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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

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

S 2. This act shall take effect on the one hundred twentieth day after 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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