

9371

I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. GABRYSZAK, GALEF, PAULIN -- Multi-Sponsored by --  
M. of A. BING, HIKIND, ROBINSON, TOWNS, WRIGHT -- read once and  
referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the use of expert  
witness testimony in child custody and visitation hearings

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

- 1 Section 1. The family court act is amended by adding a new section  
2 624-a to read as follows:  
3 S 624-A. USE OF EXPERT WITNESS TESTIMONY. 1. FOR PURPOSES OF THIS  
4 ARTICLE, WHENEVER AN EXPERT WITNESS WILL BE CALLED UPON TO TESTIFY ABOUT  
5 HIS OR HER FINDINGS REGARDING AN ISSUE BEFORE THE COURT, SUCH EXPERT  
6 WITNESS OR THE PARTY FOR WHOM THE EXPERT WITNESS IS TESTIFYING SHALL  
7 FILE A WRITTEN REPORT WITH THE COURT CONTAINING THE FINDINGS OF THE  
8 EXPERT. THE REPORT MUST INCLUDE ALL RAW DATA COLLECTED AND/OR USED BY  
9 THE EXPERT IN REACHING HIS OR HER CONCLUSIONS.  
10 2. COPIES OF THE REPORT AND RAW DATA SHALL, PRIOR TO THIRTY DAYS  
11 BEFORE THE EXPERT WITNESS IS EXPECTED TO TESTIFY, BE FORWARDED BY THE  
12 EXPERT WITNESS OR PARTY FOR WHOM THE EXPERT WITNESS IS TESTIFYING TO  
13 EACH PARTY OF THE ACTION AND TO ANY OTHER PERSON DEEMED NECESSARY BY THE  
14 COURT.  
15 3. THE REPORT SHALL BE FILED NO LATER THAN THIRTY DAYS PRIOR TO THE  
16 DATE THAT SUCH EXPERT IS EXPECTED TO TESTIFY.  
17 4. THE COURT IN WHICH THE EXPERT IS EXPECTED TO TESTIFY MAY WAIVE ANY  
18 OR ALL OF THE PROVISIONS OF THIS SECTION, UPON A FINDING THAT COMPLIANCE  
19 WITH THIS SECTION WOULD BE IMPRACTICABLE BASED ON THE FACTS AND CIRCUM-  
20 STANCES OF THE MATTER BEFORE THE COURT.  
21 5. THE PROVISIONS OF THIS SECTION SHALL APPLY TO AN EXPERT WITNESS WHO  
22 IS CALLED AS A REBUTTAL WITNESS TO REBUT THE FINDINGS AND CONCLUSIONS OF  
23 THE INITIAL EXPERT WITNESS, UNLESS THE COURT DETERMINES THAT COMPLIANCE  
24 WOULD BE IMPRACTICABLE BASED ON THE FACTS AND CIRCUMSTANCES PRESENTED.  
25 S 2. This act shall take effect on the one hundred twentieth day after  
26 it shall have become a law.

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

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