STATE OF NEW YORK

8271

2025-2026 Regular Sessions

IN ASSEMBLY

May 7, 2025

Introduced by M. of A. DAVILA -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to the right to counsel in proceedings regarding violations of orders of child support and to establish paternity or parentage in the family court

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

Section 1. Subdivision (a) of section 249 of the family court act, as amended by chapter 3 of the laws of 2012, is amended to read as follows:

(a) In a proceeding under article three, seven, ten, ten-A or ten-C of this act or where a **minor is a party in a proceeding in accordance with articles four, five or five-B of this act or where a** revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four or three hundred eighty-four-b of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act or in any proceeding where a minor is detained under or governed by the interstate compact for juveniles established pursuant to section five hundred one-e of the executive law, the family court shall appoint an attorney to represent a minor who is the subject of the proceeding or who is sought to be placed in protective custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of people with developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the

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

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respondent, respondent's parent, or other person legally responsible for the respondent's care, or by assigned counsel. In any proceeding under article ten-B of this act, the family court shall appoint an attorney to represent a youth, under the age of twenty-one, who is the subject of the proceeding, if independent legal representation is not available to such youth. In any other proceeding in which the court has jurisdiction, the court may appoint an attorney to represent the child, when, in the opinion of the family court judge, such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

§ 2. Subdivision (a) of section 249 of the family court act, as amended by chapter 672 of the laws of 2019, is amended to read as follows:

(a) In a proceeding under article three, seven, ten, ten-A or ten-C of this act or where a **minor is a party in a proceeding in accordance with articles four, five or five-B of this act or where a** revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four or three hundred eighty-four-b of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act, the family court shall appoint an attorney to represent a minor who is the subject of the proceeding or who is sought to be placed in protective custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of the office for people with developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the respondent, respondent's parent, or other person legally responsible for the respondent's care, or by assigned counsel. In any proceeding under article ten-B of this act, the family court shall appoint an attorney to represent a youth, under the age of twenty-one, who is the subject of the proceeding, if independent legal representation is not available to such youth. In any other proceeding in which the court has jurisdiction, the court may appoint an attorney to represent the child, when, in the opinion of the family court judge, such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

§ 3. Paragraphs (vi) and (viii) of subdivision (a) of section 262 of the family court act, paragraph (vi) as added by chapter 682 of the laws of 1975 and paragraph (viii) as added by chapter 456 of the laws of 1978, are amended to read as follows:

(vi) [~~any person~~] **all parties** in any proceeding before the court in which an order or other determination is being sought to hold [~~such person~~] **a party or parties** in contempt of the court or in willful violation of a previous order of the court, except for a contempt which may be punished summarily under section seven hundred fifty-five of the judiciary law;

(viii) [~~the respondent~~] **all parties** in any proceeding **to establish paternity or parentage** under article five**, five-B, or five-C of this act, and all noticed persons who intervene in proceedings under article five-C** of this act [~~in relation to the establishment of paternity~~].

§ 4. Subdivisions (a) and (b) of section 453 of the family court act, subdivision (a) as amended by chapter 343 of the laws of 2009 and subdivision (b) as added by chapter 456 of the laws of 1978, are amended to read as follows:

(a) Persons who may originate and prosecute proceedings. The original petitioner, the support collection unit on behalf of persons in receipt of public assistance or in receipt of services pursuant to section one hundred eleven-g of the social services law, or any person to whom the order is payable expressly or who may originate proceedings under section four hundred twenty-two of this article may originate and prosecute a proceeding under this part. **If the proceeding is commenced by a person to whom the order is payable or by any other person who may originate proceedings under section four hundred twenty-two of this article, such person shall have a right to counsel under section two hundred sixty-two of this act, including the right to appointed counsel if such person is financially unable to obtain counsel, or, if such person is a minor, a right to an attorney for the child under section two hundred forty-nine of this act.**

(b) Issuance of summons. Upon the filing of a petition under this part, the court may cause a copy of the petition and a summons to be issued, requiring the respondent to show cause why [~~he~~] **the respondent** should not be dealt with in accordance with section four hundred fifty-four of this part. The summons shall include on its face, printed or typewritten in a size equal to at least eight point bold type, a notice, warning the respondent that a failure to appear in court may result in immediate arrest, and that, after an appearance in court, a finding that the respondent willfully failed to obey the order may result in commitment to jail for a term not to exceed six months, for contempt of court. The notice shall also advise the respondent of the right to counsel, and the right to assigned counsel **under section two hundred sixty-two of this act**, if [~~indigent~~] **financially unable to afford counsel or, if such person is a minor, a right to appointment of an attorney for the child under section two hundred forty-nine of this act**.

§ 5. Section 522 of the family court act, as amended by chapter 892 of the laws of 1986, is amended to read as follows:

§ 522. Persons who may originate proceedings. Proceedings to establish the paternity of the child and to compel support under this article may be commenced by the mother, whether a minor or not, by a person alleging to be the father, whether a minor or not, by the child or child's guardian or other person standing in a parental relation or being the next of kin of the child, or by any authorized representative of an incorporated society doing charitable or philanthropic work, or if the mother or child is or is likely to become a public charge on a county, city or town, by a public welfare official of the county, city or town where the mother resides or the child is found. If a proceeding is originated by a public welfare official and thereafter withdrawn or dismissed without consideration on the merits, such withdrawal or dismissal shall be without prejudice to other persons. **If the proceeding is commenced by a parent or alleged parent, such person shall have a right to counsel under section two hundred sixty-two of this act, including the right to appointed counsel if such person is financially unable to obtain counsel. If such person is a minor, such person shall have a right to appointment of an attorney for the child pursuant to section two hundred forty-nine of this act.**

§ 6. Subdivision (b) of section 524 of the family court act, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

(b) The summons shall contain or have attached thereto a notice stating: (i) that the respondent's failure to appear shall result in the default entry of an order of filiation by the court upon proof of respondent's actual notice of the commencement of the proceeding; and (ii) that a respondent's failure to appear may result in the suspension of [~~his or her~~] the respondent's driving privileges; state professional, occupational and business licenses; and sporting licenses and permits; and (iii) that the respondent has a right to counsel under section two hundred sixty-two of this act, if financially unable to afford counsel or, if such person is a minor, a right to appointment of an attorney for the child under section two hundred forty-nine of this act.

§ 7. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments to subdivision (a) of section 249 of the family court act made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 29 of the laws of 2011, as amended, when upon such date the provisions of section two of this act shall take effect.