NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
10 NORTH PEARL STREET, ALBANY, NEW YORK 12243

CESAR A. PERALES
Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 85 ADM-53
[Family & Children Services]

TO: Commissioners of Social Services
Directors of Authorized Agencies

SUBJECT: Continuing Jurisdiction of Family Court in Voluntary Foster Care Placements

DATE: December 27, 1985

SUGGESTED DISTRIBUTION: Directors of Social Services
Legal Staff
Children's Services Staff

CONTACT PERSON: All inquiries regarding this release should be directed to Michelle Rafael, Bureau of Policy Planning, Division of Family and Children Services, 40 North Pearl Street, (11-D), Albany, New York 12243 or by calling toll-free 1-800-342-3715, extension 4-6512.

I. Purpose

The purpose of this release is to advise social services districts and voluntary foster care agencies of the provisions of Chapter 808 of the Laws of 1985. This Chapter relates to Family Court approval of foster care placements, the periodic review of the status of children in foster care and the rights of parents or guardians whose children are in foster care. Furthermore, Chapter 808 authorizes the Family Court to review the foster care status of a child who is voluntarily placed into foster care prior to the end of the child's eighteenth month in a foster care placement.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
85 ADM-21 79 ADM-4 77 ADM-24		428.9 358.4 431.8 430.9(e) 430.9(f)	SSL 22 358-a 384-a 392 409-e 409-f 753 of the Judiciary Law		

8/82)

II. Background

Section 384-a of the Social Services Law authorizes the transfer of the care and custody of a child by a parent or guardian to an authorized agency by means of a written agreement known as a voluntary transfer instrument. Section 358-a of the Social Services Law specifies that whenever a social services official accepts or proposes to accept the care and custody of a child pursuant to Section 384-a of the Social Services Law, he must file a petition in Family Court for approval of this instrument. Section 392 of the Social Services Law requires that the Court review the child's foster care status at the end of the child's eighteenth month of continuous foster care. Subdivision 10 of Section 392 grants the Court continuing jurisdiction over foster care cases following the eighteen month review. The Court of Appeals has held that the Family Court does not have jurisdiction to review a child's foster care status prior to the end of the child's first eighteen months in care. Thus, for the first eighteen months of a child's placement in foster care, the Family Court is prohibited from reviewing the case. Additionally, Section 384-a.2(c) of the Social Services Law requires the voluntary transfer instrument to advise the parent or guardian who voluntarily transfers the care and custody of a child to an authorized agency of the various rights and obligations of the parent or guardian during the period that the instrument is in effect.

III. Program Implications

Family Court reviews of a child's foster care status provide the formal mechanisms for reviewing both parental and agency performance so that it can be determined whether the parents have been working toward the return of a child from foster care and whether the agency has been providing needed services and allowing visitation between the child and his or her parent or guardian. Periodic court reviews help to ensure that systematic planning is conducted in each case and that the goals of reunification are being achieved.

To this end, Chapter 808 of the Laws of 1985 takes significant steps. A new subdivision (2-a) has been added to Section 358-a of the Social Services Law to give the Family Court continuing jurisdiction over foster care cases where care and custody of a child have been transfered to a social services official and the instrument for such transfer has been approved by the Court. This subdivision specifically allows the Court to do the following:

1) monitor compliance with court orders which impose foster care planning requirements on social services officials; and

2) order the filing of a petition so the Court can review the foster care status of the child prior to the time that the child would have remained in care for eighteen months.

(1) Monitoring compliance with court orders

Chapter 808 of the Laws of 1985 amended subdivision 3 of Section 358-a of the Social Services Law to allow the order granting the

foster care placement petition of a social services official and approving the instrument of voluntary placement to include conditions specified by the judge. Where this has occurred the judge may require a social services official to implement a specific plan of action to exercise diligent efforts toward the discharge of the child from care either to his own family or to an adoptive home.

This plan may only require the social services official to provide those services or assistance to the child and his family which are authorized or required to be made available by the local district's consolidated services plan currently in effect.

If the Court finds that the local social services official has violated such Court order, the Court has the power, pursuant to Section 753 of the Judiciary Law, to fine and/or imprison the social services official who violated the order.

