d) of section
22 1089 of the family court act is amended by adding a new clause (C-1) to
23 read as follows:

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

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

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

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

(c) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the court shall also maintain jurisdiction over a case for the purposes of hearing and deciding a motion brought by a former foster care youth, as defined in article ten-B of the family court 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 by section two of this chapter, and/or an authorized agency, as defined by subdivision ten of section three hundred seventy-one of this chapter. 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 subparagraph (i) of this paragraph 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 court's jurisdiction over any such motion shall continue until such motion and any related appeals are finally resolved.

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

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