

5203--A

2013-2014 Regular Sessions

I N S E N A T E

May 14, 2013

Introduced by Sen. FELDER -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the domestic relations law, in relation to non-respondent parents in child protective and permanency proceedings in family court

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

1 Section 1. Section 651 of the family court act is amended by adding a
2 new subdivision (c-1) to read as follows:
3 (C-1) WHERE A PROCEEDING FILED PURSUANT TO ARTICLE TEN OR TEN-A OF
4 THIS ACT IS PENDING AT THE SAME TIME AS A PROCEEDING BROUGHT IN THE
5 FAMILY COURT PURSUANT TO THIS ARTICLE, THE COURT PRESIDING OVER THE
6 PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT MAY JOINTLY HEAR THE
7 HEARING ON THE CUSTODY AND VISITATION PETITION UNDER THIS ARTICLE AND
8 THE DISPOSITIONAL HEARING ON THE PETITION UNDER ARTICLE TEN OR THE
9 PERMANENCY HEARING UNDER ARTICLE TEN-A OF THIS ACT; PROVIDED, HOWEVER,
10 THE COURT MUST DETERMINE THE CUSTODY AND VISITATION PETITION IN ACCORD-
11 ANCE WITH THE TERMS OF THIS ARTICLE.
12 S 2. Section 1012 of the family court act is amended by adding three
13 new subdivisions (l), (m) and (n) to read as follows:
14 (L) "PARENT" MEANS A PERSON WHO IS RECOGNIZED UNDER THE LAWS OF THE
15 STATE OF NEW YORK TO BE THE CHILD'S LEGAL PARENT.
16 (M) "RELATIVE" MEANS ANY PERSON WHO IS RELATED TO THE CHILD BY BLOOD,
17 MARRIAGE OR ADOPTION AND WHO IS NOT A PARENT, PUTATIVE PARENT OR RELA-
18 TIVE OF A PUTATIVE PARENT OF THE CHILD.
19 (N) "SUITABLE PERSON" MEANS ANY PERSON WHO PLAYS OR HAS PLAYED A
20 SIGNIFICANT POSITIVE ROLE IN THE CHILD'S LIFE OR IN THE LIFE OF THE
21 CHILD'S FAMILY.

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

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1 S 3. Subdivision 1, paragraph (a) of subdivision 2 and subdivision 3
2 of section 1017 of the family court act, subdivision 1 and paragraph (a)
3 of subdivision 2 as amended by section 10 of part A of chapter 3 of the
4 laws of 2005, the opening paragraph of subdivision 1 as separately
5 amended by chapter 671 of the laws of 2005, subparagraphs (i) and (ii)
6 of paragraph (a) of subdivision 2 as amended and subdivision 3 as added
7 by chapter 519 of the laws of 2008, are amended to read as follows:

8 1. In any proceeding under this article, when the court determines
9 that a child must be removed from his or her home, pursuant to part two
10 of this article, or placed, pursuant to section one thousand fifty-five
11 of this article[,]:

12 (A) the court shall direct the local commissioner of social services
13 to conduct an immediate investigation to locate any non-respondent
14 parent of the child and any relatives of the child, including all of the
15 child's grandparents, all [suitable] relatives OR SUITABLE PERSONS iden-
16 tified by any respondent parent or any non-respondent parent and any
17 relative identified by a child over the age of five as a relative who
18 plays or has played a significant positive role in his or her life[,
19 and]. THE LOCAL COMMISSIONER SHALL inform them IN WRITING of the
20 pendency of the proceeding and of the opportunity for [becoming foster
21 parents or for seeking custody or care] NON-RESPONDENT PARENTS TO SEEK
22 TEMPORARY RELEASE of the child[, and that the child may be adopted by
23 foster parents if attempts at reunification with the birth parent are
24 not required or are unsuccessful] UNDER THIS ARTICLE OR CUSTODY UNDER
25 ARTICLE SIX OF THIS ACT OR FOR RELATIVES TO SEEK TO BECOME FOSTER
26 PARENTS OR TO PROVIDE FREE CARE UNDER THIS ARTICLE OR TO SEEK CUSTODY
27 PURSUANT TO ARTICLE SIX OF THIS ACT; OR FOR SUITABLE PERSONS TO BECOME
28 FOSTER PARENTS OR PROVIDE FREE CARE UNDER THIS ARTICLE OR TO SEEK GUAR-
29 DIANSHIP PURSUANT TO ARTICLE SIX OF THIS ACT. UNIFORM STATEWIDE RULES OF
30 COURT SHALL SPECIFY THE CONTENTS OF THE NOTICE CONSISTENT WITH THE
31 PROVISIONS OF THIS SECTION. The local commissioner of social services
32 shall [record] REPORT the results of such investigation, OR INVESTI-
33 GATIONS TO THE COURT AND PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD.
34 THE LOCAL COMMISSIONER SHALL ALSO RECORD THE RESULTS OF THE INVESTI-
35 GATION OR INVESTIGATIONS, including, but not limited to, the name, last
36 known address, social security number, employer's address and any other
37 identifying information to the extent known regarding any non-respondent
38 parent, in the uniform case record maintained pursuant to section four
39 hundred nine-f of the social services law. For the purpose of this
40 section, "non-respondent parent" shall include a person entitled to
41 notice of the pendency of the proceeding and of the right to intervene
42 as an interested party pursuant to subdivision (d) of section one thou-
43 sand thirty-five of this article, and a non-custodial parent entitled to
44 notice and the right to enforce visitation rights pursuant to subdivi-
45 sion (e) of section one thousand thirty-five of this article.

