

# STATE OF NEW YORK

4260--A

2025-2026 Regular Sessions

## IN SENATE

February 3, 2025

Introduced by Sen. BRISPORT -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- 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 allowing unaccompanied children in federal placements to self-petition the family court for orders of dependency

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

1 Section 1. The family court act is amended by adding a new article  
2 10-D to read as follows:

3 ARTICLE 10-D

4 ACCESS TO FAMILY COURT ACT

5 Section 1100. Definitions.

6 1101. Jurisdiction.

7 1102. Venue.

8 1103. Petitions.

9 1104. Service of process.

10 1105. Hearings and orders.

11 1106. Continuing court jurisdiction.

12 § 1100. Definitions. As used in this article, the following terms  
13 shall have the following meanings:

14 (a) "Dependent child" shall have the same meaning as defined in  
15 section three hundred seventy-one of the social services law.

16 (b) "Federal placement" means any facility or program providing shel-  
17 ter or foster care services to non-citizen children within New York  
18 state under a federal contract with or other authorization from the  
19 United States Department of Health and Human Services Office of Refugee  
20 Resettlement, or any other federal government agency or office. For the  
21 purposes of this article, such federal placements are authorized agen-

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

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1 cies and institutions under section three hundred seventy-one of the  
2 social services law.

3 (c) "Special findings" means findings that reunification with one or  
4 both parents is not viable due to abuse, neglect, abandonment, or a  
5 similar basis under state law, and a finding that it is not in the  
6 child's best interest to be returned to such child's or such child's  
7 parent's country of nationality or last habitual residence.

8 § 1101. Jurisdiction. (a) The family court shall have exclusive juris-  
9 isdiction over all petitions and motions filed pursuant to this article.

10 (b) In determining the jurisdiction of the family court under this  
11 article, the age of the child at the time the proceedings are initiated  
12 is controlling.

13 § 1102. Venue. Proceedings commenced under this article may originate  
14 in the county of the child's federal placement or where the child is  
15 domiciled at the time of the filing.

16 § 1103. Petitions. (a) At any time, a child in a federal placement or  
17 any adult acting on the child's behalf may commence a proceeding to seek  
18 a determination of dependency under this article by filing a petition  
19 with the family court alleging that the child is a dependent child.

20 (b) Statements in the petition may be made upon information and  
21 belief, and may concern acts, omissions, and events that occurred  
22 outside of the state of New York or outside of the United States.

23 (c) Facts alleged in a petition under this article relating to past  
24 acts, omissions or events outside the United States shall not without  
25 more information require referral to the office of children and family  
26 services or result in the placement of any individual on the state  
27 central register of child abuse and maltreatment.

28 § 1104. Service of process. Service of a summons and petition under  
29 this article shall be made to any persons named in the petition as known  
30 parents or legal guardians pursuant to subdivision (d) of section one  
31 thousand ninety-three of this act.

32 § 1105. Hearings and orders. (a) Except for good cause shown, the  
33 hearing shall be held as soon as practicable and shall not be adjourned.

34 (b) The court shall make a finding of dependency if, based upon the  
35 evidence presented, the court finds that the child qualifies as a  
36 dependent child. If the proof does not conform to the specific allega-  
37 tions of the petition, the court may amend the allegations to conform to  
38 the proof if no party objects to such conformation.

39 (c) The court shall consider all material and relevant evidence  
40 including but not limited to sworn statements, and birth and death  
41 certificates.

42 (d) Upon determining that a child is a dependent child, the court may  
43 issue orders as may be necessary to ensure the child's safety and  
44 wellbeing, consistent with its authority under section two hundred  
45 fifty-five of this act.

46 (e) The court order of dependency may recognize the child's placement  
47 in federal custody. The court shall not alter the child's custody with-  
48 out the consent of the United States Department of Health and Human  
49 Services.

50 § 1106. Continuing court jurisdiction. (a) The court shall maintain  
51 jurisdiction over a case for purposes of hearing a motion for special  
52 findings. The court shall issue an order responding to any motion for  
53 special findings filed after initiation of a proceeding under this arti-  
54 cle and shall address each of the requested special findings.

55 (b) Following adjudication on the merits and disposition of any pend-  
56 ing motions, the court may terminate proceedings if it determines that

1 continued jurisdiction over the subject child would no longer serve the  
2 child's best interests.

3 (c) In the event that further judicial action is needed as provided  
4 for in this article, the proceeding may be restored to the calendar by  
5 motion or order to show cause on notice to all parties.

6 (d) Upon reaching their eighteenth birthday, the child may consent to  
7 the court's retention of exclusive jurisdiction over the proceeding  
8 until the child reaches the age of twenty-one.