Section 384-a.2(c)(ii) of the Social Services Law was also amended by Chapter 808 of the Laws of 1985 to require the transfer instrument or a separate statement appended thereto to include a provision advising the parent or guardian that the parent or guardian has a right to supportive services, including preventive services and other supportive services, authorized to be provided by the State's consolidated services plan and in accordance with the terms of the instrument which transfered the care and custody of a child to an authorized agency. It is important to note that the voluntary transfer agreement is subject to and restricted by 18 NYCRR 430.9(e) (standard for the provision of mandated preventive services to return children to their parents) which states:

> "The provision of preventive services shall be considered mandated to return a child currently in foster care to his parents sooner than would otherwise be possible, only if all of the conditions in paragraphs (1) and (2) of this subdivision are met.
>
> (1) Service appropriateness. (i) Condition. The preventive services provided shall be directly related to one or more of the reasons the child is currently in foster care.
>
> . . .
>
> (2) Discharge plan. (i) Condition. Discharge of the child from foster care shall be anticipated within six months."

It should be further noted that 18 NYCRR 430.9(f) provides that "... the provision of preventive services shall be considered mandated when a Family Court orders such services to be provided."

Chapter 808 of the Laws of 1985 does not affect the ability of the Family Court to order the parent(s) or guardian(s) to cooperate with a social services disrict and to participate in a plan to alleviate the circumstances which resulted in the child's placement in foster care.

(2) Ordering the filing of a petition

Pursuant to Section 358 (2-a) of the Social Services Law, the Family Court may order the filing of a petition to review the foster care status of a child earlier than 60 days prior to the end of the month which would constitute the eighteenth month of continuous foster care. The order that directs the filing of the earlier petition must include the Court's findings which support its determination that such review is in accordance with the best interests of the child. The Court, pursuant to Section 392.3(d) of the Social Services Law, must direct that foster care review petitions which are ordered to be filed early be filed within 30 days of a service plan review as required for the child by Section 409-e of the Social Services Law and 18 NYCRR 428.9.

The foster parents of a child may also petition the Court to order the filing of a petition to review the foster care status of a child earlier than is required by Section 392 of the Social Services Law upon a showing of reasonable cause to believe that a proceeding for terminating parental rights on the grounds of abandonment (Section 384-b.4(b) of the Social Services Law) exists.

A further requirement has been added to subdivision 2 of Section 358-a of the Social Services Law regarding the contents of a petition filed to approve the foster care placement of a child. The social services official who initiates the foster care review proceeding must file supplemental information with the Family Court at least ten (10) days before the Court hearing. This supplemental information must include relevant portions of the assessment of the child and family and the service plan for the child and family established pursuant to Sections 409-e and 409-f of the Social Services Law and 18 NYCRR part 428. It should be noted that this supplemental information does not have to be served upon those persons required to be served with the notice of the foster care placement proceeding and the petition.

However, it should be further noted that at or following <u>each</u> service plan review, appropriate sections of the Uniform Case Record for the family, including relevant portions of the assessment of the child and family and the service plan for the child and family, must be made available to the child's parent or guardian.

Lastly, Chapter 808 of the Laws of 1985 amended Sections 22.5 and 384-a.2(c) of the Social Services Law. These amendments permit parents or guardians

who have voluntarily transferred the care and custody of a child to an authorized agency to request a fair hearing under certain circumstances.

An agency's failure in the following two areas would permit a parent or guardian to request a fair hearing:

1) failure of the agency to permit a parent or guardian to visit the foster child; or
2) failure of the agency to provide preventive and other supportive services, authorized to be provided pursuant to the State's consolidated services plan, to the child or the child's parent or guardian, subject to the terms of the voluntary transfer agreement.

It should be noted that certain Family Court judges use special advocates to perform the following duties in proceedings concerning the foster care of children:

- investigate a child's family circumstances;
- monitor the implementation of dispositional orders; and
- submit findings to the court.

These special advocates could assist Family Court judges in determining whether a child's foster care status should be reviewed earlier than the child's eighteenth month in care.

In summary, Chapter 808 of the Laws of 1985 enhances the ability of the Family Court to make foster care placement decisions in the best interests of children, and plan for the permanency of foster children on a case-by-case basis.

IV. Required Action

Local social services districts and voluntary foster care agencies must provide those services to families and children that the Court has ordered at the time the instrument transferring care and custody is approved. They are mandated to offer to the parent or guardian, in all voluntary foster care cases, preventive services and other supportive services, where these services will enable a child to be returned home sooner than would otherwise occur without such services or where such services will alleviate the circumstances or condition which resulted in the child's placement in foster care. There is no requirement to provide any such service which is not authorized in the State's consolidated services plan currently in effect. In addition the authority to provide mandated preventive services is limited by the provisions of 18 NYCRR 430.9(e) and (f).