46 (B) THE COURT SHALL ALSO DIRECT THE LOCAL COMMISSIONER OF SOCIAL
47 SERVICES TO CONDUCT AN INVESTIGATION TO LOCATE ANY PERSON WHO IS NOT
48 RECOGNIZED TO BE THE CHILD'S LEGAL PARENT AND DOES NOT HAVE THE RIGHTS
49 OF A LEGAL PARENT UNDER THE LAWS OF THE STATE OF NEW YORK BUT WHO (I)
50 HAS FILED WITH A PUTATIVE FATHER REGISTRY AN INSTRUMENT ACKNOWLEDGING
51 PATERNITY OF THE CHILD, PURSUANT TO SECTION 4-1.2 OF THE ESTATES, POWERS
52 AND TRUSTS LAW, OR (II) HAS A PENDING PATERNITY PETITION, OR (III) HAS
53 BEEN IDENTIFIED AS A PARENT OF THE CHILD BY THE CHILD'S OTHER PARENT IN
54 A WRITTEN SWORN STATEMENT. THE LOCAL COMMISSIONER OF SOCIAL SERVICES
55 SHALL REPORT THE RESULTS OF SUCH INVESTIGATION TO THE COURT AND PARTIES,
56 INCLUDING THE ATTORNEY FOR THE CHILD.

(C) The court shall determine:

[(a)] (I) whether there is a [suitable] non-respondent parent [or other person related to the child], RELATIVE OR SUITABLE PERSON with whom such child may appropriately reside; and

[(b)] (II) in the case of a relative OR SUITABLE PERSON, whether such [relative] INDIVIDUAL seeks approval as a foster parent pursuant to the social services law for the purposes of providing care for such child, or wishes to provide free care [and custody] for the child during the pendency of any orders pursuant to this article.

(a) where the court, AFTER A REVIEW OF THE REPORTS OF THE SEX OFFENDER REGISTRY ESTABLISHED AND MAINTAINED PURSUANT TO SECTION ONE HUNDRED SIXTY-EIGHT-B OF THE CORRECTION LAW, REPORTS OF THE STATEWIDE COMPUTERIZED REGISTRY OF ORDERS OF PROTECTION ESTABLISHED AND MAINTAINED PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE EXECUTIVE LAW, RELATED DECISIONS IN COURT PROCEEDINGS UNDER THIS ARTICLE AND ALL WARRANTS ISSUED UNDER THIS ACT, determines that the child may APPROPRIATELY reside with a [suitable] non-respondent parent or other relative or [other] suitable person, either:

(i) grant [an] A TEMPORARY order of custody or guardianship to such non-respondent parent, [other] relative or [other] suitable person pursuant to A PETITION FILED UNDER ARTICLE SIX OF THIS ACT PENDING FURTHER ORDER OF THE COURT, OR AT DISPOSITION OF THE PROCEEDING, GRANT A FINAL ORDER OF CUSTODY OR GUARDIANSHIP TO SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON PURSUANT TO ARTICLE SIX OF THIS ACT AND section one thousand fifty-five-b of this article; or

(ii) [place] TEMPORARILY RELEASE the child directly [in the custody of] TO such non-respondent parent[, other] OR TEMPORARILY PLACE THE CHILD WITH A relative or [other] suitable person pursuant to this article during the pendency of the proceeding or until further order of the court, whichever is earlier and conduct such other and further investigations as the court deems necessary. THE COURT MAY DIRECT THE COMMISSIONER OF SOCIAL SERVICES, PURSUANT TO REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO COMMENCE AN INVESTIGATION OF THE HOME OF SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON WITHIN TWENTY-FOUR HOURS AND TO REPORT THE RESULTS TO THE COURT AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD. IF THE HOME OF A NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON, IS FOUND UNQUALIFIED AS APPROPRIATE FOR THE TEMPORARY RELEASE OR PLACEMENT OF THE CHILD UNDER THIS ARTICLE, THE LOCAL COMMISSIONER SHALL REPORT SUCH FACT AND THE REASONS THEREFOR TO THE COURT AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD, FORTHWITH; or

(iii) remand or place the child, as applicable, with the local commissioner of social services and direct such commissioner to have the child reside with such relative or [other] suitable person and further direct such commissioner pursuant to regulations of the office of children and family services, to commence an investigation of the home of such relative or other suitable person within twenty-four hours and thereafter approve such relative or other suitable person, if qualified, as a foster parent. If such home is found to be unqualified for approval, the local commissioner shall report such fact AND THE REASONS THEREAFTER to the court AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD, forthwith.

3. An order [placing] TEMPORARILY RELEASING a child [with] TO A NON-RESPONDENT PARENT OR PARENTS, OR TEMPORARILY PLACING A CHILD WITH a relative or RELATIVES OR other suitable person OR PERSONS pursuant to SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF this section OR

1 REMANDING OR PLACING A CHILD WITH A LOCAL COMMISSIONER OF SOCIAL
2 SERVICES TO RESIDE WITH A RELATIVE OR RELATIVES OR SUITABLE PERSON OR
3 PERSONS AS FOSTER PARENTS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH
4 (A) OF SUBDIVISION TWO OF THIS SECTION may not be granted unless the
5 [relative or other suitable] person [consents] OR PERSONS TO WHOM THE
6 CHILD IS RELEASED, REMANDED OR PLACED SUBMITS to the jurisdiction of the
7 court WITH RESPECT TO THE CHILD. The [court] ORDER SHALL SET FORTH THE
8 TERMS AND CONDITIONS APPLICABLE TO SUCH PERSON OR PERSONS AND CHILD
9 PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY
10 WITH RESPECT TO THE CHILD AND may [place the person with whom the child
11 has been directly placed under supervision during the pendency of the
12 proceeding. Such supervision shall be provided by a] INCLUDE, BUT MAY
13 NOT BE LIMITED TO, A DIRECTION FOR SUCH PERSON OR PERSONS TO COOPERATE
14 IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED VISITATION WITH RESPOND-
15 ENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS WITH THE CHILD'S ATTOR-
16 NEY, child protective agency, social services official [or], duly
17 authorized agency, CLINICIAN OR OTHER INDIVIDUAL OR PROGRAM PROVIDING
18 SERVICES TO THE CHILD DURING THE PENDENCY OF THE PROCEEDING. The court
19 also may issue a temporary order of protection under subdivision (f) of
20 section one thousand twenty-two, section one thousand twenty-three or
21 section one thousand twenty-nine of this article AND AN ORDER DIRECTING
22 THAT SERVICES BE PROVIDED PURSUANT TO SECTION ONE THOUSAND FIFTEEN-A OF
23 THIS PART. [An order of supervision issued pursuant to this subdivision
24 shall set forth the terms and conditions that the relative or suitable
25 person must meet and the actions that the child protective agency,
26 social services official or duly authorized agency must take to exercise
27 such supervision.]

