STATE OF NEW YORK

9425

IN SENATE

March 11, 2026

Introduced by Sen. BRISPORT -- 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, the social services law and the domestic relations law, in relation to protecting family relationships to ensure that family ties are not severed unnecessarily or counter to children's best interests; and to repeal certain provisions of the family court act and the social services law, in relation thereto

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

Section 1. Short title. This act shall be known and may be cited as the "family protection act".

§ 2. Subparagraphs 4, 5 and 6 of paragraph (c) of subdivision 2 of section 352.2 of the family court act, as added by chapter 7 of the laws of 1999, are amended to read as follows:

(4) the parent of such respondent has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the respondent or another child of the parent; **or**

(5) the parent of such respondent has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in subparagraph two, three or four of this paragraph, and the victim of such offense was the respondent or another child of the parent[~~; or~~

~~(6) the parental rights of the parent to a sibling of such respondent have been involuntarily terminated; unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 3. The part heading of part 1 of article 6 of the family court act is amended to read as follows:

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

LBD14117-03-6

PERMANENT TERMINATION OF PARENTAL CUSTODY [~~BY REASON OF PERMANENT NEGLECT~~]

§ 4. Section 611 of the family court act, as amended by chapter 666 of the laws of 1976, is amended to read as follows:

§ 611. [~~Permanently neglected child; purpose~~] Purpose of part. The purpose of this part is to provide the procedures for proceedings initiated in family court, pursuant to section three hundred eighty-four-b of the social services law, for the commitment of the guardianship and custody of a child upon the ground that the child is an abandoned child or a permanently neglected child, or upon the ground that the parent is unable to presently and for the foreseeable future to provide proper and adequate care for a child by reason of a mental illness or intellectual disability. As used in this part, the terms "abandoned", "permanently neglected child", "mental illness", and "intellectual disability" shall [~~mean permanently neglected child~~] have the same meanings as defined in [~~subdivision seven of~~] section three hundred eighty-four-b of the social services law, and unless the context requires otherwise, the provisions of such section three hundred eighty-four-b shall be deemed applicable requirements in addition to the procedures contained in this part. All references in this part to petitions and proceedings initiated "under this part" shall be deemed references to petitions and proceedings initiated under section three hundred eighty-four-b of the social services law [~~upon the ground that the child is a permanently neglected child~~].

§ 5. Section 614 of the family court act, as amended by chapter 666 of the laws of 1976, paragraphs (d) and (e) of subdivision 1 as amended by section 4 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

§ 614. Originating proceeding for the commitment of the guardianship and custody of a [~~permanently neglected~~] child. 1. A proceeding for the commitment of the guardianship and custody of a child [~~on the ground of permanent neglect~~] is originated by a petition[~~, alleging:~~].

2. In the case of a petition for the commitment of the guardianship and custody of a child on the ground of permanent neglect:

(a) the petition shall allege that:

(i) the child is a person under eighteen years of age;

[~~(b)~~] (ii) the child is in the care of an authorized agency;

[~~(c)~~] (iii) the authorized agency has made diligent efforts to encourage and strengthen the parental relationship and specifying the efforts made or that such efforts would be detrimental to the best interests of the child and specifying the reasons therefor;

[~~(d)~~] (iv) the parent or custodian, notwithstanding the agency's efforts, has failed for a period of either at least one year or fifteen out of the most recent twenty-two months following the date such child came into the care of an authorized agency substantially and continuously or repeatedly to maintain contact with or plan for the future of the child, although physically and financially able to do so; and

[~~(e)~~] (v) the best interests of the child require that the guardianship and custody of the child be committed to an authorized agency or to a foster parent authorized to originate this proceeding under section one thousand eighty-nine of this act[~~.~~]; and

[~~2. Where~~] (b) where the petitioner is not the authorized agency, allegations relating to the efforts of the authorized agency may be made upon information and belief.

3. In the case of a petition for the commitment of the guardianship and custody of a child on the ground of abandonment, the petition shall allege that:

(a) the child is a person under eighteen years of age;

(b) the child is in the care of an authorized agency;

(c) for the period of six months immediately prior to the date on which the petition is filed in the court, the parent evinced an intent to forego such parent's parental rights and obligations as manifested by such parent's failure to visit the child and communicate with the child or agency;

(d) during the period of six months immediately prior to the date on which the petition is filed in the court, the parent was able to visit the child and communicate with the child and agency, and was not prevented or discouraged from doing so by the agency; and

(e) the best interests of the child require that the guardianship and custody of the child be committed to an authorized agency or to a foster parent authorized to originate this proceeding under section one thousand eighty-nine of this act.