When directed by the Family Court to file a petition for an early review of the foster care status of a child, the local social service

district or voluntary foster care agency must take the following steps:

- provide the court with the date of the next service plan review
- file a petition to review the child's foster care status within 30 days prior to such review.

For all Court hearings initiated pursuant to Section 358-a of the Social Services Law to approve voluntary foster care placements, the local social service district or voluntary foster care agency must file supplemental information with the Family Court at least 10 days prior to the Court hearing. This information should include, although it may not be limited to, the most recent Uniform Case Record for the family.

At or following each service plan review a written copy of the following portions of the Uniform Case Record must be provided to the child's parent(s) or guardian(s):

- service plan or plan and review
- visiting plan
- plan development

If the Family Court reviews a foster care placement before the end of the child's eighteenth month in care, the next required review must be held twenty-four months from the date of the review in accordance with the provisions of Section 392.10 of the Social Services Law, unless the Court orders the review to be held earlier.

V. Systems Instructions

When the Family Court directs the district or voluntary agency to petition the Court for a foster care status review earlier than would otherwise be required by Section 392 of the Social Services Law, districts and voluntary agencies should enter the appropriate legal activities into the Child Care Review Service (CCRS). For legal activities L200 (hearing) or L300 (additional dispositions), the date of the early court review should be entered in Modifier D. This will result in an early notification on the Caseload Report.

VI. Effective Date

Chapter 808 of the Laws of 1985 became effective on October 31, 1985. The requirements of this release became effective on that date. A copy of the legislation is attached for your information. The regulatory amendments required by these legislative changes will be forthcoming.

VII. Additional Information

As a result of the enactment of Chapter 808 of the Laws of 1985, this Department has revised the model voluntary foster care transfer agreement. The revised agreement reflects the provisions of Chapter 808 which (1) give the parents or guardians of a child who has been voluntarily placed into foster care the right to request a hearing if they are denied the opportunity to visit the child or if they or the child do not receive supportive services and (2) permit the Family Court to review the child's foster care status earlier than at the end of the child's eighteenth month in care.

The model agreement, which contains suggested terms and conditions, does not have to be used by authorized agencies. However, any agreement which is used must comply with the provisions of Section 384-a.2 of the Social Services Law. A copy of the revised agreement is attached for your information.

Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

Attachments

GUIDELINES FOR PREPARING VOLUNTARY PLACEMENT AGREEMENT

I (We) _____
(name of parent, parents, or guardian)

residing at _____
Street City State

county of _____, the _____
Parent, parents, guardian

of _____, born _____
name of child date

at _____ request the Commissioner of Social Services of

_____ to temporarily accept the care and custody
county or city

of _____ and to arrange for his placement in a
name of child

suitable foster care setting.

For this purpose I (we) voluntarily transfer the care and custody of my (our) child to the Commissioner of Social Services under the following conditions:

Until _____, or
(Specify date upon which child is to be returned)

Until _____,
(Specify circumstances under which child is to be returned)

_____, or

indefinitely, until I (we) notify the Commissioner in writing that I (we) revoke this instrument and request that the child be returned.

I (We) understand that if a specific date or event is established for the return of the child, he (she) shall be returned by that date or upon the occurrence of that event unless such return is contrary to a court order entered prior to such date or within ten days thereafter. If I (we) are unable to accept the child upon the agreed date or occurrence of agreed event, I (we) agree that the Commissioner of Social Services shall retain the care and custody of the child until such time as we notify the Commissioner in writing

that we are able to accept the child. If this consent is for an indefinite period, I (we) understand that upon our written request for the child's return, he (she) shall be returned to me (us) within 20 days unless such return is contrary to a court order entered at any time prior to the expiration of the 20-day period.

In the event that the Commissioner of Social Services fails to return the child within the specified time, I (we) understand that I (we) have a right to seek immediate return of the child in either Family Court or Supreme Court.

I (We) further consent to the administration of such health care, including immunizations, tests, and treatment as are considered necessary for his (her) well-being. I (We) understand that I (we) will be consulted whenever surgery or emergency medical treatment is necessary. However, in the event that I (we) cannot be located I (we) hereby agree that the Commissioner of Social Services may consent to any necessary surgery or emergency medical treatment.

