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2009-2010 Regular Sessions

I N S E N A T E

February 27, 2009

Introduced by Sens. LAVALLE, DIAZ, MORAHAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law and the family court act, in relation to the visitation rights of great-grandparents

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

1 Section 1. The section heading and subdivision 1 of section 72 of the
2 domestic relations law, as amended by chapter 657 of the laws of 2003,
3 are amended to read as follows:
4 Special proceeding or habeas corpus to obtain visitation rights IN
5 RESPECT TO CERTAIN INFANT GRANDCHILDREN OR GREAT-GRANDCHILDREN or custo-
6 dy in respect to certain infant grandchildren. 1. Where either or both
7 of the parents of a minor child, residing within this state, is or are
8 deceased, or where circumstances show that conditions exist which equity
9 would see fit to intervene, a grandparent [or], the grandparents, A
10 GREAT-GRANDPARENT OR THE GREAT-GRANDPARENTS of such child may apply to
11 the supreme court by commencing a special proceeding or for a writ of
12 habeas corpus to have such child brought before such court, or may apply
13 to the family court pursuant to subdivision (b) of section six hundred
14 fifty-one of the family court act; and on the return thereof, the court,
15 by order, after due notice to the parent or any other person or party
16 having the care, custody, and control of such child, to be given in such
17 manner as the court shall prescribe, may make such directions as the
18 best interest of the child may require, for visitation rights for such
19 grandparent [or], grandparents, GREAT-GRANDPARENT OR GREAT-GRANDPARENTS
20 in respect to such child.
21 S 2. Subdivisions (b) and (d) of section 651 of the family court act,
22 as amended by chapter 657 of the laws of 2003, are amended to read as
23 follows:

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

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1 (b) When initiated in the family court, the family court has jurisdic-
2 tion to determine, in accordance with subdivision one of section two
3 hundred forty of the domestic relations law and with the same powers
4 possessed by the supreme court in addition to its own powers, habeas
5 corpus proceedings and proceedings brought by petition and order to show
6 cause, for the determination of the custody or visitation of minors,
7 including applications by a grandparent [or], grandparents, A
8 GREAT-GRANDPARENT OR GREAT-GRANDPARENTS for visitation or A GRANDPARENT
9 OR GRANDPARENTS FOR custody rights pursuant to section seventy-two or
10 two hundred forty of the domestic relations law.

11 (d) With respect to applications by a grandparent [or], grandparents,
12 A GREAT-GRANDPARENT OR GREAT-GRANDPARENTS for visitation or A GRANDPAR-
13 ENT OR GRANDPARENTS FOR custody rights, made pursuant to section seven-
14 ty-two or two hundred forty of the domestic relations law, with a child
15 remanded or placed in the care of a person, official, agency or institu-
16 tion pursuant to the provisions of article ten of this act, the appli-
17 cant, in such manner as the court shall prescribe, shall serve a copy of
18 the application upon the social services official having care and custo-
19 dy of such child, and the child's law guardian, who shall be afforded an
20 opportunity to be heard thereon.

21 S 3. This act shall take effect immediately.