4. In the case of a petition for the commitment of the guardianship and custody of a child on the ground that the parent is unable presently and for the foreseeable future to provide proper and adequate care for a child by reason of mental illness or intellectual disability, the petition shall allege that:

(i) the child is a person under eighteen years of age;

(ii) the child is in the care of an authorized agency;

(iii) the parent has a mental illness or intellectual disability, as such terms are defined by subdivision six of section three hundred eighty-four-b of the social services law; and

(iv) the best interests of the child require that the guardianship and custody of the child be committed to an authorized agency or to a foster parent authorized to originate this proceeding under section one thousand eighty-nine of this act.

§ 6. Section 616 of the family court act, as amended by chapter 666 of the laws of 1976, is amended to read as follows:

§ 616. Issuance of summons. On 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 parent to show cause why the court should not enter an order committing the guardianship and custody of the child to the petitioner [~~for the reason that the child is permanently neglected~~].

§ 7. Section 622 of the family court act, as amended by chapter 123 of the laws of 1982, is amended to read as follows:

§ 622. Definition of "fact-finding hearing". When used in this part, "fact-finding hearing" means in the case of a petition for the commitment of the guardianship and custody of a child based on permanent neglect, a hearing to determine whether [~~the allegations required by paragraphs (a), (b), (c), and (d) of subdivision one of section six hundred fourteen are supported by clear and convincing proof~~] such child is permanently neglected, in the case of a petition for the commitment of the guardianship and custody of a child based on abandonment, a hearing to determine whether a child is abandoned, and in the case of a petition for the commitment of the guardianship and custody of a child based on mental illness or intellectual disability, a hearing to determine whether the requirements of paragraph (c) of subdivision four of section three hundred eighty-four-b of the social services law are met.

§ 8. Section 631 of the family court act, as amended by chapter 469 of the laws of 2007, is amended to read as follows:

§ 631. Disposition [~~on adjudication of permanent neglect~~]. 1. At the conclusion of a dispositional hearing on a petition for the commitment of the guardianship and custody of a child, the court shall enter an order of disposition:

(a) dismissing the petition in accord with section six hundred thirty-two; or

(b) suspending judgment in accord with section six hundred thirty-three; or

(c) committing the guardianship and custody of the child in accord with section six hundred thirty-four; provided, however, that an order of disposition committing the guardianship and custody of the child may not be entered after the child's eighteenth birthday, unless the child consents[~~.~~]; or

(d) granting custody or guardianship of the child to a relative or other suitable person; or

(e) where the court finds that it would be in the child's best interests to grant an order of kinship guardianship of the child to a relative or other suitable person who would be eligible for kinship guardianship assistance, but the prospective guardian and the social services district have not yet entered into an agreement to provide kinship guardianship assistance payments for the child under title ten of article six of the social services law, ordering the petitioner to assist the prospective guardian to file the necessary paperwork for kinship guardianship, and setting a date certain for a hearing to ensure that the necessary paperwork has been completed and the case is progressing.

2. (a) An order of disposition shall be made, pursuant to this section, solely on the basis of the best interests of the child, and [~~there shall be no presumption that such interests will be promoted by any particular disposition~~] an order committing the guardianship and custody of a child pursuant to this section shall be granted only upon a finding by clear and convincing evidence that it is in the best interests of the child. In determining the best interests of the child, the court shall consider:

(i) the child's interest in growing up in a permanent home;

(ii) the child's interests in continuing connection to parents, siblings, extended family, and the child's community, and whether a termination of parental rights would jeopardize such connections; and

(iii) whether the child is likely to be adopted if parental rights are terminated.

(b) The court shall not terminate parental rights unless it has considered and eliminated less drastic alternatives, including but not limited to, an order of custody or guardianship to a relative or other suitable person, and the court has found that termination of parental rights is strictly necessary to ensure the best interests of the child.