I (We) understand that the Commissioner of Social Services may initiate a proceeding in Family Court for approval of this instrument. I (We) further understand that if it is expected that my (our) child will remain in foster care for eighteen months, a petition will be filed with the Family Court so that the foster care status of my (our) child can be reviewed and plans for my (our) child's future care can be determined. Such petition will be filed at least 60 days prior to the end of my (our) child's eighteenth month in care. I (We) also understand that if the Family Court so orders, a petition to review my (our) child's foster care status may be filed prior to the end of my (our) child's sixteenth month in care.

I (We) understand that we will be notified of all petitions filed with the Family Court or the Surrogate Court in regard to the care and custody and guardianship of my (our) child and that I (we) may attend any hearing which may be held by the Court in regard to the child.

I (We) do further agree that I (we) have been informed of my (our) rights to have the child returned to me (us) on a specified date, or upon the occurrence of a particular event in accordance with the provision of this instrument. I (We) understand that I am (we are) entitled to receive counseling to assist me (us) with the problems which made it necessary to place my (our) child in foster care, and that appropriate preventive and other supportive services to which I am (we are) entitled under law and regulation will be offered to me (us) and my (our) child. I (We) have been advised of my (our) right to visit my (our) child and have been informed of the importance of visiting regularly. I (We) understand that visiting schedules may not always be definitely fixed, and that sometimes it may be necessary to change them because of changes in my (our) circumstances or situations in the foster family home or institution in which my (our) child is placed, but I (we) further understand that the agency is responsible for helping me (us) visit as frequently as possible. I (We) agree to cooperate with the agency in establishing appropriate visiting periods, which initially will be

_____.

(Specify time, frequency, etc.)

I (We) further acknowledge that I (we) have an obligation to:

visit the child subject to the terms set forth in this agreement;

plan for the future of the child;

meet with and consult the agency about such plan;

contribute to the support of the child to the extent of my (our) ability to do so;

inform the agency of any change of my (our) name or address.

I (We) acknowledge that I (we) have been informed that failure to meet the obligations listed above could be the basis for a court proceeding to terminate my (our) parental rights to the child, and permit the agency to place him (her) for adoption.

I (We) have been advised of my (our) right to consult an attorney prior to signing this agreement or at any time thereafter. The agency has provided me (us) with a list of attorneys or legal services organizations which may provide free legal services to persons unable to otherwise obtain such services (or, the agency has advised me that there are no free legal services available to me).

I (We) have been advised of my (our) right to a fair hearing if the agency fails to:

permit me (us) to visit the child

provide me (us) and my (our) child with appropriate supportive services to which I am (we are) entitled under law and regulation.

I (We) understand that none of the above provisions may be changed without my (our) consent or that of an individual acting in my (our) behalf with my (our) consent and the consent of the Commissioner of Social Services or an individual acting in his behalf with his consent. If any such provision is to be changed, it shall be so indicated in writing in a supplemental instrument which will be acknowledged and signed in the same manner as this agreement, and which shall be attached to and become a part of the original agreement.

I (We) hereby certify that I (we) have read and understand the contents of this agreement and that I (we) are voluntarily consenting to the placement of my (our) child.

As the Social Services Commissioner of the County of _____ (City of New York) or as his representative authorized to act in his behalf, I agree to accept the care and custody of _____ as a
(name of child)

public charge and to provide for his (her) care, maintenance, and supervision in accordance with my responsibilities under the Social Services Law and any directions of the Family Court pertaining thereto.

_____
Commissioner or Representative

Father's Signature	Mother's Signature
_____	_____
_____ Witness	_____ Witness
_____ Date	_____ Date

If instrument is signed by only one parent, specify name and address of other parent or provide information why only one parent's signature is required.

_____

_____

STATE OF NEW YORK

S. 6668

A. 8202

1985-1986 Regular Sessions

SENATE—ASSEMBLY

June 23, 1985

IN SENATE -- Introduced by Sen. GOODHUE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hoyt, Vann, Silver) -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to placement of children in foster care

