STATE OF NEW YORK

8272

2025-2026 Regular Sessions

IN ASSEMBLY

May 7, 2025

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

AN ACT to amend the family court act, in relation to representation of adults and children in family court proceedings; and to amend the social services law, in relation to access by attorneys for adults and children to records of the statewide registry of child abuse and maltreatment

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

Section 1. The part heading of part 6 of article 2 and section 261 of the family court act, as added by chapter 682 of the laws of 1975, are amended to read as follows:

COUNSEL FOR [~~INDIGENT~~] ADULTS IN FAMILY COURT PROCEEDINGS **WHO ARE FINANCIALLY UNABLE TO OBTAIN COUNSEL**

§ 261. Legislative findings and purpose. Persons involved in certain family court proceedings may face the infringements of fundamental interests and rights, including the loss of a child's society and the possibility of criminal charges, and therefore have a constitutional right to counsel in such proceedings. Counsel is often indispensable to a practical realization of due process of law and [~~may be helpful to~~] **in helping** the court [~~in making~~] **to make** reasoned determinations of fact and proper orders of disposition. The purpose of this part is to provide a means for implementing the right to assigned counsel for [~~indigent persons~~] **adults** in proceedings under this act **who are financially unable to obtain counsel**.

§ 2. The section heading and subdivision (c) of section 262 of the family court act, as added by chapter 682 of the laws of 1975, are 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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Assignment of counsel for [~~indigent~~] persons **who are financially unable to obtain counsel**.

(c) Implementation. **(i)** Any order for the assignment of counsel issued under this part shall be implemented as provided in article eighteen-B of the county law.

(ii) The determination of whether persons are financially eligible for assignment of counsel under this part shall be made in accordance with rules promulgated by the chief administrator of the courts.

(iii) Where representation is provided to an eligible adult prior to the filing of a petition under article ten or ten-A of this act or to a parent, caretaker or interested adult prior to the filing of a petition under article ten-C of this act, such representation shall be eligible for compensation under paragraph (i) of this subdivision.

§ 3. The family court act is amended by adding a new section 1016-a to read as follows:

§ 1016-a. Representation for adults subject to a child protective services investigation and/or child protective proceeding. (a) An adult who is the subject of a child protective services investigation has the right to counsel prior to the initiation of any court proceeding. If such a person appears in court without counsel at the first appearance for any matter under this article, the court, at the outset of the proceeding, shall inform the person of the right to be represented by counsel of their own choosing, of the right to have an adjournment to confer with counsel, and of the right to publicly funded legal representation if the person is financially unable to obtain counsel. For purposes of this section, such person shall be referred to as an "eligible person".

(b) Whenever a person has been provided with publicly funded legal representation under this article, such representation shall continue during (i) the period in which an order of disposition issued by the court pursuant to section one thousand fifty-two of this article directing supervision or protection or suspending judgment, or any extension thereof, is in effect; (ii) an adjournment in contemplation of dismissal, as provided for in section one thousand thirty-nine of this article, or any extension thereof; (iii) a permanency hearing pursuant to subdivision (b) of section one thousand ninety of this act; and (iv) the pendency of a supplemental or related proceeding, including any period of continuing jurisdiction.

(c) All notices and reports required by law and all motions made by any other party to the proceeding or the attorney for the child shall be served upon the attorney for the eligible person.

(d) Representation of the eligible person terminates only if the court relieves the attorney, or a final order is issued and the eligible person is informed of any existing right to appeal and declines to exercise any existing right to appeal and where no further jurisdiction continues under section one thousand eighty-eight of this act or any other provision of law.

(e) The attorney for the eligible person may be relieved as counsel upon application to the court for termination of the appointment. If the application is approved and the person remains eligible for publicly funded counsel, the court shall immediately appoint another attorney pursuant to section two hundred sixty-two of this act, upon whom all notices and reports required by law and all motions made by any other party to the proceeding or the attorney for the child shall be served.

(f) The attorney for the eligible person shall be entitled to compensation pursuant to applicable provisions of law for services rendered

prior to and subsequent to the filing of a petition under this article, including disposition of the petition, as well as all permanency and other post-dispositional, supplemental and related proceedings. The court may receive and approve periodic requests by attorneys for payment for all such services provided.

§ 4. Paragraph 1 of subdivision (a) of section 1094 of the family court act, as amended by chapter 3 of the laws of 2012, is amended to read as follows:

(1) appoint an attorney to represent the child in accordance with section two hundred forty-nine of this act, and appoint an attorney to represent a parent, caretaker or interested adult in accordance with paragraph (ix) of subdivision (a) of section two hundred sixty-two of this act, if [~~he or she~~] such parent, caretaker or interested adult is financially unable to obtain counsel; provided, however, that where publicly funded representation was provided prior to the initial appearance, including any period prior to the filing of a petition under this article, such representation shall be eligible for compensation under section two hundred sixty-two of this act;

§ 5. Subparagraph (t) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

(t) an attorney [~~for~~] representing a child[~~, appointed pursuant to the provisions of section one thousand sixteen of~~] or an adult in any proceeding under the family court act, social services law or domestic relations law, or an attorney representing an adult who is the subject of, or is another person named in the report, as defined in subdivisions four and five, respectively, of section four hundred twelve of this title, at any time such [~~appointment is in effect, in relation to any report in which the respondent in the proceeding in which the attorney for a child has been appointed is the subject or another person named in the report, pursuant to sections one thousand thirty-nine-a and one thousand fifty-two-a of the family court act~~] attorney provides representation; provided, however, that a prospective attorney for a child or for an adult who is the subject of, or is another person named in, the report may have access to a report made pursuant to this title where necessary to ascertain whether any conflict of interest would prevent their representation; to assist the child or adult during the investigation of such report; and to prepare for initial proceedings that accompany the filing of a petition under the family court act, social services law or domestic relations law;

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