STATE OF NEW YORK

7447

2023-2024 Regular Sessions

IN SENATE

May 26, 2023

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 Children and Families

AN ACT to amend the family court act and the social services law, in relation to dispositional alternatives for children placed with local social services agencies as destitute minors

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

Section 1. Subdivision (d) of section 1095 of the family court act, as amended by chapter 3 of the laws of 2012, is amended to read as follows:

(d) If the court sustains the petition pursuant to subdivision (b) of this section, it may immediately convene a dispositional hearing or may adjourn the proceeding for further inquiries to be made prior to disposition provided however, that if a petition pursuant to article six of this act has been filed by a person or persons seeking custody or guardianship of the child, or if a petition pursuant to article seventeen of the surrogate's court procedure act seeking guardianship of the child has been filed, the court shall consolidate the dispositional hearing with a hearing under section one thousand ninety-six of this article, unless consolidation would not be appropriate under the circumstances. If the court does not consolidate such dispositional proceedings it shall hold the dispositional hearing under this section in abeyance pending the disposition of the petition filed pursuant to article six of this act or article seventeen of the surrogate's court procedure act. Based upon material and relevant evidence presented at the dispositional hearing, the court shall enter an order of disposition stating the grounds for its order and directing one of the following alternatives:

(1) placing the child in the care and custody of the commissioner of social services; [~~or~~]

(2) granting an order of custody or guardianship to relatives or suitable persons pursuant to a petition under article six of this act or

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

LBD09713-01-3

guardianship of the child to a relative or suitable person under article seventeen of the surrogate's court procedure act and in accordance with section one thousand ninety-six of this article; or

(3) freeing the child for adoption and granting guardianship and custody to the commissioner of social services for the purposes of consenting to an adoption where both of the child's parents are deceased, or where one of the child's parents is deceased and the other parent is not entitled to consent or notice pursuant to sections one hundred eleven and one hundred eleven-a of the domestic relations law or section three hundred eighty-four-c of the social services law and no other guardian or custodian has been appointed.

§ 2. Section 1095 of the family court act is amended by adding a new subdivision (h) to read as follows:

(h) If the child has been freed for adoption pursuant to paragraph three of subdivision (d) of this section, the court shall include the following in its order:

(1) a date certain for the permanency hearing in accordance with paragraph two of subdivision (a) of section one thousand eighty-nine of this act;

(2) a direction that the child be placed together with or, at minimum, to visit and have regular communication with, his or her siblings, if any, unless contrary to the best interests of the child and/or the siblings;

(3) if the child is or will be fourteen or older by the date of the permanency hearing, the services and assistance that may be necessary to assist the child in learning independent living skills; and

(4) a direction for the commissioner of social services to provide or arrange for services or assistance, limited to those authorized or required to be made available under the comprehensive annual services program plan then in effect, to facilitate the child's permanency plan.

§ 3. Paragraphs (b) and (c) of subdivision 1 of section 398 of the social services law, paragraph (b) as added and paragraph (c) as amended by chapter 3 of the laws of 2012, are amended and a new paragraph (d) is added to read as follows:

(b) report to the local criminal justice agency and to the statewide central register for missing children as described in section eight hundred thirty-seven-e of the executive law such relevant information as required on a form prescribed by the commissioner of the division of criminal justice services, in appropriate instances; [~~and~~]

(c) assume charge of and provide care and support for any child who is a destitute child pursuant to paragraph (a) of subdivision three of section three hundred seventy-one of this article who cannot be properly cared for in his or her home, and if required, petition the family court to obtain custody of the child in accordance with article ten-C of the family court act[~~.~~]; and

(d) consent to the adoption of a child whose custody and guardianship has been transferred to a social services district in accordance with section one thousand ninety-five of the family court act or paragraph (a) of subdivision four of section three hundred eighty-four-b of this article, where the child's parents are both deceased, or where one parent is deceased and the other parent is not entitled to consent or notice pursuant to sections one hundred eleven and one hundred eleven-a of the domestic relations law or section three hundred eighty-four-c of this article and no other guardian or custodian has been appointed.

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