

Memorandum in Support

COMMITTEE ON CHILDREN AND THE LAW

Children #6

March 24, 2014

S. 4083

By: Senator Felder

A. 2601

By: M. of A. Paulin

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 notice of permanency planning in juvenile delinquency and persons in need of supervision proceedings in family court.

LAW AND SECTIONS REFERRED TO: Section 312.1 of the family court act.

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, support, 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 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, almost 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 to necessary to improve their well-being and permanency and transitions back to the community.

The bill would require that non-custodial parents receive notice of their child's juvenile delinquency and 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 expands the resources available for a child as, 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 family. Research has shown that when families stay involved with the youth and visit 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 their same age in foster care through an Article 10 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 languishes without connecting to school upon release, the less likely it is that he or she will at all. It is incumbent on the agencies charged with their care and schools to take these small steps to ease the transition.

Overall, the bill provides much need changes to help continue the meaningful reform of our juvenile justice system that addresses each child's needs expeditiously and effectively.

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

Karen Fisher Gutheil, Chair
Committee on Children and the Law

Kathleen DeCataldo, Chair
Legislative Subcommittee