9 § 2. Subdivision 7 of section 371 of the social services law, as added  
10 by chapter 690 of the laws of 1962, is amended to read as follows:

11 7. "Dependent child" means a child who is in the custody of, or wholly  
12 or partly maintained by an authorized agency or an institution, society  
13 or other organization of charitable, eleemosynary, correctional, or  
14 reformatory character or who is under the age of eighteen residing in a  
15 federal placement and having no parent or legal guardian in the United  
16 States able to provide for the child's essential needs;

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

19 (a) In a proceeding under article three, seven, ten, ten-A [~~ex~~], ten-C  
20 or ten-D of this act or where a revocation of an adoption consent is  
21 opposed under section one hundred fifteen-b of the domestic relations  
22 law or in any proceeding under section three hundred fifty-eight-a,  
23 three hundred eighty-three-c, three hundred eighty-four or three hundred  
24 eighty-four-b of the social services law or when a minor is sought to be  
25 placed in protective custody under section one hundred fifty-eight of  
26 this act or in any proceeding where a minor is detained under or  
27 governed by the interstate compact for juveniles established pursuant to  
28 section five hundred one-e of the executive law, or when a minor is  
29 alleged to be a dependent child under subdivision (a) of section eleven  
30 hundred of this act, the family court shall appoint an attorney to  
31 represent a minor who is the subject of the proceeding or who is sought  
32 to be placed in protective custody, if independent legal representation  
33 is not available to such minor. In any proceeding to extend or continue  
34 the placement of a juvenile delinquent or person in need of supervision  
35 pursuant to section seven hundred fifty-six or 353.3 of this act or any  
36 proceeding to extend or continue a commitment to the custody of the  
37 commissioner of mental health or the commissioner of people with devel-  
38 opmental disabilities pursuant to section 322.2 of this act, the court  
39 shall not permit the respondent to waive the right to be represented by  
40 counsel chosen by the respondent, respondent's parent, or other person  
41 legally responsible for the respondent's care, or by assigned counsel.  
42 In any proceeding under article ten-B of this act, the family court  
43 shall appoint an attorney to represent a youth, under the age of twen-  
44 ty-one, who is the subject of the proceeding, if independent legal  
45 representation is not available to such youth. In any other proceeding  
46 in which the court has jurisdiction, the court may appoint an attorney  
47 to represent the child, when, in the opinion of the family court judge,  
48 such representation will serve the purposes of this act, if independent  
49 legal counsel is not available to the child. The family court on its own  
50 motion may make such appointment.

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

54 (a) In a proceeding under article three, seven, ten, ten-A [~~ex~~], ten-C  
55 or ten-D of this act or where a revocation of an adoption consent is  
56 opposed under section one hundred fifteen-b of the domestic relations

1 law or in any proceeding under section three hundred fifty-eight-a,  
2 three hundred eighty-three-c, three hundred eighty-four or three hundred  
3 eighty-four-b of the social services law or when a minor is sought to be  
4 placed in protective custody under section one hundred fifty-eight of  
5 this act, or when a minor is alleged to be a dependent child under  
6 subdivision (a) of section eleven hundred of this act, the family court  
7 shall appoint an attorney to represent a minor who is the subject of the  
8 proceeding or who is sought to be placed in protective custody, if inde-  
9 pendent legal representation is not available to such minor. In any  
10 proceeding to extend or continue the placement of a juvenile delinquent  
11 or person in need of supervision pursuant to section seven hundred  
12 fifty-six or 353.3 of this act or any proceeding to extend or continue a  
13 commitment to the custody of the commissioner of mental health or the  
14 commissioner of the office for people with developmental disabilities  
15 pursuant to section 322.2 of this act, the court shall not permit the  
16 respondent to waive the right to be represented by counsel chosen by the  
17 respondent, respondent's parent, or other person legally responsible for  
18 the respondent's care, or by assigned counsel. In any proceeding under  
19 article ten-B of this act, the family court shall appoint an attorney to  
20 represent a youth, under the age of twenty-one, who is the subject of  
21 the proceeding, if independent legal representation is not available to  
22 such youth. In any other proceeding in which the court has jurisdiction,  
23 the court may appoint an attorney to represent the child, when, in the  
24 opinion of the family court judge, such representation will serve the  
25 purposes of this act, if independent legal counsel is not available to  
26 the child. The family court on its own motion may make such appointment.

27 § 5. This act shall take effect immediately; provided that the amend-  
28 ments to subdivision (a) of section 249 of the family court act made by  
29 section three of this act shall be subject to the expiration and rever-  
30 sion of such subdivision pursuant to section 8 of chapter 29 of the laws  
31 of 2011, as amended, when upon such date the provisions of section four  
32 of this act shall take effect.