

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

1749--A

2011-2012 Regular Sessions

I N S E N A T E

January 12, 2011

Introduced by Sens. GOLDEN, DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law and the domestic relations law, in relation to the notification of certain relatives prior to the placement of children

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

1 Section 1. Section 202 of the elder law is amended by adding a new
2 subdivision 16 to read as follows:
3 16. TO MONITOR KINSHIP PLACEMENTS PURSUANT TO SECTION SEVENTY-TWO OF
4 THE DOMESTIC RELATIONS LAW AND REPORT TO THE LEGISLATURE AND THE GOVERNOR ON RECOMMENDATIONS FOR IMPROVING OR MODIFYING SUCH PLACEMENT PROCEDURES.
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6 S 2. Subdivision 2 of section 72 of the domestic relations law, as
7 added by chapter 657 of the laws of 2003, is amended to read as follows:
8 2. (a) Where a grandparent or the grandparents of a minor child,
9 residing within this state, OR THE RELATIVE OF THE PARENT OF A MINOR
10 CHILD WHO IS RELATED TO SUCH PARENT WITHIN THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY AND WHO IS RESIDING IN THIS STATE, can demonstrate
11 to the satisfaction of the court the existence of extraordinary circumstances, such grandparent or grandparents OR RELATIVE of such child may
12 apply to the supreme court by commencing a special proceeding or for a writ of habeas corpus to have such child brought before such court, or
13 may apply to family court pursuant to subdivision (b) of section six hundred fifty-one OR SECTION SIX HUNDRED SIXTY-ONE of the family court
14 act; and on the return thereof, the court, by order, after due notice to
15 the parent or any other person or party having the care, custody, and
16 control of such child, to be given in such manner as the court shall
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 prescribe, may make such directions as the best interests of the child
2 may require, for custody rights for such grandparent or grandparents OR
3 RELATIVE in respect to such child. An extended disruption of custody, as
4 such term is defined in this section, shall constitute an extraordinary
5 circumstance.

6 (b) For the purposes of this section "extended disruption of custody"
7 shall include, but not be limited to, a prolonged separation of the
8 respondent parent and the child for at least twenty-four continuous
9 months, during which TIME the parent voluntarily relinquished care and
10 control of the child and the child resided in the household of the peti-
11 tioner grandparent or grandparents OR RELATIVE, provided, however, that
12 the court may find that extraordinary circumstances exist should the
13 prolonged separation have lasted for less than twenty-four months.

14 (c) Nothing in this section shall limit the ability of parties to
15 enter into consensual custody agreements absent the existence of
16 extraordinary circumstances.

17 S 3. This act shall take effect immediately.