28 S 4. Section 1022-a of the family court act, as added by chapter 336
29 of the laws of 1990, is amended to read as follows:

30 S 1022-a. Preliminary orders; notice and appointment of counsel. At a
31 hearing held pursuant to section [ten hundred] ONE THOUSAND twenty-two
32 of this [act] PART at which the respondent is present, the court shall
33 advise the respondent AND ANY NON-RESPONDENT PARENT WHO IS PRESENT of
34 the allegations in the application and shall appoint counsel for [the
35 respondent pursuant to] EACH IN ACCORDANCE WITH section two hundred
36 sixty-two of this act [where the respondent is indigent], UNLESS WAIVED.

37 S 5. Subparagraph (C) of paragraph (i) of subdivision (b) and subdivi-
38 sion (d) of section 1027 of the family court act, subparagraph (C) of
39 paragraph (i) of subdivision (b) as amended by chapter 671 of the laws
40 of 2005 and subdivision (d) as added by chapter 962 of the laws of 1970,
41 are amended to read as follows:

42 (C) [in the custody of] WITH a relative or suitable person other than
43 the respondent.

44 (d) Upon such hearing, the court may, for good cause shown, release
45 the child to [the custody of] his OR HER parent or other person legally
46 responsible for his OR HER care, pending a final order of disposition,
47 in accord with SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF
48 section one thousand [fifty-four] SEVENTEEN OF THIS ARTICLE.

49 S 6. The opening paragraph of subdivision (d) of section 1035 of the
50 family court act, as amended by chapter 526 of the laws of 2003, is
51 amended to read as follows:

52 Where the respondent is not the child's parent, service of the summons
53 and petition shall also be ordered on both of the child's parents; where
54 only one of the child's parents is the respondent, service of the
55 summons and petition shall also be ordered on the child's other parent.
56 The summons and petition shall be accompanied by a notice of pendency of

1 the child protective proceeding advising the parents or parent of the
2 right to appear and participate in the proceeding as an interested party
3 intervenor for the purpose of seeking temporary and permanent RELEASE OF
4 THE CHILD UNDER THIS ARTICLE OR custody of the child UNDER ARTICLE SIX
5 OF THIS ACT, and to participate thereby in all arguments and hearings
6 insofar as they affect the temporary RELEASE OR custody of the child
7 during fact-finding proceedings, and in all phases of dispositional
8 proceedings. The notice shall also ADVISE THE PARENT OR PARENTS OF THE
9 RIGHT TO COUNSEL, INCLUDING ASSIGNED COUNSEL, PURSUANT TO SECTION TWO
10 HUNDRED SIXTY-TWO OF THIS ACT, AND ALSO indicate that:

11 S 7. Subdivision (a) of section 1052 of the family court act, as
12 amended by chapter 519 of the laws of 2008, is amended to read as
13 follows:

14 (a) At the conclusion of a dispositional hearing under this article,
15 the court shall enter an order of disposition directing one or more of
16 the following:

17 (i) suspending judgment in accord with section one thousand fifty-
18 three of this part; or

19 (ii) releasing the child to [the custody of his] A NON-RESPONDENT
20 PARENT OR parents or [other person legally responsible] LEGAL CUSTODIAN
21 OR CUSTODIANS OR GUARDIAN OR GUARDIANS, WHO IS NOT OR ARE NOT RESPOND-
22 ENTS IN THE PROCEEDING, in accord with section one thousand fifty-four
23 of this part; or

24 (iii) placing the child in accord with section one thousand fifty-five
25 of this part; or

26 (iv) making an order of protection in accord with SECTION one thousand
27 fifty-six of this part; or

28 (v) RELEASING THE CHILD TO THE RESPONDENT OR RESPONDENTS OR placing
29 the respondent OR RESPONDENTS under supervision, OR BOTH, in accord with
30 section one thousand fifty-seven of this part; or

31 (vi) granting custody of the child to A RESPONDENT PARENT OR PARENTS,
32 A RELATIVE OR relatives or A suitable PERSON OR persons pursuant to
33 ARTICLE SIX OF THIS ACT AND section one thousand fifty-five-b of this
34 part; OR

35 (VII) GRANTING CUSTODY OF THE CHILD TO A NON-RESPONDENT PARENT OR
36 PARENTS PURSUANT TO ARTICLE SIX OF THIS ACT.

37 However, the court shall not enter an order of disposition combining
38 placement of the child under paragraph (iii) of this subdivision with a
39 disposition under paragraph (i) or (ii) of this subdivision. An order
40 granting custody of the child pursuant to paragraph (vi) OR (VII) of
41 this subdivision shall not be combined with any other disposition under
42 this subdivision.

