

5697

2009-2010 Regular Sessions

I N S E N A T E

May 28, 2009

Introduced by Sen. SAMPSON -- 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 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:

- 1 Section 1. Paragraph (a-1) of subdivision 1 of section 240 of the
2 domestic relations law, as added by chapter 595 of the laws of 2008, is
3 amended to read as follows:
4 (a-1)(1) Permanent[, temporary or successive] AND INITIAL temporary
5 orders of custody or visitation. Prior to the issuance of any perma-
6 nent[, temporary] or [successive] INITIAL temporary order of custody or
7 visitation [where more than one month has passed since the issuance of
8 the previous temporary order], the court shall conduct a review of THE
9 DECISIONS AND REPORTS LISTED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH.
10 (2) SUCCESSIVE TEMPORARY ORDERS OF CUSTODY OR VISITATION. PRIOR TO THE
11 ISSUANCE OF ANY SUCCESSIVE TEMPORARY ORDER OF CUSTODY OR VISITATION, THE
12 COURT SHALL CONDUCT A REVIEW OF THE DECISIONS AND REPORTS LISTED IN
13 SUBPARAGRAPH THREE OF THIS PARAGRAPH, UNLESS SUCH A REVIEW HAS BEEN
14 CONDUCTED WITHIN NINETY DAYS PRIOR TO THE ISSUANCE OF SUCH ORDER.
15 (3) DECISIONS AND REPORTS FOR REVIEW. THE COURT SHALL CONDUCT A REVIEW
16 OF the following:
17 (i) related decisions in court proceedings initiated pursuant to arti-
18 cle ten of the family court act, AND ALL WARRANTS ISSUED UNDER THE FAMI-
19 LY COURT ACT; and
20 (ii) reports of the statewide computerized registry of orders of
21 protection [and warrants of arrest] established and maintained pursuant
22 to section two hundred twenty-one-a of the executive law, and reports of

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

LBD11835-01-9

1 the sex offender registry established and maintained pursuant to section
2 one hundred sixty-eight-b of the correction law.

3 [(2)] (4) Notifying counsel and issuing orders. Upon consideration of
4 decisions pursuant to article ten of the family court act, and registry
5 reports and notifying counsel involved in the proceeding, or in the
6 event of a SELF-REPRESENTED party [appearing pro se], notifying such
7 party of the results thereof, including any court appointed [law guardi-
8 an] ATTORNEY FOR CHILDREN, the court may issue a temporary, successive
9 temporary or final order of custody or visitation.

10 [(3)] (5) Temporary emergency order. Notwithstanding any other
11 provision of the law, upon emergency situations, INCLUDING COMPUTER
12 MALFUNCTIONS, to serve the best interest of the child, the court may
13 issue a temporary emergency order for custody or visitation in the event
14 that it is not possible to timely review decisions and reports on regis-
15 tries as required pursuant to [items (i) and (ii) of] subparagraph [one]
16 THREE of this paragraph.

17 [(4)] (6) After issuing a temporary emergency order. After issuing a
18 temporary emergency order of custody or visitation, the court shall
19 conduct reviews of the decisions and reports on registries as required
20 pursuant to [items (i) and (ii) of] subparagraph [one] THREE of this
21 paragraph within twenty-four hours of the issuance of such temporary
22 emergency order. SHOULD SUCH TWENTY-FOUR HOUR PERIOD FALL ON A DAY WHEN
23 COURT IS NOT IN SESSION, THEN THE REQUIRED REVIEWS SHALL TAKE PLACE THE
24 NEXT DAY THE COURT IS IN SESSION. Upon reviewing decisions and reports
25 the court shall notify associated counsel, SELF-REPRESENTED PARTIES AND
26 ATTORNEYS FOR CHILDREN pursuant to subparagraph [two] FOUR of this para-
27 graph and may issue temporary or permanent custody or visitation orders.

28 [(5)] (7) Feasibility study. The commissioner of the office of chil-
29 dren and family services, in conjunction with the office of court admin-
30 istration, is hereby authorized and directed to examine, study, evaluate
31 and make recommendations concerning the feasibility of the utilization
32 of computers in courts which are connected to the statewide central
33 register of child abuse and maltreatment established and maintained
34 pursuant to section four hundred twenty-two of the social services law,
35 as a means of providing courts with information regarding parties
36 requesting orders of custody or visitation. Such commissioner shall make
37 a preliminary report to the governor and the legislature of findings,
38 conclusions and recommendations not later than January first, two thou-
39 sand nine, and a final report of findings, conclusions and recommenda-
40 tions not later than June first, two thousand nine, and shall submit
41 with the reports such legislative proposals as are deemed necessary to
42 implement the commissioner's recommendations.

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

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

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

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

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

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

10 [2.] 4. Notifying counsel and issuing orders. Upon consideration of
11 decisions pursuant to article ten of this act, and registry reports and
12 notifying counsel involved in the proceeding, or in the event of a
13 SELF-REPRESENTED party [appearing pro se], notifying such party of the
14 results thereof, including any court appointed [law guardian] ATTORNEY
15 FOR CHILDREN, the court may issue a temporary, successive temporary or
16 final order of custody or visitation.

17 [3.] 5. Temporary emergency order. Notwithstanding any other provision
18 of the law, upon emergency situations, INCLUDING COMPUTER MALFUNCTIONS,
19 to serve the best interest of the child, the court may issue a temporary
20 emergency order for custody or visitation in the event that it is not
21 possible to timely review decisions and reports on registries as
22 required pursuant to [subparagraphs (i) and (ii) of] paragraph [one]
23 THREE of this subdivision.

24 [4.] 6. After issuing a temporary emergency order. After issuing a
25 temporary emergency order of custody or visitation, the court shall
26 conduct reviews of the decisions and reports on registries as required
27 pursuant to [subparagraphs (i) and (ii) of] paragraph [one] THREE of
28 this subdivision within twenty-four hours of the issuance of such tempo-
29 rary emergency order. SHOULD SUCH TWENTY-FOUR HOUR PERIOD FALL ON A DAY
30 WHEN COURT IS NOT IN SESSION, THEN THE REQUIRED REVIEWS SHALL TAKE PLACE
31 THE NEXT DAY THE COURT IS IN SESSION. Upon reviewing decisions and
32 reports the court shall notify associated counsel, SELF-REPRESENTED
33 PARTIES AND ATTORNEYS FOR CHILDREN pursuant to paragraph [two] FOUR of
34 this subdivision and may issue temporary or permanent custody or visita-
35 tion orders.

36 [5.] 7. Feasibility study. The commissioner of the office of children
37 and family services, in conjunction with the office of court adminis-
38 tration, is hereby authorized and directed to examine, study, evaluate
39 and make recommendations concerning the feasibility of the utilization
40 of computers in family courts which are connected to the statewide
41 central register of child abuse and maltreatment established and main-
42 tained pursuant to section four hundred twenty-two of the social
43 services law, as a means of providing family courts with information
44 regarding parties requesting orders of custody or visitation. Such
45 commissioner shall make a preliminary report to the governor and the
46 legislature of findings, conclusions and recommendations not later than
47 January thirty-first, two thousand nine, and a final report of findings,
48 conclusions and recommendations not later than June first, two thousand
49 nine, and shall submit with the reports such legislative proposals as
50 are deemed necessary to implement the commissioner's recommendations.

51 S 3. This act shall take effect immediately.