§ 9. Subparagraphs (iv), (v) and (vi) of paragraph (b) of subdivision 2 of section 754 of the family court act, as added by chapter 7 of the laws of 1999, are amended to read as follows:

(iv) the parent of such child has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the child or another child of the parent; or

(v) the parent of such child has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in subparagraph (ii), (iii) or (iv) of this paragraph,

and the victim of such offense was the child or another child of the parent[~~; or~~

~~(vi) the parental rights of the parent to a sibling of such child have been involuntarily terminated;~~

~~unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 10. Paragraphs 4, 5 and 6 of subdivision (b) of section 1039-b of the family court act, as added by chapter 7 of the laws of 1999, are amended to read as follows:

(4) the parent of such child has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the child or another child of the parent; **or**

(5) the parent of such child has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in paragraph two, three or four of this subdivision, and the victim of such offense was the child or another child of the parent[~~; or~~

~~(6) the parental rights of the parent to a sibling of such child have been involuntarily terminated;~~

~~unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 11. Clauses 4, 5 and 6 of subparagraph (A) of paragraph (i) of subdivision (b) of section 1052 of the family court act, as amended by chapter 7 of the laws of 1999, are amended to read as follows:

(4) the parent of such child has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the child or another child of the parent; **or**

(5) the parent of such child has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in clause two, three or four of this subparagraph, and the victim of such offense was the child or another child of the parent[~~; or~~

~~(6) the parental rights of the parent to a sibling of such child have been involuntarily terminated;~~

~~unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 12. Subparagraph (iii) of paragraph 4 and subparagraph (viii) of paragraph 5 of subdivision (c) and subparagraphs (iii) and (iv) of paragraph 2 of subdivision (d) of section 1089 of the family court act, subparagraph (iii) of paragraph 4 of subdivision (c) as amended by section 9, subparagraph (viii) of paragraph 5 of subdivision (c) as

amended by section 10, clause (B) of subparagraph (iii) and subparagraph (iv) of paragraph 2 of subdivision (d) as amended by section 12 of part B of chapter 327 of the laws of 2007, and subparagraph (iii) of paragraph 2 of subdivision (d) as added by section 27 of part A of chapter 3 of the laws of 2005, are amended to read as follows:

(iii) where return home of the child is not likely, the reasonable efforts that have been made by the local social services district or agency to evaluate and plan for another permanent plan, including**:**

(A) consideration of appropriate in-state and out-of-state placements[~~,~~]**;**

(B) consideration of guardianship or custody as potential permanent options for the child;

(C) efforts made to develop a permanent plan for the child that would maintain the child's connection to their family and community; and

(D) any **other** steps taken to further a permanent plan other than return to the child's parent; or

(viii) where return home of the child is not likely, the efforts that will be made to evaluate or plan for another permanent plan, including**:**

(A) consideration of appropriate in-state and out-of-state placements;

(B) consideration of guardianship or custody as potential permanent options for the child; and

(C) efforts that will be made to develop a permanent plan for the child that would maintain the child's connection to their family and community; and

(iii) determining whether reasonable efforts have been made to effectuate the child's permanency plan as follows:

(A) unless the child is freed for adoption or there has been a determination by a court that such efforts are not required pursuant to section one thousand thirty-nine-b of this act, whether reasonable efforts have been made to eliminate the need for placement of the child and to enable the child to safely return home; **or**

(B) where the permanency plan is adoption, guardianship, placement with a fit and willing relative or another planned permanent living arrangement other than return to parent, whether reasonable efforts have been made to make and finalize such alternate permanent placement, including**:**

(I) consideration of appropriate in-state and out-of-state placements;

(II) consideration of guardianship or custody as potential permanent options for the child; and

(III) efforts made to develop a permanent plan for the child that would maintain the child's connection to their family and community;

(iv) where return home of the child is not likely, what efforts should be made to evaluate or plan for another permanent plan, including**:**

(A) consideration of appropriate in-state and out-of-state placements;

(B) consideration of guardianship or custody as potential permanent options for the child; and

(C) efforts to develop a permanent plan for the child that would maintain the child's connection to their family and community;

§ 13. Subparagraphs (vi), (vii) and (viii) of paragraph 2 of subdivision (d) of section 1089 of the family court act are relettered subparagraphs (vii), (viii) and (ix) and a new subparagraph (vi) is added to read as follows:

