

6457

2013-2014 Regular Sessions

I N A S S E M B L Y

April 1, 2013

Introduced by M. of A. KOLB, CROUCH, FINCH, MONTESANO -- Multi-Sponsored
by -- M. of A. GIGLIO, HAWLEY, JORDAN -- read once and referred to
the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to establishing a presumption of shared parenting of minor children in matrimonial proceedings; to amend the domestic relations law, the social services law and the family court act, in relation to changing the denotation of visitation to parenting time; to amend the domestic relations law, in relation to matrimonial actions involving custody of children; and in relation to the obligations of child support; to amend the social services law, in relation to audits of support collection fiscal agents; to amend the family court act, in relation to opening all family court proceedings to the public; to amend the family court act, in relation to the review of evidence; to amend the family court act, in relation to DNA evidence when question of paternity; to amend the domestic relations law, in relation to parental access to information; and to amend the family court act and the social services law, in relation to the payment of child support

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

1 Section 1. Legislative findings and intent. The legislature hereby
2 finds that, in cases of child custody, the court's paramount concern is
3 always the best interests of the child. Shared parenting, where both
4 parents share as equally as possible in the legal responsibility, living
5 experience, and physical care of the child, has been found to be in the
6 child's best interests in certain circumstances. Where the relationship
7 between the parent and child is free from domestic violence, abuse,
8 neglect and other harmful circumstances, shared parenting is beneficial
9 to both parent and child. This legislation seeks to encourage courts and
10 interested parties to work towards the goal of shared parenting whenever
11 practical and when in the best interests of the child.

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

LBD09120-02-3

1 S 2. Short title. This act shall be known and may be cited as the
2 "family court reform act of 2013".

3 S 3. The domestic relations law is amended by adding a new section
4 240-d to read as follows:

5 S 240-D. CUSTODY OF CHILDREN. 1. WHERE THE COURT CONSIDERS AWARDING
6 SHARED PARENTING PURSUANT TO THE PROVISIONS OF THIS SECTION "SHARED
7 PARENTING" SHALL MEAN AN ORDER AWARDING CUSTODY OF THE CHILD TO BOTH
8 PARTIES SO THAT BOTH PARTIES SHARE EQUALLY THE LEGAL RESPONSIBILITY AND
9 CONTROL OF SUCH CHILD AND SHARE EQUALLY THE LIVING EXPERIENCE IN TIME
10 AND PHYSICAL CARE TO ASSURE FREQUENT AND CONTINUING CONTACT WITH BOTH
11 PARTIES, AS THE COURT DEEMS TO BE IN THE BEST INTERESTS OF THE CHILD,
12 TAKING INTO CONSIDERATION THE LOCATION AND CIRCUMSTANCES OF EACH PARTY.
13 THE TERM "SHARED PARENTING" WILL BE CONSIDERED INTERCHANGEABLE WITH
14 "NEARLY EQUAL SHARED PARENTING". AN AWARD OF JOINT PHYSICAL AND LEGAL
15 CUSTODY OBLIGATES THE PARTIES TO EXCHANGE INFORMATION CONCERNING THE
16 HEALTH, EDUCATION AND WELFARE OF THE MINOR CHILD, AND UNLESS ALLOCATED,
17 APPORTIONED, OR DECREED, THE PARENTS OR PARTIES SHALL CONFER WITH ONE
18 ANOTHER IN THE EXERCISE OF DECISION-MAKING RIGHTS, RESPONSIBILITIES AND
19 AUTHORITY.

