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

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I N A S S E M B L Y

April 19, 2012

Introduced by M. of A. JORDAN -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to habeas corpus for a child detained by a parent

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

Section 1. Subdivision (a) of section 70 of the domestic relations law, as amended by chapter 457 of the laws of 1988, is amended to read as follows:

(a) Where a minor child is residing within this state, either parent may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court, on due consideration, [may] SHALL award the natural guardianship, charge and custody of such child to [either parent] BOTH PARENTS, IN THE ABSENCE OF AN ALLEGATION, OR OTHER SATISFACTORY EVIDENCE, THAT SUCH SHARED PARENTING WOULD BE DETRIMENTAL TO SUCH CHILD, for such time, under such regulations and restrictions, and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order. In all cases there shall be no prima facie right to the custody of the child in either parent, but the court shall determine solely what is for the best interest of the child, and what will best promote its welfare and happiness, and make award accordingly.

S 2. This act shall take effect immediately.

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

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