(vi) unless it finds such efforts would be detrimental to the best interests of the child or there has been a prior court order finding that such efforts are not required, the court shall make an order directing a local social services district or agency to undertake dili-

gent efforts to encourage and strengthen the parental relationship. Such efforts shall include encouraging and facilitating visitation with the child by the parent or other person legally responsible for the child's care. Such order may include a specific plan of action for the local social services district or agency including, but not limited to, requirements that such agency assist the parent or other person legally responsible for the child's care in obtaining adequate housing, employment, counseling, medical care or psychiatric treatment. If a parent known to the agency has not established legal parentage with regard to the child, such order shall include explaining the process of establishing parentage to the child's parent and assisting the parent with that process if the parent wishes to undertake it. Such order shall also include encouraging and facilitating visitation with the child by the noncustodial parent and grandparents who have the right to visitation pursuant to section one thousand eighty-one of this act. Such order may also include encouraging and facilitating regular visitation and communication with the child by the child's siblings and may incorporate an order, if any, issued pursuant to this section or section one thousand twenty-seven-a or section one thousand eighty-one of this act, or pursuant to section three hundred fifty-eight-a of the social services law or section seventy-one of the domestic relations law. For purposes of this subparagraph, "siblings" shall include half-siblings and those who would be deemed siblings or half-siblings but for the surrender, termination of parental rights or death of a parent. Nothing in this subparagraph shall be deemed to limit the authority of the court to make an order pursuant to section two hundred fifty-five of this act. If the court directs the local social services district or agency to provide a service required by section four hundred nine-d of the social services law and its implementing regulations and such agency fails to provide that service, the court shall enter a finding that the agency has not made reasonable efforts at the next permanency hearing unless it finds good cause for the agency's failure. For purposes of this subparagraph, good cause shall not be established by a claim that the service is unavailable;

§ 14. Clause (F) of subparagraph (ix) of paragraph 2 of subdivision (d) of section 1089 of the family court act, subparagraph (ix) as relettered by section thirteen of this act, is REPEALED.

§ 15. Subparagraphs 4, 5 and 6 of paragraph (b) of subdivision 3 of section 358-a of the social services law, as added by chapter 7 of the laws of 1999, are amended to read as follows:

(4) the parent of such child has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the child or another child of the parent; or

(5) the parent of such child has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in subparagraph two, three or four of this paragraph, and the victim of such offense was the child or another child of the parent[~~; or~~

~~(6) the parental rights of the parent to a sibling of such child have been involuntarily terminated;~~

~~unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the~~

~~parent and the child in the foreseeable future. The court shall state such findings in its order~~].

§ 16. Subdivision 3 of section 383 of the social services law, as amended by chapter 141 of the laws of 1985, is amended to read as follows:

3. Any adult [~~husband and his adult wife and~~] **married couple or** any adult unmarried person, who, as foster parent or parents, have cared for a child continuously for a period of twelve months or more, may apply to such authorized agency for the placement of said child with them for the purpose of adoption, and if said child is eligible for adoption, the agency shall give preference and first consideration to their application over all other applications **by non-relatives of the child** for adoption placements. However, final determination of the propriety of said adoption of such foster child shall be within the sole discretion of the court, as otherwise provided herein **and under section one hundred eleven of the domestic relations law**.

[~~Foster parents having had continuous care of a child, for more than twelve months, through an authorized agency, shall be permitted as a matter of right, as an interested party to intervene in any proceeding involving the custody of the child. Such intervention may be made anonymously or in the true name of said foster parents.~~]

§ 17. Subdivision 1 of section 384-b of the social services law, as amended by chapter 312 of the laws of 2002, is amended to read as follows:

1. Statement of legislative findings and intent.

(a) The legislature recognizes that the health and safety of children is of paramount importance. To the extent it is consistent with the health and safety of the child, the legislature further hereby finds that:

(i) it is desirable for children to grow up with a [~~normal~~] family life in a permanent home and that such circumstance offers the best opportunity for children to develop and thrive;

(ii) it is generally desirable for the child to remain with or be returned to the birth parent because the child's need for a [~~normal~~] family life will usually best be met in the home of its birth parent, and that parents are entitled to bring up their own children unless the best interests of the child would be thereby endangered;

(iii) the state's first obligation is to help the family with services to prevent its break-up or to reunite it if the child has already left home; [~~and~~]

(iv) when it is clear that the birth parent cannot or will not provide a [~~normal~~] **safe** family home for the child and when continued foster care is not an appropriate plan for the child, then a permanent alternative home should be sought for the child**;**

(v) when a child cannot grow up in the home of a parent, the child's family and community connections remain important to the child's well-being, including connections to their parents, siblings, extended family members, and members of communities into which the child was born; and

(vi) permanently severing a child's legal relationship to a parent is an extreme measure that should only be taken when it has been determined that there is no alternative that would serve the interests of the child.