43 S 8. Section 1054 of the family court act, as amended by chapter 1039
44 of the laws of 1973, subdivision (a) as amended by chapter 41 of the
45 laws of 2010 and subdivision (b) as amended by chapter 458 of the laws
46 of 1989, is amended to read as follows:

47 S 1054. Release to [custody of] NON-RESPONDENT parent or [other person
48 responsible for care; supervision or order of protection] LEGAL CUSTO-
49 DIAN OR GUARDIAN. (a) [If the] AN order of disposition [releases] MAY
50 RELEASE the child FOR A DESIGNATED PERIOD OF UP TO ONE YEAR to [the
51 custody of his or her] A NON-RESPONDENT parent or [other] PARENTS OR A
52 person [legally responsible for his or her care] OR PERSONS WHO HAD BEEN
53 THE CHILD'S LEGAL CUSTODIAN OR GUARDIAN at the time of the filing of the
54 petition, [the] AND WHO IS NOT OR ARE NOT RESPONDENTS IN THE PROCEEDING
55 UNDER THIS ARTICLE. AN ORDER UNDER THIS SECTION MAY BE EXTENDED UPON A
56 HEARING FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

1 (B) THE court may [place] REQUIRE the person OR PERSONS to [whose
2 custody] WHOM the child is released under [supervision of a] THIS
3 SECTION TO SUBMIT TO THE JURISDICTION OF THE COURT WITH RESPECT TO THE
4 CHILD FOR THE PERIOD OF THE DISPOSITION OR AN EXTENSION THEREOF. THE
5 ORDER MAY INCLUDE, BUT IS NOT LIMITED TO, A DIRECTION FOR SUCH PERSON OR
6 PERSONS TO COOPERATE IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED
7 VISITATION WITH RESPONDENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS
8 WITH THE CHILD'S ATTORNEY, child protective agency [or of a], social
9 services official or duly authorized agency, CLINICIAN OR OTHER INDIVID-
10 UAL OR PROGRAM PROVIDING SERVICES TO THE CHILD. THE ORDER SHALL SET
11 FORTH THE TERMS AND CONDITIONS APPLICABLE TO SUCH NON-RESPONDENT AND
12 CHILD PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED
13 AGENCY WITH RESPECT TO THE CHILD.

14 (C) IN CONJUNCTION WITH AN ORDER RELEASING THE CHILD TO A NON-RESPON-
15 DENT PARENT, LEGAL CUSTODIAN OR GUARDIAN UNDER THIS SUBDIVISION, THE
16 COURT MAY ALSO ISSUE ANY OR ALL OF THE FOLLOWING ORDERS: AN ORDER OF
17 SUPERVISION OF A RESPONDENT PARENT UNDER SECTION ONE THOUSAND FIFTY-SEV-
18 EN, AN ORDER DIRECTING THAT SERVICES BE PROVIDED TO THE RESPONDENT
19 PARENT UNDER SECTION ONE THOUSAND FIFTEEN-A or [may enter] an order of
20 protection under section one thousand fifty-six[, or both] OF THIS ARTI-
21 CLE. An order of supervision OF THE RESPONDENT entered under this
22 [section shall set forth the terms and conditions of such supervision
23 that the respondent must meet and the actions that the child protective
24 agency, social services official or duly authorized agency must take to
25 exercise such supervision] SUBDIVISION MAY BE EXTENDED UPON A HEARING
26 FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

27 (D) Except as provided for herein, in any order issued pursuant to
28 this section, the court may require the child protective agency to make
29 progress reports to the court, the parties, and the child's attorney on
30 the implementation of such order. Where the order of disposition is
31 issued upon the consent of the parties and the child's attorney, such
32 agency shall report to the court, the parties and the child's attorney
33 no later than ninety days after the issuance of the order AND NO LATER
34 THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF the ORDER, UNLESS THE court
35 determines that the facts and circumstances of the case do not require
36 such report to be made.

37 [(b) Rules of court shall define permissible terms and conditions of
38 supervision under this section. The duration of any period of super-
39 vision shall be for an initial period of no more than one year and the
40 court may at the expiration of that period, upon a hearing and for good
41 cause shown, make successive extensions of such supervision of up to one
42 year each.]

43 S 9. The section heading and subdivisions (a) and (b) of section
44 1055-b of the family court act, as amended by section 7 of part F of
45 chapter 58 of the laws of 2010, are amended and two new subdivisions
46 (a-1) and (a-2) are added to read as follows:

47 Custody or guardianship with A PARENT OR PARENTS, relatives or suit-
48 able persons pursuant to article six of this act or guardianship with
49 [such a person] RELATIVES OR SUITABLE PERSONS pursuant to article seven-
50 teen of the surrogate's court procedure act. (a) CUSTODY OR GUARDIAN-
51 SHIP WITH RESPONDENT PARENT OR PARENTS, RELATIVES OR SUITABLE PERSONS.
52 At the conclusion of the dispositional hearing under this article, the
53 court may enter an order of disposition granting custody or guardianship
54 of the child to a RESPONDENT PARENT OR PARENTS, AS DEFINED IN SUBDIVI-
55 SION (1) OF SECTION ONE THOUSAND TWELVE OF THIS ARTICLE, OR A relative
56 OR RELATIVES or other suitable person OR PERSONS [under] PURSUANT TO

1 article six of this act or an order of guardianship of the child to
2 [such] a RELATIVE OR RELATIVES OR SUITABLE person OR PERSONS under arti-
3 cle seventeen of the surrogate's court procedure act if THE FOLLOWING
4 CONDITIONS HAVE BEEN MET:

5 (i) the RESPONDENT PARENT OR PARENTS, relative OR RELATIVES or suit-
6 able person OR PERSONS has OR HAVE filed a petition for custody or guar-
7 dianship of the child pursuant to article six of this act or, IN THE
8 CASE OF A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS, a peti-
9 tion for guardianship of the child under article seventeen of the surro-
10 gate's court procedure act; and

