

Memorandum in Support

COMMITTEE ON CHILDREN AND THE LAW

Children #3

June 8, 2015

S. 5019
A. 7050

By: Senator Felder
By: M. of A. Lupardo
Senate Committee: Children and Families
Assembly Committee: Children and Families
Effective Date: On the 90th day after it
shall have become a law

AN ACT to amend the family court act, in relation to permanency planning in juvenile delinquency and persons in need of supervision cases.

LAW AND SECTIONS REFERRED TO: Amends Family Court Act Sections 312.1, 320.2, 353.3, 355.5, 741,756, and 756-a

THE COMMITTEE ON CHILDREN AND THE LAW STRONGLY SUPPORTS THIS LEGISLATION

In 2005, Chapter 3 of the Laws of 2005 enacted sweeping reform of the Family Court Act (FCA) and Social Services Law with the intention that the permanency planning process for children placed in the care and custody of the local social services commissioner through FCA Article 10 child protective proceedings be enhanced to ensure that those children receive the representation, supports, services and individualized planning necessary to improve their well-being and find appropriate permanent exits from foster care. At that time, similar amendments proposed for children placed in the care and custody of the local social services commissioner (LDSS) through Persons in Need of Supervision (PINS) and juvenile delinquency (JD) proceedings or the Office of Children and Family Services (OCFS) through a JD proceeding were deferred. Now, ten years later, it is time to ensure that all children in out-of-home care receive the same representation, supports, services and appropriate planning necessary to improve their well-being and provide permanency by successfully transitioning them back to their communities. Indeed, recent amendments to Article 3 and 7 of the Family Court Act, proposed by OCFS and adopted as part of the budget Article VII language, reflect both portions of the 2005 permanency planning language changes as well as requirements of the Preventing Sex Trafficking and Strengthening Families Act of 2014, the latter presumably to allow OCFS and LDSS to collect federal Title IV-E reimbursement. The additional protections in this bill will go further to ensure that young people alleged to be a JD or PINS, or placed in out-of-home care under Articles 3 and 7 receive age and developmentally appropriate treatment.

The bill would require that non-custodial parents receive notice of their child's juvenile delinquency and/or PINS proceeding, affirmatively requiring that the Probation Department request contact information for any non-custodial parent and requiring that notice of the hearing the petition be sent to the non-respondent parent.

The bill would extend the appointment of the attorney representing a child in a PINS or JD proceeding until the case is completely resolved, affording access to counsel for any need or issue that the child may have once placed, while on probation or during the pendency of an appeal without the delay of waiting for a re-appointment of the child's attorney.

The bill requires that dispositional orders include visitation plans, plans for services designed to return the child home as expeditiously as possible, as well as requiring notice to parents of any planning conferences.

The bill will provide much needed coordination for the child's continued education once released. The bill requires affirmative outreach to school districts prior to the child's release and prompt transfer of education records upon release. Importantly, the bill requires local school districts to enroll the youth within five business days of release.

Children in these difficult circumstances need the support of both their parents, whenever possible, if they are to be successful in turning their lives around. The non-custodial parent and his or her extended family may be able to serve as resources for a child and provide for example, potential short-term or long-term placements. The permanency planning goal for most youth in PINS and JD proceedings is to return home to their families. Research has shown that when a family stays involved with a youth and visits with that child frequently, the child's chances of successful re-entry are greatly increased. Indeed, two years ago, the "Close to Home" initiative reformed the juvenile delinquency system for children from New York City based upon this premise. Having detailed plans subject to judicial review ensures that appropriate services and plans will be quickly put in place. Many of these young people are placed in the same agencies as children the same age who are placed in foster care as the result of a child protective proceeding. There is no justifiable reason to treat them differently. Nor would it be a great lift for the agencies accustomed to complying with Article 10-A.

The minimal requirements designed to provide a smoother educational transition for children upon return home are not overly burdensome requirements for social services districts or OCFS. Indeed, this is an area where reform is greatly needed if children are to continue to get the education that is so crucial to their ability to become productive citizens and avoid recidivism. The longer a youth stays out of school upon release, the less likely it is that he or she will be able to successfully complete his or her education. It is incumbent upon the agencies charged with the care of these children to work with schools to take these small steps to ease a child's transition from incarceration to home, school and community.

This important and necessary bill provides much needed changes to continue the meaningful reform of our juvenile justice system so that each child's needs are addressed expeditiously and effectively so that each child has the chance to become a productive member of society.

Based on the forgoing, the New York State Bar Association's Committee on Children and the Law **STRONGLY SUPPORTS** this legislation.

Betsy Ruslander, Chair
Committee on Children and the Law

Kathleen DeCataldo, Chair
Legislative Subcommittee