(b) The legislature further finds that many children who have been placed in foster care experience unnecessarily protracted stays in such care [~~without being adopted or returned to their parents or other custodians~~]. Such unnecessary stays may deprive these children of positive,

nurturing family relationships and have deleterious effects on their development into responsible, productive citizens. The legislature further finds that **when children are unable to return home to their parents,** provision of a timely procedure for [~~the termination, in appropriate cases, of the rights of the birth parents~~] **developing alternative permanency plans** could reduce such unnecessary stays.

It is the intent of the legislature in enacting this section to provide procedures not only assuring that the rights of the birth parent are protected, but also, where positive, nurturing parent-child relationships no longer exist, furthering the best interests, needs, and rights of the child by **place the child in the custody or guardianship of a relative or other suitable person or** terminating parental rights and freeing the child for adoption.

§ 18. Paragraph (i) of subdivision 3 of section 384-b of the social services law is REPEALED.

§ 19. Subparagraph (ii) of paragraph (l) of subdivision 3 of section 384-b of the social services law, as amended by chapter 145 of the laws of 2000, is amended to read as follows:

(ii) For the purposes of this section, a compelling reason whereby a social services official is not required to file a petition for termination of parental rights in accordance with subparagraph (i) of this paragraph includes, but is not limited to, where:

(A) the child was placed into foster care pursuant to article three or seven of the family court act and a review of the specific facts and circumstances of the child's placement demonstrate that the appropriate permanency goal for the child is either **to:**

(1) return **such child** to [~~his or her~~] **such child's** parent or guardian [~~or~~]**;**

(2) **discharge such child to the custody or guardian of a relative or other suitable person; or**

(3) discharge **such child** to independent living;

(B) the child has a permanency goal other than adoption;

(C) the child is fourteen years of age or older and will not consent to [~~his or her~~] **such child's** adoption;

(D) **a potential adoptive parent has not been identified and there is not a basis to find that it is likely a potential adoptive parent will be identified;**

(E) the agency has not yet met with the caregiver for the child to discuss guardianship as an alternative to adoption;

(F) there are insufficient grounds for filing a petition to terminate parental rights; [~~or~~

~~(E)~~] **(G)** the child is the subject of a pending disposition under article ten of the family court act, except where such child is already in the custody of the commissioner of social services as a result of a proceeding other than the pending article ten proceeding, and a review of the specific facts and circumstances of the child's placement demonstrate that the appropriate permanency goal for the child is discharge to [~~his or her~~] **such child's** parent or guardian**; or**

(H) the respondent is in foster care or was in foster care at the time that the child entered the care of the authorized agency.

§ 20. Paragraph (b) of subdivision 5 of section 384-b of the social services law, as added by chapter 666 of the laws of 1976, is amended to read as follows:

(b) The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting such intent, shall not preclude a determination that such parent has

abandoned [~~his or her~~] **such parent's** child. In making such determination, the court shall [~~not~~] require a showing [~~of diligent efforts, if any, by an authorized agency to encourage the parent to perform the acts specified in paragraph (a) of this subdivision~~] **that the authorized agency made affirmative efforts to locate and contact the parent within the six-month abandonment period**.

§ 21. Subdivision 6 of section 384-b of the social services law is amended by adding a new paragraph (c-1) to read as follows:

(c-1) In every proceeding upon a ground set forth in paragraph (c) of subdivision four of this section, the agency shall demonstrate that it has made diligent efforts to encourage and strengthen the parental relationship, including efforts to rehabilitate the respondent, when such efforts will not be detrimental to the best interests of the child, and such efforts have been unsuccessful and are unlikely to be successful in the foreseeable future. Where a court has previously determined in accordance with this chapter or the family court act that reasonable efforts to make it possible for the child to return safely to such child's home are not required, the agency shall not be required to demonstrate diligent efforts as set forth in this section.