11 (ii) the court finds that granting custody or guardianship of the
12 child to [the relative or suitable] SUCH person OR PERSONS is in the
13 best interests of the child and that the safety of the child will not be
14 jeopardized if the respondent or respondents under the child protective
15 proceeding are no longer under supervision or receiving services. In
16 determining whether the best interests of the child will be promoted by
17 the granting of guardianship of the child to a relative who has cared
18 for the child as a foster parent, the court shall give due consideration
19 to the permanency goal of the child, the relationship between the child
20 and the relative, and whether the relative and the social services
21 district have entered into an agreement to provide kinship guardianship
22 assistance payments for the child to the relative under title ten of
23 article six of the social services law, and, if so, whether the fact-
24 finding hearing pursuant to section one thousand fifty-one of this part
25 and a permanency hearing pursuant to section one thousand eighty-nine of
26 this chapter [has] HAVE occurred and whether compelling reasons exist
27 for determining that the return home of the child and the adoption of
28 the child are not in the best interests of the child and are, therefore,
29 not appropriate permanency options; and

30 (iii) the court finds that granting custody or guardianship of the
31 child to the RESPONDENT PARENT, relative or suitable person under arti-
32 cle six of this act or granting guardianship of the child to the rela-
33 tive or [other] suitable person under article seventeen of the surro-
34 gate's court procedure act will provide the child with a safe and
35 permanent home; and

36 (iv) all parties to the child protective proceeding consent to the
37 granting of custody or guardianship under article six of this act or the
38 granting of guardianship under article seventeen of the surrogate's
39 court procedure ACT; or [(v)], IF ANY OF THE PARTIES OBJECT TO THE
40 GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS MADE THE FOLLOWING
41 FINDINGS after a [consolidated] JOINT dispositional hearing on the child
42 protective petition and the petition under article six of this act or
43 under article seventeen of the surrogate's court procedure act[;]:

44 (A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
45 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents
46 fail to consent to the granting of [custody or guardianship under arti-
47 cle six of this act or] the [granting of guardianship under article
48 seventeen of the surrogate's court procedure act] PETITION, the court
49 finds that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
50 DEMONSTRATED THAT extraordinary circumstances exist that support grant-
51 ing an order of custody or guardianship TO THE RELATIVE OR RELATIVES OR
52 SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE
53 THE CHILD'S BEST INTERESTS; or

54 (B) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
55 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A party other than the
56 parent or parents fail to consent to the granting of [custody or guardi-

1 anship under article six of this act or] the PETITION [granting of guar-
2 dianship under article seventeen of the surrogate's court procedure
3 act], the court finds that granting custody or guardianship of the child
4 to the relative OR RELATIVES or suitable person OR PERSONS is in the
5 best interests of the child; OR

6 (C) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
7 ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD
8 OBJECTS TO THE GRANTING OF THE PETITION, THE COURT FINDS EITHER THAT THE
9 OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR,
10 IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT
11 GRANTING CUSTODY TO THE PETITIONING RESPONDENT PARENT WOULD NONETHELESS
12 BE IN THE CHILD'S BEST INTERESTS; OR

13 (D) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
14 ARTICLE SIX OF THIS ACT AND THE OTHER PARENT OBJECTS TO THE GRANTING OF
15 THE PETITION, THE COURT FINDS THAT GRANTING CUSTODY TO THE PETITIONING
16 RESPONDENT PARENT IS IN THE CHILD'S BEST INTERESTS.

17 (A-1) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
18 ARTICLE SIX OF THIS ACT. WHERE A PROCEEDING FILED BY THE NON-RESPONDENT
19 PARENT PURSUANT TO ARTICLE SIX OF THIS ACT IS PENDING AT THE SAME TIME
20 AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE,
21 THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY
22 HEAR THE DISPOSITIONAL HEARING ON THE CHILD PROTECTIVE PETITION UNDER
23 THIS ARTICLE AND THE HEARING ON THE CUSTODY AND VISITATION PETITION
24 UNDER ARTICLE SIX OF THIS ACT; PROVIDED HOWEVER, THE COURT MUST DETER-
25 MINE THE NON-RESPONDENT PARENT'S CUSTODY AND VISITATION PETITION FILED
26 UNDER ARTICLE SIX OF THIS ACT IN ACCORDANCE WITH THE TERMS OF THAT ARTI-
27 CLE.

28 (A-2) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
29 SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW. WHERE A
30 PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY OF, OR
31 RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE IS PENDING AT THE SAME
32 TIME AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTI-
33 CLE, THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY
34 JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE CHILD PROTECTIVE PETITION
35 UNDER ARTICLE TEN OF THIS ACT AND, UPON REFERRAL FROM THE SUPREME COURT,
36 THE HEARING TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE
37 PROCEEDING PENDING IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT
38 MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODIAL RIGHTS IN ACCORD-
39 ANCE WITH THE TERMS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO
40 HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW.

41 (b) An order made in accordance with the provisions of this section
42 shall set forth the required findings as described in subdivision (a) of
43 this section WHERE APPLICABLE, including, if the guardian and the local
44 department of social services have entered into an agreement to provide
45 kinship guardianship assistance payments for the child to the relative
46 under title ten of article six of the social services law, that a fact-
47 finding hearing pursuant to section one thousand fifty-one of this part
48 and a permanency hearing pursuant to section one thousand eighty-nine of
49 this chapter has occurred, and the compelling reasons that exist for
50 determining that the return home of the child and the adoption of the
51 child are not in the best interests of the child and are, therefore, not
52 appropriate permanency options for the child, and shall constitute the
53 final disposition of the child protective proceeding. Notwithstanding
54 any other provision of law, the court shall not issue an order of super-
55 vision nor may the court require the local department of social services
56 to provide services to the respondent or respondents when granting

1 custody or guardianship pursuant to article six of this act under this
2 section or granting guardianship under article seventeen of the surro-
3 gate's court procedure act.