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

1 Section 1. Legislative intent. The legislature hereby finds and de-
2 clares that voluntarily placed foster children and their families
3 receive few of the procedural protections which apply to children placed
4 into care pursuant to court order, although situations leading to place-
5 ment are often very similar to those of court placed persons in need of
6 supervision, abused or neglected children. The foundation for a con-
7 structive judicial role has been established by the Child Welfare Reform
8 Act of 1979 which clarifies the obligations of public and private child
9 care agencies and the performance standards to which they will be held.
10 However, the administrative monitoring systems established by the Child
11 Welfare Reform Act are designed only to assure agency adherence to mini-
12 mum standards of planning and performance, and are not a substitute for
13 the case-by-case determinations of individual rights and interests that
14 result from judicial review. This is the traditional role of the court.
15 Recent decisions of the New York state Court of Appeals have held that
16 family court does not have continuing jurisdiction in proceedings pur-
17 suant to section three hundred fifty-eight-a of the social services law.
18 Consequently, the family court is prohibited from reviewing a case
19 before the child's eighteenth month in placement. In order to better
20 provide for the permanency planning of the child, it is the intent of
21 the legislature to establish continuing jurisdiction of the family court

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

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in such proceedings thereby permitting such review prior to the child's eighteenth month of placement.

Furthermore, for the purpose of ensuring permanency planning for a child, family court judges, at their discretion, have appointed volunteer special advocates to investigate a child's circumstance, monitor the implementation of dispositional orders and submit findings. In such instances, these volunteer special advocates have provided a valuable service by expediting cases and helping to eliminate barriers to permanency planning for children. It is further the intent of the legislature that when it is in the child's best interest a family court judge may appoint such volunteer to perform such duties not inconsistent with provisions of law.

§ 2. Subdivision five of section twenty-two of the social services law is amended by adding a new paragraph (e) to read as follows:

(e) Failure to permit a parent or guardian to visit the child or failure to provide supportive services, which shall include preventive and other supportive services authorized to be provided pursuant to the state consolidated services plan, to the child and to the parent or guardian, pursuant to an instrument executed under section three hundred eighty-four-a of this chapter.

§ 3. Subdivision two of section three hundred fifty-eight-e of such law, as amended by chapter eight hundred seventy-two of the laws of nineteen hundred eighty-four, is amended to read as follows:

(2) Contents of petition. (a) Any petition required or authorized pursuant to subdivision one of this section shall allege whether the parent, parents or guardian executed the instrument because he or they would be unable to make adequate provision for the care, maintenance and supervision of such child in his or their own home, and shall include facts supporting the petition. The petition shall also set forth the names and last known addresses of all persons required to be given notice of the proceeding, pursuant to this section and section three hundred eighty-four-c of this chapter, and there shall be shown by the petition or by affidavit or other proof satisfactory to the court that there are no persons other than those set forth in the petition who are entitled to notice pursuant to the provisions of this section or of section three hundred eighty-four-c of this chapter. The petition shall also set forth the efforts which were made, prior to the placement of the child into foster care, to prevent or eliminate the need for removal of the child from his home and the efforts which were made prior to the filing of the petition to make it possible for the child to return to his home. If such efforts were not made, the petition shall set forth the reasons why these efforts were not made. The petition shall request that, pending any hearing which may be required by the family court judge, a temporary order be made transferring the care and custody of the child to the social services official or approving the placement of the child with the division for youth in accordance with the provisions of subdivision three of this section. In the case of a child whose care and custody have been transferred to a social services official by means of an instrument executed pursuant to section three hundred eighty-four-a of this chapter, the petition shall also allege and there shall be shown by affidavit or other proof satisfactory to the court that all the requirements of such section have been satisfied.

(b) The social services official who initiated the proceeding shall file supplemental information with the clerk of the court not later than ten days prior to the date on which the proceeding is first heard by the

court. Such information shall include relevant portions, as determined by the department, of the assessment of the child and his family circumstances performed and maintained, and the child's service plan if available, pursuant to sections four hundred nine-e and four hundred nine-f of this chapter. Copies of such supplemental information need not be served upon those persons entitled to notice of the proceeding and a copy of the petition pursuant to subdivision four of this section.