20 1-A. (A) UPON THE INITIAL APPEARANCE IN COURT IN AN ACTION FOR
21 DIVORCE, NULLITY OR SEPARATE MAINTENANCE WHERE CUSTODY, VISITATION OR
22 SUPPORT OF A MINOR CHILD IS AT ISSUE, AND WHERE BOTH PARTIES AGREE TO
23 SHARED PARENTING, THE COURT SHALL APPOINT AN INDEPENDENT EVALUATOR WITH
24 EXPERTISE IN THE FIELD, INCLUDING BUT NOT LIMITED TO, CHILD PSYCHOLOGY,
25 DOMESTIC VIOLENCE COUNSELING, ETC., TO INVESTIGATE THE FAMILY DYNAMIC
26 AND INTERVIEW THE PARENTS, CHILDREN AND OTHER INTERESTED PARTIES,
27 INCLUDING BUT NOT LIMITED TO, FAMILY MEMBERS, FRIENDS AND CO-WORKERS.
28 THE INDEPENDENT EVALUATOR'S GOAL IS TO DETERMINE WHETHER SHARED PARENT-
29 ING IS IN THE BEST INTERESTS OF THE CHILD AND TO ENSURE THAT DOMESTIC
30 VIOLENCE AND/OR ANY OTHER TYPE OF ABUSE, REPORTED OR UNREPORTED BY THE
31 VICTIM OR BY AN APPROPRIATE FEDERAL, STATE OR MUNICIPAL AGENCY, IS NOT
32 PRESENT IN THE HOUSEHOLD SETTING. THE COURT SHALL UTILIZE THE INDEPEND-
33 ENT EVALUATOR'S ANALYSIS AND REPORT, ALONG WITH OTHER SUPPORTING DOCU-
34 MENTS PROVIDED BY THE PARTIES, TO DETERMINE THE BEST INTERESTS OF THE
35 CHILD AND TO AWARD CUSTODY BASED ON THAT DETERMINATION.

36 (B) THE COURT SHALL DETERMINE EACH PARTY'S ABILITY TO PAY THE COST
37 RELATED TO THE EVALUATION. ANY COST ABOVE AND BEYOND THE PARENTS' ABILI-
38 TY TO PAY SHALL BE INCURRED BY THE COUNTY.

39 (C) IF EITHER PARENT HAS BEEN CONVICTED OF ABUSE, INCLUDING BUT NOT
40 LIMITED TO, DOMESTIC VIOLENCE AND SEXUAL ABUSE AGAINST EITHER THE OTHER
41 PARENT AND/OR THE CHILD, SHARED PARENTING SHALL NOT BE A CUSTODIAL
42 OPTION. IF EITHER PARENT ACCUSES THE OTHER PARENT OF DOMESTIC VIOLENCE,
43 SEXUAL ABUSE, ETC., AGAINST HIM OR HERSELF, AND/OR THE CHILD, THE COURT
44 SHALL SUSPEND ITS DETERMINATION AS TO WHETHER OR NOT SHARED PARENTING IS
45 IN THE BEST INTERESTS OF THE CHILD, UNTIL THE ACCUSATION HAS BEEN INVES-
46 TIGATED AND A DETERMINATION HAS BEEN MADE BY LAW ENFORCEMENT OR APPRO-
47 PRIATE FEDERAL, STATE OR MUNICIPAL AGENCIES. IF SUCH AGENCIES DETERMINE
48 THAT THE ABUSE OCCURRED, SHARED PARENTING SHALL NOT BE A CUSTODIAL
49 OPTION. IF SUCH AGENCY FINDS THAT ABUSE WAS NOT PRESENT, THE COURT SHALL
50 RESUME ITS DETERMINATION AS TO WHETHER OR NOT SHARED PARENTING IS IN THE
51 BEST INTERESTS OF THE CHILD. SHOULD SUCH ALLEGATIONS BE PROVEN FALSE AND
52 THE COURT DETERMINED UPON MOTION BY THE ACCUSED PARTY THAT SUCH ALLEGA-
53 TIONS WERE MADE MALICIOUSLY AND IN BAD FAITH, THE COURT SHALL HAVE THE
54 AUTHORITY TO SANCTION THE ACCUSING PARTY PURSUANT TO THE POWERS GRANTED
55 TO THE COURT PURSUANT TO SECTION TWO HUNDRED FORTY OF THIS ARTICLE.

1 2. FOR THE PURPOSES OF THIS ARTICLE A "PARENTING PLAN" SHALL BE
2 REQUIRED TO BE SUBMITTED TO THE COURT IF THE COURT AWARDS SHARED PARENT-
3 ING.