4 S 10. Section 1057 of the family court act, as amended by chapter 41
5 of the laws of 2010, is amended to read as follows:

6 S 1057. [Supervision] RELEASE OF THE CHILD TO THE RESPONDENT OR
7 RESPONDENTS; SUPERVISION OF THE RESPONDENT OR RESPONDENTS.

8 (A) The court may RELEASE THE CHILD TO THE RESPONDENT OR RESPONDENTS
9 FOR A PERIOD OF UP TO ONE YEAR, WHICH MAY BE EXTENDED PURSUANT TO SUBDI-
10 VISION (D) OF THIS SECTION.

11 (B) IN CONJUNCTION WITH AN ORDER RELEASING A CHILD UNDER THIS SECTION
12 OR AN ORDER UNDER PARAGRAPH (II), (III) OR (IV) OF SUBDIVISION (A) OF
13 SECTION ONE THOUSAND FIFTY-TWO OF THIS PART, THE COURT MAY place the
14 respondent OR RESPONDENTS under supervision of a child protective agency
15 or of a social services official or duly authorized agency. An order of
16 supervision entered under this section shall set forth the terms and
17 conditions of such supervision that the respondent OR RESPONDENTS must
18 meet and the actions that the child protective agency, social services
19 official or duly authorized agency must take to exercise such super-
20 vision.

21 (C) Except as provided for herein, in any order issued pursuant to
22 SUBDIVISION (A) OR (B) OF this section, the court may require the child
23 protective agency to make progress reports to the court, the parties,
24 and the child's attorney on the implementation of such order. Where the
25 order of disposition is issued upon the consent of the parties and the
26 child's attorney, such agency shall report to the court, the parties and
27 the child's attorney no later than ninety days after the issuance of the
28 order[, unless] AND NO LATER THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF
29 the ORDER, UNLESS THE court determines that the facts and circumstances
30 of the case do not require such report to be made. [Rules] UNIFORM
31 STATEWIDE RULES of court shall define permissible terms and conditions
32 of supervision OF THE RESPONDENT OR RESPONDENTS under this section.

33 (D) The duration of any period of RELEASE OF THE CHILD TO THE RESPOND-
34 ENT OR RESPONDENTS OR supervision OF THE RESPONDENT OR RESPONDENTS OR
35 BOTH shall be for an initial period of no more than one year [and the].
36 THE court may at the expiration of that period, upon a hearing and for
37 good cause shown, [make successive extensions of] EXTEND such RELEASE OR
38 supervision OR BOTH FOR A PERIOD of up to one year [each].

39 S 11. The section heading and subdivisions (a), (b) and (c) of section
40 1089-a of the family court act, as amended by section 8 of part F of
41 chapter 58 of the laws of 2010, are amended and two new subdivisions
42 (a-1) and (a-2) are added to read as follows:

43 Custody or guardianship with A PARENT OR PARENTS, A RELATIVE OR rela-
44 tives or A suitable PERSON OR persons pursuant to article six of this
45 act or guardianship OF A RELATIVE OR RELATIVES OR A SUITABLE PERSON OR
46 PERSONS pursuant to article seventeen of the surrogate's court procedure
47 act. (a) Where the permanency plan is placement with a fit and willing
48 relative OR A RESPONDENT PARENT, the court may issue an order of custody
49 or guardianship in response to a petition filed by a RESPONDENT PARENT,
50 relative or suitable person seeking custody or guardianship of the child
51 under article six of this act or an order of guardianship of the child
52 under article seventeen of the surrogate's court procedure act [at]. A
53 PETITION FOR CUSTODY OR GUARDIANSHIP MAY BE HEARD JOINTLY WITH a perman-
54 ency hearing held pursuant to this article [and terminate]. AN ORDER OF
55 CUSTODY OR GUARDIANSHIP ISSUED IN ACCORDANCE WITH THIS SUBDIVISION WILL
56 RESULT IN TERMINATION OF all pending orders issued pursuant to THIS

1 article OR ARTICLE ten of this act if THE FOLLOWING CONDITIONS HAVE BEEN
2 MET:

3 (i) the court finds that granting custody TO THE RESPONDENT PARENT OR
4 PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardi-
5 anship of the child to the relative OR RELATIVES or suitable person OR
6 PERSONS is in the best interests of the child and that the termination
7 of the order placing the child pursuant to article ten of this act will
8 not jeopardize the safety of the child. In determining whether the best
9 interests of the child will be promoted by the granting of guardianship
10 of the child to a relative who has cared for the child as a foster
11 parent, the court shall give due consideration to the permanency goal of
12 the child, the relationship between the child and the relative, and
13 whether the relative and the local department of social services have
14 entered into an agreement to provide kinship guardianship assistance
15 payments for the child to the relative under title ten of article six of
16 the social services law, and, if so, whether a fact-finding hearing
17 pursuant to section one thousand fifty-one of this chapter has occurred,
18 and whether compelling reasons exist for determining that the return
19 home of the child and the adoption of the child are not in the best
20 interests of the child and are, therefore, not appropriate permanency
21 options; and

22 (ii) the court finds that granting custody TO THE RESPONDENT PARENT OR
23 PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardi-
24 anship of the child to the relative or RELATIVES OR suitable person OR
25 PERSONS will provide the child with a safe and permanent home; and

