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

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Cal. No. 29

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Judiciary -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the domestic relations law and the family court act, in relation to review of reports of the statewide computerized registry of orders of protection and warrants of arrest prior to issuing an order of custody or visitation

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

Section 1. Paragraph (a-1) of subdivision 1 of section 240 of the domestic relations law, as added by chapter 595 of the laws of 2008, is amended to read as follows:

(a-1)(1) Permanent[, temporary or successive] AND INITIAL temporary orders of custody or visitation. Prior to the issuance of any permanent[, temporary] or [successive] INITIAL temporary order of custody or visitation [where more than one month has passed since the issuance of the previous temporary order], the court shall conduct a review of THE DECISIONS AND REPORTS LISTED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(2) SUCCESSIVE TEMPORARY ORDERS OF CUSTODY OR VISITATION. PRIOR TO THE ISSUANCE OF ANY SUCCESSIVE TEMPORARY ORDER OF CUSTODY OR VISITATION, THE COURT SHALL CONDUCT A REVIEW OF THE DECISIONS AND REPORTS LISTED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, UNLESS SUCH A REVIEW HAS BEEN CONDUCTED WITHIN NINETY DAYS PRIOR TO THE ISSUANCE OF SUCH ORDER.

(3) DECISIONS AND REPORTS FOR REVIEW. THE COURT SHALL CONDUCT A REVIEW OF the following:

(i) related decisions in court proceedings initiated pursuant to article ten of the family court act, AND ALL WARRANTS ISSUED UNDER THE FAMILY COURT ACT; and

(ii) reports of the statewide computerized registry of orders of protection [and warrants of arrest] established and maintained pursuant

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

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to section two hundred twenty-one-a of the executive law, and reports of the sex offender registry established and maintained pursuant to section one hundred sixty-eight-b of the correction law.

[(2)] (4) Notifying counsel and issuing orders. Upon consideration of decisions pursuant to article ten of the family court act, and registry reports and notifying counsel involved in the proceeding, or in the event of a SELF-REPRESENTED party [appearing pro se], notifying such party of the results thereof, including any court appointed [law guardian] ATTORNEY FOR CHILDREN, the court may issue a temporary, successive temporary or final order of custody or visitation.

[(3)] (5) Temporary emergency order. Notwithstanding any other provision of the law, upon emergency situations, INCLUDING COMPUTER MALFUNCTIONS, to serve the best interest of the child, the court may issue a temporary emergency order for custody or visitation in the event that it is not possible to timely review decisions and reports on registries as required pursuant to [items (i) and (ii) of] subparagraph [one] THREE of this paragraph.

[(4)] (6) After issuing a temporary emergency order. After issuing a temporary emergency order of custody or visitation, the court shall conduct reviews of the decisions and reports on registries as required pursuant to [items (i) and (ii) of] subparagraph [one] THREE of this paragraph within twenty-four hours of the issuance of such temporary emergency order. SHOULD SUCH TWENTY-FOUR HOUR PERIOD FALL ON A DAY WHEN COURT IS NOT IN SESSION, THEN THE REQUIRED REVIEWS SHALL TAKE PLACE THE NEXT DAY THE COURT IS IN SESSION. Upon reviewing decisions and reports the court shall notify associated counsel, SELF-REPRESENTED PARTIES AND ATTORNEYS FOR CHILDREN pursuant to subparagraph [two] FOUR of this paragraph and may issue temporary or permanent custody or visitation orders.

[(5)] (7) Feasibility study. The commissioner of the office of children and family services, in conjunction with the office of court administration, is hereby authorized and directed to examine, study, evaluate and make recommendations concerning the feasibility of the utilization of computers in courts which are connected to the statewide central register of child abuse and maltreatment established and maintained pursuant to section four hundred twenty-two of the social services law, as a means of providing courts with information regarding parties requesting orders of custody or visitation. Such commissioner shall make a preliminary report to the governor and the legislature of findings, conclusions and recommendations not later than January first, two thousand nine, and a final report of findings, conclusions and recommendations not later than June first, two thousand nine, and shall submit with the reports such legislative proposals as are deemed necessary to implement the commissioner's recommendations.

