S T A T E O F N E W Y O R K

2033

2009-2010 Regular Sessions

I N S E N A T E

February 11, 2009

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

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:

Section 1. Section 202 of the elder law is amended by adding a new subdivision 15 to read as follows:

15. TO MONITOR KINSHIP PLACEMENTS PURSUANT TO SECTION SEVENTY-TWO OF THE DOMESTIC RELATIONS LAW AND REPORT TO THE LEGISLATURE AND THE GOVERNOR ON RECOMMENDATIONS FOR IMPROVING OR MODIFYING SUCH PLACEMENT PROCEDURES.

S 2. Subdivision 2 of section 72 of the domestic relations law, as added by chapter 657 of the laws of 2003, is amended to read as follows:

2. (a) Where a grandparent or the grandparents of a minor child, residing within this state, OR THE RELATIVE OF A MINOR CHILD WHO IS RELATED WITHIN THE THIRD DEGREE OF CONSANGUINITY TO EITHER PARENT OF SUCH CHILD AND WHO IS RESIDING IN THIS STATE, can demonstrate to the satisfaction of the court the existence of extraordinary circumstances, such grandparent or grandparents OR RELATIVE of such child may apply to the supreme court by commencing a special proceeding or for a writ of habeas corpus to have such child brought before such court, or may apply to family court pursuant to subdivision (b) of section six hundred fifty-one of the family court act; and on the return thereof, the court, by order, after due notice to the parent or any other person or party having the care, custody, and control of such child, to be given in such manner as the court shall prescribe, may make such directions as the best interests of the child may require, for custody rights for such grandparent or grandparents OR RELATIVE in respect to such child. An

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

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extended disruption of custody, as such term is defined in this section, shall constitute an extraordinary circumstance.

(b) For the purposes of this section "extended disruption of custody" shall include, but not be limited to, a prolonged separation of the respondent parent and the child for at least twenty-four continuous months BEFORE THE COMMENCEMENT OF THE PROCEEDING, during which TIME the parent voluntarily relinquished care and control of the child and the child resided in the household of the petitioner grandparent or grandparents OR RELATIVE, provided, however, that the court may find that extraordinary circumstances exist should the prolonged separation have lasted for less than twenty-four months DURING WHICH TIME PETITIONER GRANDPARENT OR GRANDPARENTS OR RELATIVE ACTED AS PERSONS ACTING AS A PARENT AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION SEVENTY-FIVE-A OF THIS CHAPTER.

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

S 3. This act shall take effect immediately.