26 (iii) the parents, the attorney for the child, the local department of
27 social services, and the foster parent of the child who has been the
28 foster parent for the child for one year or more consent to the issuance
29 of an order of custody or guardianship under article six of this act or
30 the granting of guardianship under article seventeen of the surrogate's
31 court procedure act and the termination of the order of placement pursu-
32 ant to THIS article OR ARTICLE ten of this act; or [(iv)], IF ANY OF THE
33 PARTIES OBJECT TO THE GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS
34 MADE THE FOLLOWING FINDINGS after a [consolidated] JOINT hearing on the
35 permanency of the child and the petition under article six of this act
36 or article seventeen of the surrogate's court procedure act[;]:

37 (A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
38 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents
39 fail to consent to the granting of [custody or guardianship under arti-
40 cle six of this act or] the [granting of guardianship under article
41 seventeen of the surrogate's court procedure act] PETITION, the court
42 finds that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
43 DEMONSTRATED THAT extraordinary circumstances exist that support grant-
44 ing an order of custody or guardianship under article six of this act or
45 the granting of guardianship under article seventeen of the surrogate's
46 court procedure act TO THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR
47 PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE THE CHILD'S BEST
48 INTERESTS; or

49 (B) if A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
50 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND the local department of
51 social services, the attorney for the child, or the foster parent of the
52 child who has been the foster parent for the child for one year or more
53 [fail to consent] OBJECTS to the granting of [custody or guardianship
54 under article six of this act or the granting of guardianship under
55 article seventeen of the surrogate's court procedure act] THE PETITION,
56 the court finds that granting custody or guardianship of the child to

1 the relative OR RELATIVES or suitable person OR PERSONS is in the best
2 interests of the child; OR

3 (C) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
4 ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD
5 OBJECTS TO THE GRANTING OF THE PETITION, THE COURT FINDS EITHER THAT THE
6 OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR,
7 IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT
8 GRANTING CUSTODY TO THE PETITIONING RESPONDENT PARENT WOULD NONETHELESS
9 BE IN THE CHILD'S BEST INTERESTS; OR

10 (D) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
11 ARTICLE SIX OF THIS ACT AND THE OTHER PARENT FAILS TO CONSENT TO THE
12 GRANTING OF THE PETITION, THE COURT FINDS THAT GRANTING CUSTODY TO THE
13 PETITIONING RESPONDENT PARENT IS IN THE CHILD'S BEST INTERESTS.

14 (A-1) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
15 ARTICLE SIX OF THIS ACT. WHERE A PROCEEDING FILED BY A NON-RESPONDENT
16 PARENT PURSUANT TO ARTICLE SIX OF THIS ACT IS PENDING AT THE SAME TIME
17 AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE,
18 THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY
19 HEAR THE PERMANENCY HEARING AND THE HEARING ON THE CUSTODY AND VISITA-
20 TION PETITION UNDER ARTICLE SIX OF THIS ACT; PROVIDED HOWEVER, THE COURT
21 MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODY PETITION FILED UNDER
22 ARTICLE SIX OF THIS ACT IN ACCORDANCE WITH THE TERMS OF THAT ARTICLE.

23 (A-2) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
24 SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW. WHERE A
25 PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY OF, OR
26 RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE IS PENDING AT THE SAME
27 TIME AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTI-
28 CLE, THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY
29 JOINTLY HEAR THE PERMANENCY HEARING AND, UPON REFERRAL FROM THE SUPREME
30 COURT, THE HEARING TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE
31 PROCEEDING PENDING IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT
32 MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODIAL RIGHTS IN ACCORD-
33 ANCE WITH THE TERMS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO
34 HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW.

35 (b) An order made in accordance with the provisions of this section
36 shall set forth the required findings as described in subdivision (a) of
37 this section, WHERE APPLICABLE, including, if the guardian and local
38 department of social services have entered into an agreement to provide
39 kinship guardianship assistance payments for the child to the relative
40 under title ten of article six of the social services law, that a fact-
41 finding hearing pursuant to section one thousand fifty-one of this chap-
42 ter AND A PERMANENCY HEARING PURSUANT TO SECTION ONE THOUSAND
43 EIGHTY-NINE OF THIS PART has occurred, and the compelling reasons that
44 exist for determining that the return home of the child are not in the
45 best interests of the child and are, therefore, not appropriate perman-
46 ency options for the child, and shall result in the termination of any
47 orders in effect pursuant to article ten of this act or pursuant to this
48 article. Notwithstanding any other provision of law, the court shall not
49 issue an order of supervision nor may the court require the local
50 department of social services to provide services to the respondent or
51 respondents when granting custody or guardianship pursuant to article
52 six of this act UNDER THIS SECTION or the granting of guardianship under
53 article seventeen of the surrogate's court procedure act in accordance
54 with this section.

55 (c) As part of the order granting custody or guardianship [to the
56 relative or suitable person] IN ACCORDANCE WITH THIS SECTION pursuant to

1 article six of this act or the granting of guardianship under article
2 seventeen of the surrogate's court procedure act, the court may require
3 that the local department of social services and the attorney for the
4 child receive notice of, and be made parties to, any subsequent proceed-
5 ing to modify the order of custody or guardianship granted pursuant to
6 the article six proceeding; provided, however, if the guardian and the
7 local department of social services have entered into an agreement to
8 provide kinship guardianship assistance payments for the child to the
9 relative under title ten of article six of the social services law, the
10 order must require that the local department of social services and the
11 attorney for the child receive notice of, and be made parties to, any
12 such subsequent proceeding involving custody or guardianship of the
13 child.

