§ 756-a. Extension of placement. (a) In any case in which the child has been placed pursuant to paragraph (iii) of paragraph (a) of section seven hundred fifty-six of this part, the child, the person with whom the child has been placed or the commissioner of social services may petition the court to extend such placement, as provided for in this section. Such petition shall be filed at least fifteen days prior to the expiration of the initial placement and at least thirty days prior to the expiration of the period of any additional placement authorized pursuant to this section, except for good cause shown, but in no event shall such petition be filed after the original expiration date.

(b) The court shall conduct a permanency hearing concerning the need for continuing the placement. The child, the person with whom the child has been placed and the commissioner of social services shall be notified of such hearing and shall have the right to be heard thereat.

(c) The provisions of section seven hundred forty-five shall apply at such permanency hearing. If the petition is filed within thirty days prior to the expiration of the period of placement, the court shall first determine at such permanency hearing whether good cause has been shown. If good cause is not shown, the court shall dismiss the petition.

(d) (i) At the conclusion of the first permanency hearing the court may, in its discretion, order one extension of the placement for not more than six months;

(ii) At the conclusion of the second permanency hearing, the court may, in its discretion, order one extension of placement for not more than four months unless:

(A) The attorney for the child, at the request of the child, seeks an additional length of stay for the child in such program. If a request is made pursuant to this subparagraph, the court shall determine whether to grant such request based on the best interest of the child; or

(B) The court finds that extenuating circumstances exists that necessitate the child be placed out of the home.

(d-1) If the court orders an extension of placement pursuant to paragraph (d) of this section, the court must consider and determine in its order:

(i) where appropriate, that reasonable efforts were made to make it possible for the child to safely return to his or her home, or if the permanency plan for the child is adoption, guardianship or some other

permanent living arrangement other than reunification with the parent or parents of the child, reasonable efforts are being made to make and finalize such alternate permanent placement including consideration of appropriate in-state and out-of-state placements;

(ii) in the case of a child who has attained the age of fourteen, (A) the services needed, if any, to assist the child to make the transition from foster care to successful adulthood; and (B)(1) that the permanency plan developed for the child, and any revision or addition to the plan shall be developed in consultation with the child and, at the option of the child, with up to two additional members of the child's permanency planning team who are selected by the child and who are not a foster parent of, or case worker, case planner or case manager for, the child, except that the local commissioner of social services with custody of the child may reject an individual so selected by the child if such commissioner has good cause to believe that the individual would not act in the best interests of the child, and (2) that one individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard;

(iii) in the case of a child placed outside New York state, whether the out-of-state placement continues to be appropriate and in the best interests of the child;

(iv) whether and when the child: (A) will be returned to the parent; (B) should be placed for adoption with the social services official filing a petition for termination of parental rights; (C) should be referred for legal guardianship; (D) should be placed permanently with a fit and willing relative; or (E) should be placed in another planned permanent living arrangement with a significant connection to an adult willing to be a permanency resource for the child if the child is age sixteen or older and (1) the social services official has documented to the court: (I) intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the social services district to return the child home or secure a placement for the child with a fit and willing relative including adult siblings, a legal guardian, or an adoptive parent, including through efforts that utilize search technology including social media to find biological family members for children, (II) the steps the social services district is taking to ensure that (A)

the child's foster family home or child care facility is following the reasonable and prudent parent standard in accordance with guidance provided by the United States department of health and human services, and (B) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in activities; and (2) the social services district has documented to the court and the court has determined that there are compelling reasons for determining that it continues to not be in the best interest of the child to return home, be referred for termination of parental rights and placed for adoption, placed with a fit and willing relative, or placed with a legal guardian; and (3) the court has made a determination explaining why, as of the date of the hearing, another planned living arrangement with a significant connection to an adult willing to be a permanency resource for the child is the best permanency plan for the child; and

(v) where the child will not be returned home, consideration of appropriate in-state and out-of-state placements.

(e) At the permanency hearing, the court shall consult with the respondent in an age-appropriate manner regarding the permanency plan; provided, however, that if the respondent is age sixteen or older and the requested permanency plan for the respondent is placement in another planned permanent living arrangement with a significant connection to an adult willing to be a permanency resource for the respondent, the court must ask the respondent about the desired permanency outcome for the respondent.

(f) Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court may, on its own motion or at the request of the petitioner or respondent, enter one or more temporary orders extending a period of placement. The court may order additional temporary extensions only as authorized in this section.

(g) Successive extensions of placement under this section may be granted, only as authorized in this section, provided, however no placement may be made or continued beyond the child's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday.

(h) Where the respondent remains placed in a qualified residential treatment program, as defined in section four hundred nine-h of the social services law, the commissioner of the local social services district with legal custody of the respondent shall submit evidence at the permanency hearing with respect to the respondent:

(i) demonstrating that ongoing assessment of the strengths and needs of the respondent continues to support the determination that the needs of the respondent cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the respondent in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals of the respondent, as specified in the respondent's permanency plan;

(ii) documenting the specific treatment or service needs that will be met for the respondent in the placement and the length of time the respondent is expected to need the treatment or services; and

(iii) documenting the efforts made by the local social services district with legal custody of the respondent to prepare the respondent to return home, or to be placed with a fit and willing relative, legal guardian or adoptive parent, or in a foster family home.

(i) A youth who was formerly a respondent pursuant to this article shall be eligible to file a motion pursuant to article ten-B of this act and may be subsequently placed into foster care, in a supervised setting as defined in subdivision twenty-two of section three hundred seventy-one of the social services law or placement in a foster family home, which shall include a kinship placement or a placement with fictive kin.

(j) Where placement will end prior to a subsequent permanency hearing due to the respondent's age and/or failure to consent to continuation of placement, court orders made pursuant to this section shall be enforceable against the social services district and/or social services official, as defined in section two of the social services law, with whom such respondent was placed after such respondent was discharged from care.

(i) The court shall maintain jurisdiction over a case for purposes of hearing a motion for contempt against the agency with whom the respondent was placed pursuant to section seven hundred fifty-three of

the judiciary law. Such a motion may be brought by such respondent who was formerly placed pursuant to section seven hundred fifty-six of this part or this section. In addition to any other defense, it shall be an affirmative defense to a motion filed in accordance with this paragraph that compliance with the court order was not possible due solely to the youth's refusal to consent to continuation of foster care placement where such refusal is documented in a signed, notarized letter executed by the youth after consultation with their attorney for the child.

(ii) The court shall maintain jurisdiction over a motion described in paragraph (i) of this subdivision if such motion is filed before the respondent attains the age of twenty-three. The court's jurisdiction over any such motion shall continue until such motion and any related appeals are finally resolved.

(iii) If the respondent is eligible to return to foster care pursuant to the provisions of article ten-B of this act, upon the consent of the respondent, the court may convert a motion brought under this subdivision to a motion to return the respondent to foster care.