

STATE OF NEW YORK

3702

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. TANNOUSIS -- read once and referred to the
Committee on Judiciary

AN ACT to amend the domestic relations law and the family court act, in
relation to the granting of custody of a minor

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

1 Section 1. Subdivision 5 of section 240 of the domestic relations law,
2 as added by section 103 of chapter 398 of the laws of 1997, is renum-
3 bered subdivision 6 and a new subdivision 7 is added to read as follows:

4 7. Notwithstanding any other provision of any law to the contrary, no
5 court shall award custody to or allow unsupervised visitation with a
6 parent or any other person who has been convicted of violating section
7 130.20 (sexual misconduct); 130.25 (rape in the third degree); 130.30
8 (rape in the second degree); 130.35 (rape in the first degree); 130.55
9 (sexual abuse in the third degree); 130.60 (sexual abuse in the second
10 degree); 130.65 (sexual abuse in the first degree); 130.67 (aggravated
11 sexual abuse in the second degree); 130.70 (aggravated sexual abuse in
12 the first degree); 255.25 (incest in the third degree); 255.26 (incest
13 in the second degree); 255.27 (incest in the first degree); 263.05 (use
14 of a child in a sexual performance); 263.10 (promoting an obscene sexual
15 performance by a child); 263.15 (promoting a sexual performance by a
16 child); 235.21 (disseminating indecent material to minors in the second
17 degree); 235.22 (disseminating indecent material to minors in the first
18 degree); 230.30 (promoting prostitution in the second degree); 230.32
19 (promoting prostitution in the first degree); or subdivision two of
20 section 230.25 (promoting prostitution in the third degree) of the penal
21 law, unless the court finds that there is no significant risk to the
22 child.

23 § 2. Subdivision (a) of section 70 of the domestic relations law, as
24 amended by chapter 457 of the laws of 1988, is amended to read as
25 follows:

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

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1 (a) Where a minor child is residing within this state, either parent
2 may apply to the supreme court for a writ of habeas corpus to have such
3 minor child brought before such court; and on the return thereof, the
4 court, on due consideration, may award the natural guardianship, charge
5 and custody of such child to either parent for such time, under such
6 regulations and restrictions, and with such provisions and directions,
7 as the case may require, and may at any time thereafter vacate or modify
8 such order. In all cases there shall be no prima facie right to the
9 custody of the child in either parent, but the court shall determine
10 solely what is for the best interest of the child, and what will best
11 promote its welfare and happiness, and make award accordingly subject,
12 however, to the provisions of subdivision seven of section two hundred
13 forty of this chapter.

14 § 3. Subdivisions (a), (b) and (c) of section 651 of the family court
15 act, subdivision (a) as amended by chapter 182 of the laws of 2019,
16 subdivision (b) as amended by chapter 657 of the laws of 2003 and subdi-
17 vision (c) as amended by chapter 85 of the laws of 1996, are amended to
18 read as follows:

19 (a) When referred from the supreme court or county court to the family
20 court, the family court has jurisdiction to determine, in accordance
21 with subdivisions one and one-c of section two hundred forty of the
22 domestic relations law and with the same powers possessed by the supreme
23 court in addition to its own powers, habeas corpus proceedings and
24 proceedings brought by petition and order to show cause, for the deter-
25 mination of the custody or visitation of minors subject, however, to the
26 limitations set forth in subdivision seven of section two hundred forty
27 of the domestic relations law regarding the awarding of custody or unsu-
28 perervised visitation to a person who has been convicted of any of the
29 offenses enumerated in such subdivision.

30 (b) When initiated in the family court, the family court has jurisdic-
31 tion to determine, in accordance with subdivision one of section two
32 hundred forty of the domestic relations law and with the same powers
33 possessed by the supreme court in addition to its own powers, habeas
34 corpus proceedings and proceedings brought by petition and order to show
35 cause, for the determination of the custody or visitation of minors,
36 including applications by a grandparent or grandparents for visitation
37 or custody rights pursuant to section seventy-two or two hundred forty
38 of the domestic relations law subject, however, to the limitations set
39 forth in subdivision seven of section two hundred forty of the domestic
40 relations law regarding the awarding of custody or unsupervised visita-
41 tion to a person who has been convicted of any of the offenses enumer-
42 ated in such subdivision.

43 (c) When initiated in the family court pursuant to a petition under
44 part eight of article ten of this act or section three hundred fifty-
45 eight-a of the social services law, the family court has jurisdiction to
46 enforce or modify orders or judgments of the supreme court relating to
47 the visitation of minors in foster care, notwithstanding any limitation
48 contained in subdivision (b) of section four hundred sixty-seven of this
49 act but subject, however, to the limitations set forth in subdivision
50 seven of section two hundred forty of the domestic relations law regard-
51 ing the awarding of custody or unsupervised visitation to a person who
52 has been convicted of any of the offenses enumerated in such
53 subdivision.

54 § 4. This act shall take effect immediately.