

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

3866--A

2009-2010 Regular Sessions

I N S E N A T E

April 2, 2009

Introduced by Sen. MONTGOMERY -- (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 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to evidence in permanency proceedings in the family court

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

1 Section 1. The opening paragraph of subdivision (a) and subdivision
2 (c) of section 1046 of the family court act, as added by chapter 962 of
3 the laws of 1970, are amended to read as follows:
4 In any hearing under this article AND ARTICLE TEN-A OF THIS ACT:
5 (c) In a dispositional hearing and during all other stages of a
6 proceeding under this article, except a fact-finding hearing, AND IN
7 PERMANENCY HEARINGS AND ALL OTHER PROCEEDINGS UNDER ARTICLE TEN-A OF
8 THIS ACT, only material and relevant evidence may be admitted.
9 S 2. The subdivision heading and the opening paragraph of subdivision
10 (d) of section 1089 of the family court act, the subdivision heading as
11 added by section 27 of part A of chapter 3 of the laws of 2005 and the
12 opening paragraph as amended by section 11 of part B of chapter 327 of
13 the laws of 2007, are amended to read as follows:
14 [Court] EVIDENCE, COURT findings and order. THE PROVISIONS OF SUBDIVI-
15 SIONS (A) AND (C) OF SECTION ONE THOUSAND FORTY-SIX OF THIS ACT SHALL
16 APPLY TO ALL PROCEEDINGS UNDER THIS ARTICLE. At the conclusion of each
17 permanency hearing, the court shall, upon the proof adduced, which shall
18 include age-appropriate consultation with the child who is the subject
19 of the permanency hearing, and in accordance with the best interests and
20 safety of the child, including whether the child would be at risk of
21 abuse or neglect if returned to the parent or other person legally

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

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1 responsible, determine and issue its findings, and enter an order of
2 disposition in writing:
3 S 3. This act shall take effect on the sixtieth day after it shall
4 have become a law.