§ 22. Paragraphs (e) and (f) of subdivision 7 of section 384-b of the social services law, as amended by chapter 911 of the laws of 1983 and subparagraph (i) of paragraph (e) and subparagraphs 4 and 5 of paragraph (f) as amended and subparagraph 6 of paragraph (f) as added by chapter 113 of the laws of 2010, are amended to read as follows:

(e) Notwithstanding the provisions of paragraph (a) of this subdivision, evidence of diligent efforts by an agency to encourage and strengthen the parental relationship shall not be required when:

(i) The parent has failed for a period of six months to keep the agency apprised of [~~his or her~~] **their** location, provided that the court may consider the particular delays or barriers an incarcerated parent or parents, [~~or~~] a parent or parents participating in a residential substance abuse treatment program, **or a parent or parents with limited financial resources and access to technology** may experience in keeping the agency apprised of [~~his or her~~] **their** location; or

(ii) An incarcerated parent has **regularly** failed [~~on more than one occasion~~] while incarcerated to cooperate with an authorized agency in its efforts to assist such parent to plan for the future of the child, as such phrase is defined in paragraph (c) of this subdivision, or in such agency's efforts to plan and arrange visits with the child as described in subparagraph [~~five~~] **six** of paragraph (f) of this subdivision.

(f) As used in this subdivision, "diligent efforts" shall mean [~~reasonable~~] **affirmative, repeated, and meaningful** attempts by an authorized agency to assist, develop and encourage a meaningful relationship between the parent and child, including but not limited to:

(1) consultation and cooperation with the parents in developing a plan for appropriate services to the child and [~~his~~] **such child's** family;

(2) making suitable arrangements for the parents to visit the child except that with respect to an incarcerated parent, arrangements for the incarcerated parent to visit the child outside the correctional facility shall not be required unless reasonably feasible and in the best interest of the child;

(3) provision of services and other assistance to the parents, [~~except~~] **including** incarcerated parents **to the extent services can be made available to the incarcerated parent**, so that problems preventing the discharge of the child from care may be resolved or ameliorated;

(4) informing the parents at **regular and** appropriate intervals of the child's progress, development and health;

(5) **encouraging the parents' involvement with the child's education and medical care and supporting the parents in exercising their educational and medical decision-making rights as to the child unless a court has appointed an educational or medical surrogate for the child;**

(6) making suitable arrangements with a correctional facility and other appropriate persons for an incarcerated parent to visit the child within the correctional facility, [~~if~~] **unless** such visiting is [~~in~~] **contrary to** the best interests of the child. When no visitation between child and incarcerated parent has been arranged for or permitted by the authorized agency because such visitation is determined not to be in the best interest of the child, then no permanent neglect proceeding under this subdivision shall be initiated on the basis of the lack of such visitation. Such arrangements shall include, but shall not be limited to, the transportation of the child to the correctional facility, and providing or suggesting social or rehabilitative services to resolve or correct the problems other than incarceration itself which impair the incarcerated parent's ability to maintain contact with the child. When the parent is incarcerated in a correctional facility located outside the state, the provisions of this subparagraph shall be construed to require that an authorized agency make such arrangements with the correctional facility only if reasonably feasible and permissible in accordance with the laws and regulations applicable to such facility; and

[~~(6)~~] **(7)** providing information which the authorized agency shall obtain from the office of children and family services, outlining the legal rights and obligations of a parent who is incarcerated or in a residential substance abuse treatment program whose child is in custody of an authorized agency, and on social or rehabilitative services available in the community, including family visiting services, to aid in the development of a meaningful relationship between the parent and child. Wherever possible, such information shall include transitional and family support services located in the community to which an incarcerated parent or parent participating in a residential substance abuse treatment program shall return.

§ 23. Paragraph (d) of subdivision 1 of section 111 of the domestic relations law, as amended by chapter 828 of the laws of 2022, is amended to read as follows:

(d) Of any person or authorized agency having lawful custody or guardianship of the adoptive child**, unless, in the case of the adoption of a child transferred to the custody and guardianship of an authorized agency pursuant to section three hundred eighty-four-b of the social services law or section three hundred eighty-three-c of the social services law, the court finds that it would be in the child's best interests to be adopted by an individual or couple other than the adoptive resource approved by the agency, in which case the court may order the child's adoption by that individual or couple over the agency's objection**;

§ 24. This act shall take effect immediately.