

3547

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. GABRYSZAK, GALEF, PAULIN -- Multi-Sponsored by --
M. of A. BING, HIKIND, McDONOUGH, ROBINSON, TOWNS, WRIGHT -- read once
and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the use of expert
witness testimony in child custody and visitation hearings

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

1 Section 1. The family court act is amended by adding a new section
2 624-a to read as follows:

3 S 624-A. USE OF EXPERT WITNESS TESTIMONY. 1. FOR PURPOSES OF THIS
4 ARTICLE, WHENEVER AN EXPERT WITNESS WILL BE CALLED UPON TO TESTIFY ABOUT
5 HIS OR HER FINDINGS REGARDING AN ISSUE BEFORE THE COURT, SUCH EXPERT
6 WITNESS OR THE PARTY FOR WHOM THE EXPERT WITNESS IS TESTIFYING SHALL
7 FILE A WRITTEN REPORT WITH THE COURT CONTAINING THE FINDINGS OF THE
8 EXPERT. THE REPORT MUST INCLUDE ALL RAW DATA COLLECTED AND/OR USED BY
9 THE EXPERT IN REACHING HIS OR HER CONCLUSIONS.

10 2. COPIES OF THE REPORT AND RAW DATA SHALL, PRIOR TO THIRTY DAYS
11 BEFORE THE EXPERT WITNESS IS EXPECTED TO TESTIFY, BE FORWARDED BY THE
12 EXPERT WITNESS OR PARTY FOR WHOM THE EXPERT WITNESS IS TESTIFYING TO
13 EACH PARTY OF THE ACTION AND TO ANY OTHER PERSON DEEMED NECESSARY BY THE
14 COURT.

15 3. THE REPORT SHALL BE FILED NO LATER THAN THIRTY DAYS PRIOR TO THE
16 DATE THAT SUCH EXPERT IS EXPECTED TO TESTIFY.

17 4. THE COURT IN WHICH THE EXPERT IS EXPECTED TO TESTIFY MAY WAIVE ANY
18 OR ALL OF THE PROVISIONS OF THIS SECTION, UPON A FINDING THAT COMPLIANCE
19 WITH THIS SECTION WOULD BE IMPRACTICABLE BASED ON THE FACTS AND CIRCUM-
20 STANCES OF THE MATTER BEFORE THE COURT.

21 5. THE PROVISIONS OF THIS SECTION SHALL APPLY TO AN EXPERT WITNESS WHO
22 IS CALLED AS A REBUTTAL WITNESS TO REBUT THE FINDINGS AND CONCLUSIONS OF
23 THE INITIAL EXPERT WITNESS, UNLESS THE COURT DETERMINES THAT COMPLIANCE
24 WOULD BE IMPRACTICABLE BASED ON THE FACTS AND CIRCUMSTANCES PRESENTED.

25 S 2. This act shall take effect on the one hundred twentieth day after
26 it shall have become a law.

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

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