§ 4. Subdivision three of section three hundred fifty-eight-a of such law, as amended by chapter eight hundred seventy-two of the laws of nineteen hundred eighty-four, is amended to read as follows:

(3) Disposition of petition. (a) If the judge is satisfied that the parent, parents, or guardian executed such instrument knowingly and voluntarily and because he or they would be unable to make adequate provision for the care, maintenance and supervision of such child in his or their home, and that the requirements of section three hundred eighty-four-a of this chapter, if applicable, have been satisfied and that where appropriate, reasonable efforts were made prior to the placement of the child into foster care to prevent or eliminate the need for removal of the child from his home and that prior to the initiation of the court proceeding required to be held by subdivision one of this section, reasonable efforts were made to make it possible for the child to return to his home, he may find and determine that the best interest and welfare of the child would be promoted by removal of the child from such home, and that it would be contrary to the welfare of such child for him to continue in such home, and he shall thereupon grant the petition and approve such instrument and the transfer of the custody and guardianship or care and custody of such child to such social services official or the placement of the child with the division for youth in accordance therewith. Approval of such instrument in a proceeding pursuant to this section shall not constitute a remand or commitment pursuant to this chapter and shall not preclude challenge in any other proceeding to the validity of the instrument.

(b) The order granting the petition of a social services official and approving an instrument executed pursuant to section three hundred eighty-four-a of this chapter may include conditions, where appropriate and specified by the judge, requiring the implementation of a specific plan of action by the social services official to exercise diligent efforts toward the discharge of the child from care, either to his own family or to an adoptive home; provided, however, that such plan shall not include the provision of any service or assistance to the child and his or her family which is not authorized or required to be made available pursuant to the comprehensive annual services program plan then in effect. Nothing in such order shall preclude either party to the instrument from exercising its rights under this section or under any other provision of law relating to the return of the care and custody of the child by the social services official to the parent, parents or guardian. Violation of such an order shall be subject to punishment pursuant to section seven hundred fifty-three of the judiciary law.

§ 5. Section three hundred fifty-eight-a of such law is amended by adding a new subdivision two-a to read as follows:

(2-a) Continuing jurisdiction. (a) The court shall possess continuing jurisdiction over the parties only for the purpose of: (i) monitoring compliance with an order imposing conditions pursuant to subdivision three of this section or (ii) ordering the filing of a petition, pursuant to section three hundred ninety-two of this chapter, earlier than

the date which would otherwise be required pursuant to paragraph (d) of subdivision three of such section, in which case such order shall include the court's findings supporting its determination that such order is in accordance with the best interests of the child. Continuing jurisdiction of the court pursuant to this paragraph shall terminate upon the initiation of a proceeding concerning the child pursuant to section three hundred ninety-two of this chapter.

(b) A foster parent or parents in whose home the child resides may petition the court to order the filing of a petition, pursuant to section three hundred ninety-two of this chapter, in accordance with paragraph (a) of this subdivision, upon a showing of reasonable cause to believe that grounds exist to institute a proceeding pursuant to paragraph (b) of subdivision four of section three hundred eighty-four-b of this chapter to legally free such child for adoption.

§ 6. Subparagraph (ii) of paragraph (c) of subdivision two of section three hundred eighty-four-a of such law, as separately amended by chapters six hundred sixty-six and six hundred sixty-nine of the laws of nineteen hundred seventy-six, is amended to read as follows:

(ii) that the parent or guardian has a right to supportive services, which shall include preventive and other supportive services authorized to be provided pursuant to the state's consolidated services plan, to visit the child, and to have the child returned to him or her, in accordance with the terms of the instrument and subject to the provisions of this section[:];

§ 7. Paragraph (c) of subdivision two of section three hundred eighty-four-a of such law is amended by adding a new subparagraph (vi) to read as follows:

(vi) that the parent or guardian has a right to a fair hearing pursuant to section twenty-two of this chapter concerning the agency's failure to permit the parent or guardian to visit the child or to provide supportive services, which shall include preventive and other supportive services authorized to be provided pursuant to the state's consolidated services plan, to the child and to the parent or guardian.

§ 8. Paragraph (d) of subdivision three of section three hundred ninety-two of such law, as amended by chapter one hundred forty-one of the laws of nineteen hundred eighty-five, is amended to read as follows:

(d) shall be filed in the appropriate family court at least sixty days prior to the end of the month which would constitute the eighteenth month of continuous foster care placement, or earlier where so directed by the court pursuant to section three hundred fifty-eight-a of this chapter; provided, however, that the court shall direct that such earlier petition shall be filed within thirty days of the date required for the next review of the child's service plan pursuant to section four hundred nine-e of this chapter.

§ 9. Section four hundred nine-e of such law is amended by adding a new subdivision four to read as follows:

4. In accordance with regulations of the department, relevant portions of the assessment of the child and his family circumstances and the child service plan, established pursuant to subdivisions one and two, respectively, of this section shall be made available to the child's parent or guardian.

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