S 2. Subdivision (e) of section 651 of the family court act, as added by chapter 595 of the laws of 2008, is amended to read as follows:

(e) 1. Permanent[, temporary or successive] AND INITIAL temporary orders of custody or visitation. Prior to the issuance of any permanent[, temporary] or [successive] INITIAL temporary order of custody or visitation [where more than one month has passed since the issuance of the previous temporary order], the court shall conduct a review of THE DECISIONS AND REPORTS LISTED IN PARAGRAPH THREE OF THIS SUBDIVISION.

2. SUCCESSIVE TEMPORARY ORDERS OF CUSTODY OR VISITATION. PRIOR TO THE ISSUANCE OF ANY SUCCESSIVE TEMPORARY ORDER OF CUSTODY OR VISITATION, THE COURT SHALL CONDUCT A REVIEW OF THE DECISIONS AND REPORTS LISTED IN PARAGRAPH THREE OF THIS SUBDIVISION, UNLESS SUCH A REVIEW HAS BEEN CONDUCTED WITHIN NINETY DAYS PRIOR TO THE ISSUANCE OF SUCH ORDER.

3. DECISIONS AND REPORTS FOR REVIEW. THE COURT SHALL CONDUCT A REVIEW OF the following:

(i) related decisions in court proceedings initiated pursuant to article ten of this act, AND ALL WARRANTS ISSUED UNDER THIS ACT; and

(ii) reports of the statewide computerized registry of orders of protection [and warrants of arrest] established and maintained pursuant to section two hundred twenty-one-a of the executive law, and reports of the sex offender registry established and maintained pursuant to section one hundred sixty-eight-b of the correction law.

[2.] 4. Notifying counsel and issuing orders. Upon consideration of decisions pursuant to article ten of this act, and registry reports and notifying counsel involved in the proceeding, or in the event of a SELF-REPRESENTED party [appearing pro se], notifying such party of the results thereof, including any court appointed [law guardian] ATTORNEY FOR CHILDREN, the court may issue a temporary, successive temporary or final order of custody or visitation.

[3.] 5. Temporary emergency order. Notwithstanding any other provision of the law, upon emergency situations, INCLUDING COMPUTER MALFUNCTIONS, to serve the best interest of the child, the court may issue a temporary emergency order for custody or visitation in the event that it is not possible to timely review decisions and reports on registries as required pursuant to [subparagraphs (i) and (ii) of] paragraph [one] THREE of this subdivision.

[4.] 6. After issuing a temporary emergency order. After issuing a temporary emergency order of custody or visitation, the court shall conduct reviews of the decisions and reports on registries as required pursuant to [subparagraphs (i) and (ii) of] paragraph [one] THREE of this subdivision within twenty-four hours of the issuance of such temporary emergency order. SHOULD SUCH TWENTY-FOUR HOUR PERIOD FALL ON A DAY WHEN COURT IS NOT IN SESSION, THEN THE REQUIRED REVIEWS SHALL TAKE PLACE THE NEXT DAY THE COURT IS IN SESSION. Upon reviewing decisions and reports the court shall notify associated counsel, SELF-REPRESENTED PARTIES AND ATTORNEYS FOR CHILDREN pursuant to paragraph [two] FOUR of this subdivision and may issue temporary or permanent custody or visitation orders.

[5.] 7. Feasibility study. The commissioner of the office of children and family services, in conjunction with the office of court administration, is hereby authorized and directed to examine, study, evaluate and make recommendations concerning the feasibility of the utilization of computers in family courts which are connected to the statewide central register of child abuse and maltreatment established and maintained pursuant to section four hundred twenty-two of the social services law, as a means of providing family courts with information regarding parties requesting orders of custody or visitation. Such commissioner shall make a preliminary report to the governor and the legislature of findings, conclusions and recommendations not later than January thirty-first, two thousand nine, and a final report of findings, conclusions and recommendations not later than June first, two thousand nine, and shall submit with the reports such legislative proposals as are deemed necessary to implement the commissioner's recommendations.

S 3. This act shall take effect immediately.