14 S 12. Paragraph (a) of subdivision 1 of section 240 of the domestic
15 relations law, as amended by chapter 476 of the laws of 2009, is amended
16 to read as follows:

17 (a) In any action or proceeding brought (1) to annul a marriage or to
18 declare the nullity of a void marriage, or (2) for a separation, or (3)
19 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
20 tion and order to show cause, the custody of or right to visitation with
21 any child of a marriage, the court shall require verification of the
22 status of any child of the marriage with respect to such child's custody
23 and support, including any prior orders, and shall enter orders for
24 custody and support as, in the court's discretion, justice requires,
25 having regard to the circumstances of the case and of the respective
26 parties and to the best interests of the child and subject to the
27 provisions of subdivision one-c of this section. Where either party to
28 an action concerning custody of or a right to visitation with a child
29 alleges in a sworn petition or complaint or sworn answer, cross-peti-
30 tion, counterclaim or other sworn responsive pleading that the other
31 party has committed an act of domestic violence against the party making
32 the allegation or a family or household member of either party, as such
33 family or household member is defined in article eight of the family
34 court act, and such allegations are proven by a preponderance of the
35 evidence, the court must consider the effect of such domestic violence
36 upon the best interests of the child, together with such other facts and
37 circumstances as the court deems relevant in making a direction pursuant
38 to this section and state on the record how such findings, facts and
39 circumstances factored into the direction. If a parent makes a good
40 faith allegation based on a reasonable belief supported by facts that
41 the child is the victim of child abuse, child neglect, or the effects of
42 domestic violence, and if that parent acts lawfully and in good faith in
43 response to that reasonable belief to protect the child or seek treat-
44 ment for the child, then that parent shall not be deprived of custody,
45 visitation or contact with the child, or restricted in custody, visita-
46 tion or contact, based solely on that belief or the reasonable actions
47 taken based on that belief. If an allegation that a child is abused is
48 supported by a preponderance of the evidence, then the court shall
49 consider such evidence of abuse in determining the visitation arrange-
50 ment that is in the best interest of the child, and the court shall not
51 place a child in the custody of a parent who presents a substantial risk
52 of harm to that child, and shall state on the record how such findings
53 were factored into the determination. WHERE A PROCEEDING FILED PURSUANT
54 TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS PENDING AT THE SAME
55 TIME AS A PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY
56 OF, OR RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE, THE COURT

1 PRESIDING OVER THE PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY
2 COURT ACT MAY JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE PETITION
3 UNDER ARTICLE TEN OR THE PERMANENCY HEARING UNDER ARTICLE TEN-A OF THE
4 FAMILY COURT ACT AND, UPON REFERRAL FROM THE SUPREME COURT, THE HEARING
5 TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE PROCEEDING PENDING
6 IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT MUST DETERMINE CUSTODY
7 OR VISITATION IN ACCORDANCE WITH THE TERMS OF THIS SECTION.

8 An order directing the payment of child support shall contain the
9 social security numbers of the named parties. In all cases there shall
10 be no prima facie right to the custody of the child in either parent.
11 Such direction shall make provision for child support out of the proper-
12 ty of either or both parents. The court shall make its award for child
13 support pursuant to subdivision one-b of this section. Such direction
14 may provide for reasonable visitation rights to the maternal and/or
15 paternal grandparents of any child of the parties. Such direction as it
16 applies to rights of visitation with a child remanded or placed in the
17 care of a person, official, agency or institution pursuant to article
18 ten of the family court act, or pursuant to an instrument approved under
19 section three hundred fifty-eight-a of the social services law, shall be
20 enforceable pursuant to part eight of article ten of the family court
21 act and sections three hundred fifty-eight-a and three hundred eighty-
22 four-a of the social services law and other applicable provisions of law
23 against any person having care and custody, or temporary care and custo-
24 dy, of the child. Notwithstanding any other provision of law, any writ-
25 ten application or motion to the court for the establishment, modifica-
26 tion or enforcement of a child support obligation for persons not in
27 receipt of public assistance and care must contain either a request for
28 child support enforcement services which would authorize the collection
29 of the support obligation by the immediate issuance of an income
30 execution for support enforcement as provided for by this chapter,
31 completed in the manner specified in section one hundred eleven-g of the
32 social services law; or a statement that the applicant has applied for
33 or is in receipt of such services; or a statement that the applicant
34 knows of the availability of such services, has declined them at this
35 time and where support enforcement services pursuant to section one
36 hundred eleven-g of the social services law have been declined that the
37 applicant understands that an income deduction order may be issued
38 pursuant to subdivision (c) of section fifty-two hundred forty-two of
39 the civil practice law and rules without other child support enforcement
40 services and that payment of an administrative fee may be required. The
41 court shall provide a copy of any such request for child support
42 enforcement services to the support collection unit of the appropriate
43 social services district any time it directs payments to be made to such
44 support collection unit. Additionally, the copy of any such request
45 shall be accompanied by the name, address and social security number of
46 the parties; the date and place of the parties' marriage; the name and
47 date of birth of the child or children; and the name and address of the
48 employers and income payors of the party from whom child support is
49 sought or from the party ordered to pay child support to the other
50 party. Such direction may require the payment of a sum or sums of money
51 either directly to the custodial parent or to third persons for goods or
52 services furnished for such child, or for both payments to the custodial
53 parent and to such third persons; provided, however, that unless the
54 party seeking or receiving child support has applied for or is receiving
55 such services, the court shall not direct such payments to be made to
56 the support collection unit, as established in section one hundred

1 eleven-h of the social services law. Every order directing the payment
2 of support shall require that if either parent currently, or at any time
3 in the future, has health insurance benefits available that may be
4 extended or obtained to cover the child, such parent is required to
5 exercise the option of additional coverage in favor of such child and
6 execute and deliver to such person any forms, notices, documents or
7 instruments necessary to assure timely payment of any health insurance
8 claims for such child.
9 S 13. This act shall take effect on the one hundred eightieth day
10 after it shall have become a law.