

1749--B

Cal. No. 917

2011-2012 Regular Sessions

I N S E N A T E

January 12, 2011

Introduced by Sens. GOLDEN, AVELLA, DeFRANCISCO, HASSELL-THOMPSON, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report

AN ACT to amend the elder law and the domestic relations law, in relation to the notification of certain relatives prior to the placement of children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 202 of the elder law is amended by adding a new
2 subdivision 16 to read as follows:
3 16. TO MONITOR KINSHIP PLACEMENTS PURSUANT TO SECTION SEVENTY-TWO OF
4 THE DOMESTIC RELATIONS LAW AND REPORT TO THE LEGISLATURE AND THE GOVER-
5 NOR ON RECOMMENDATIONS FOR IMPROVING OR MODIFYING SUCH PLACEMENT PROCE-
6 DURES.
7 S 2. Subdivision 2 of section 72 of the domestic relations law, as
8 added by chapter 657 of the laws of 2003, is amended to read as follows:
9 2. (a) Where a grandparent or the grandparents of a minor child,
10 residing within this state, OR RELATIVE WHO IS RELATED TO A PARENT WITH-
11 IN THE THIRD DEGREE OF CONSANGUINITY OR THROUGH BLOOD, MARRIAGE OR
12 ADOPTION, RESIDING IN THIS STATE, can demonstrate to the satisfaction of
13 the court the existence of extraordinary circumstances, such grandparent
14 or grandparents OR RELATIVE of such child may apply to the supreme court
15 by commencing a special proceeding or for a writ of habeas corpus to
16 have such child brought before such court, or may apply to family court
17 pursuant to subdivision (b) of section six hundred fifty-one OR SECTION

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

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1 SIX HUNDRED SIXTY-ONE of the family court act; and on the return there-
2 of, the court, by order, after due notice to the parent or any other
3 person or party having the care, custody, and control of such child, to
4 be given in such manner as the court shall prescribe, may make such
5 directions as the best interests of the child may require, for custody
6 rights for such grandparent or grandparents OR RELATIVE in respect to
7 such child. An extended disruption of custody, as such term is defined
8 in this section, shall constitute an extraordinary circumstance.

9 (b) For the purposes of this section "extended disruption of custody"
10 shall include, but not be limited to, a prolonged separation of the
11 respondent parent and the child for at least twenty-four continuous
12 months, during which TIME the parent voluntarily relinquished care and
13 control of the child and the child resided in the household of the peti-
14 tioner grandparent or grandparents OR RELATIVE, provided, however, that
15 the court may find that extraordinary circumstances exist should the
16 prolonged separation have lasted for less than twenty-four months.

17 (c) Nothing in this section shall limit the ability of parties to
18 enter into consensual custody agreements absent the existence of
19 extraordinary circumstances.

20 S 3. This act shall take effect immediately.