

STATE OF NEW YORK

10663

IN ASSEMBLY

April 22, 2008

Introduced by M. of A. SCARBOROUGH -- (at request of the Office of Children and Family Services) -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law and the family court act, in relation to foster children and former foster children between the ages of eighteen and twenty-one years old

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

1 Section 1. Subdivision 1 of section 398-a of the social services law,
2 as amended by chapter 397 of the laws of 1987, is amended to read as
3 follows:

4 (1) For purposes of this section, notwithstanding any other provisions
5 of law, the term foster child shall mean a person who is cared for away
6 from his or her home under conditions prescribed by regulations of the
7 [~~department~~] office of children and family services and who is: (a)
8 under the age of eighteen years, (b) under the age of twenty-one years
9 if a student attending a school, college or university or regularly
10 attending a course of vocational or technical training designed to fit
11 him or her for gainful employment or (c) between the ages of eighteen
12 and twenty-one who lacks the skills or ability to live independently and
13 consents to continue in or return to care. A person who leaves foster
14 care between the ages of eighteen and twenty-one may voluntarily return
15 to foster care if he or she meets the criteria in paragraph (b) or (c)
16 of this subdivision.

17 § 2. Subdivision (a) of section 1087 of the family court act, as added
18 by section 27 of part A of chapter 3 of the laws of 2005, is amended to
19 read as follows:

20 (a) "Child" shall mean a person under the age of eighteen who is
21 placed in foster care pursuant to section three hundred fifty-eight-a,
22 three hundred eighty-four or three hundred eighty-four-a of the social
23 services law or pursuant to section one thousand twenty-two, one thou-
24 sand twenty-seven, or one thousand fifty-two of this act; or directly
25 placed with a relative pursuant to section one thousand seventeen or one
26 thousand fifty-five of this act; or who has been freed for adoption or a

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

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1 person between the ages of eighteen and twenty-one who has consented to
2 continuation in or return to foster care.

3 § 3. Subdivision (a) of section 1089 of the family court act is
4 amended by adding a new paragraph 4 to read as follows:

5 (4) Where no scheduled date certain for a permanency hearing is pend-
6 ing for a foster child between the ages of eighteen and twenty-one who
7 voluntarily returns to foster care, within thirty days of the child's
8 return, the local social services district shall file with the court a
9 request to schedule a permanency hearing. An initial permanency hearing
10 shall be scheduled for a date certain which shall be no later than eight
11 months from the date the child returned to care and shall be completed
12 within thirty days of the date certain set for such hearing. Subsequent
13 permanency hearings for a foster child between the ages of eighteen and
14 twenty-one who returns to foster care shall be scheduled for a date
15 certain which shall be no later than six months from the completion of
16 the previous permanency hearing and shall be completed within thirty
17 days of the date certain set for such hearing.

18 § 4. Section 1090 of the family court act is amended by adding a new
19 subdivision (c) to read as follows:

20 (c) Where the appointment of the law guardian for a foster child
21 between the ages of eighteen and twenty-one who voluntarily returns to
22 foster care has expired, the court shall reappoint the attorney who
23 previously acted as law guardian, if he or she is willing and available.
24 Where the previous law guardian is not willing and available, the court
25 shall appoint another attorney as law guardian to represent such foster
26 child at permanency hearings.

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

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A10663

SPONSOR: Scarborough

TITLE OF BILL: An act to amend the social services law and the family court act, in relation to foster children and former foster children between the ages of eighteen and twenty-one years old

PURPOSE: This bill would permit discharged foster children over the age of 18 to return to and remain in foster care until age 21.

SUMMARY OF PROVISIONS: Section 1 of the bill amends Social Services Law (SSL) § 398-a(1) to add to the definition of a "foster child" a person who leaves foster care at or after the age of 18 and then voluntarily returns to foster care up until the age of 21.

Section 2 of the bill amends the definition of a "child" in Family Court Act (FCA) § 1087(a) to include a person between the ages of 18 and 21, who having left foster care, at or after the age of 18, returns volun-

tarily.

Section 3 of the bill adds a new subdivision 4 to FCA § 1089(a) to require the resumption of permanency hearings where a foster child between the ages of 18 and 21 returns to foster care voluntarily.

Section 4 of the bill adds a new subdivision (c) to FCA § 1090 to require the court to reappoint the foster child's former law guardian or to appoint a new law guardian, where necessary, for a foster child between the ages of 18 and 21 who returns to foster care voluntarily.

Section 5 of the bill provides for an effective date of 90 days after enactment.

EXISTING LAW:

SSL § 398-a governs standards of payment for foster care. Subdivision 1 of that section defines a foster child as a person who is cared for away from his or her home under conditions prescribed by the Office of Children and Family Services (OCFS) and who is under the age of 18, or under the age of 21 if attending a school, college or university, or a course of vocational or technical training, or is between the ages of 18 and 21 who lacks the skills or ability to live independently and consents to continue in care.

FCA § 1087 defines terms used in Article 10-A of the FCA pertaining to permanency hearings for children placed out of their homes. Subdivision (a) of that section defines a "child" as including a person between the ages of 18 and 21 who has consented to continuation in foster care after his or her 18th birthday.

FCA § 1089 governs the scheduling, frequency and process for permanency hearings for children in foster care and children who are freed for adoption.

FCA § 1090 provides for legal representation of the parties at a permanency hearing including appointment of a law guardian for the child.

LEGISLATIVE HISTORY: None.

STATEMENT IN SUPPORT: This bill is based on the recognition that many 18 year olds have not acquired the skills necessary to successfully live independently despite being very eager to do so. In 2006, approximately 1600 youth between the ages of 18 and 21 exited the foster care system in New York State to live independently. In reality, a certain number of these young adults will experience great difficulty in achieving independence and will require ongoing emotional and financial support. Many of these young people have no safety net and too often end up in homeless shelters or are incarcerated soon after they choose to leave foster care. The current law acknowledges this reality by allowing youth who are 18 or older to consent to remain in foster care. However, it does not provide a mechanism for these young people over the age of 18 who have left the foster care system to return, if necessary. This bill would create a mechanism for youth between 18 and 21 who have left foster care after their 18th birthday to return to the supportive environment of foster care while they pursue their educational or vocational goals and enhance their independent living skills. It also would reinstate regular permanency hearings and requires legal representation for youth between 18 and 21 who voluntarily return to care.

BUDGET IMPLICATIONS: None to the State.

EFFECTIVE DATE: This bill would take effect 90 days after enactment.