4 EACH PARENT MUST AGREE TO A PARENTING PLAN DURING MEDIATION. THE
5 PARENTING PLAN WOULD PROVIDE FOR THE MINOR CHILDREN'S PHYSICAL CARE,
6 MAINTAIN THE MINOR CHILDREN'S EMOTIONAL STABILITY, AND PROVIDE FOR THE
7 MINOR CHILDREN'S CHANGING NEEDS AS HE OR SHE DEVELOPS, IN A MANNER WHICH
8 MINIMIZES THE NEED FOR FUTURE MODIFICATIONS TO THE PLAN. THE PARTIES
9 WOULD BE ENCOURAGED TO FULFILL THEIR PARENTING RESPONSIBILITIES THROUGH
10 AGREEMENTS IN THE PARENTING PLAN RATHER THAN BY RELYING ON JUDICIAL
11 INTERVENTION.

12 THE PLAN SHALL DETERMINE PROCEDURES FOR THE DAY TO DAY CARE OF THE
13 MINOR CHILD AND PROCEDURES FOR TRANSPORTING THE MINOR CHILD FROM ONE
14 PARENT TO THE OTHER PARENT AT THE START AND CONCLUSION OF PARENTING
15 TIME. THE PLAN SHALL INCLUDE TIME SPENT WITH EACH PARENT ON A WEEKLY
16 BASIS, SPECIAL OCCASIONS, INCLUDING BIRTHDAYS, RELIGIOUS AND SECULAR
17 HOLIDAYS AND VACATIONS. THE PLAN SHALL ALSO SPECIFY HOW MAJOR DECISIONS
18 REGARDING THE MINOR CHILD'S HEALTH CARE, EDUCATION, AND RELIGIOUS
19 UPBRINGING WILL BE MADE. THOSE ITEMS THAT REMAIN UNRESOLVED WILL GO
20 BEFORE THE JUDGE FOR DETERMINATION. THE JUDGE SHALL RELY, IN PART, ON
21 THE TESTIMONY OF THE MEDIATION COUNSELOR IN ALL UNRESOLVED ISSUES.
22 OTHER ISSUES, INCLUDING BUT NOT LIMITED TO PROPERTY DIVISION, FINANCIAL
23 ISSUES AND CHILD SUPPORT SHALL NOT BE ADDRESSED IN THIS PLAN.

24 THE COURT SHALL HAVE FINAL APPROVAL OVER SUCH PLAN AND MAY MODIFY,
25 SUSPEND OR NULLIFY THE PLAN AT ITS DISCRETION. THE COURT SHALL HAVE ONE
26 YEAR TO REVIEW THE PARENTING PLAN TO DETERMINE WHETHER SUCH PLAN IS
27 BEING FOLLOWED AND CONTINUES TO BE IN THE BEST INTERESTS OF THE CHILD.
28 AT SUCH TIME, THE COURT SHALL RETAIN THE POWER TO MODIFY, SUSPEND OR
29 NULLIFY THE PLAN BASED ON ITS FINDINGS.

30 S 4. The domestic relations law is amended by adding a new section
31 240-e to read as follows:

32 S 240-E. PARTIES IN DISAGREEMENT OVER SHARED PARENTING. 1. IF THE
33 PARTIES ARE SEEKING A CUSTODY ARRANGEMENT OTHER THAN SHARED PARENTING OR
34 WHERE ONE PARENT OBJECTS TO AN AWARD OF SHARED PARENTING, THE COURT MUST
35 DETERMINE WHAT CUSTODY ARRANGEMENT IS IN THE BEST INTERESTS OF THE
36 CHILD. IF ONE PARTY IS SEEKING SHARED PARENTING AND THE OTHER PARTY IS
37 SEEKING SOLE CUSTODY, BOTH PARTIES SHALL BEAR THE BURDEN OF PROOF THAT
38 THEIR REQUESTED ARRANGEMENT IS IN THE BEST INTERESTS OF THE CHILD
39 THROUGH THE INTRODUCTION OF TESTIMONY AND SUPPORTING DOCUMENTS, ETC. TO
40 THE COURT.

41 2. THE COURT SHALL DETERMINE EACH PARTY'S ABILITY TO PAY THE COST
42 RELATED TO THE EVALUATION. ANY COST ABOVE AND BEYOND THE PARENTS' ABIL-
43 ITY TO PAY SHALL BE INCURRED BY THE COUNTY.

44 3. THE COURT SHALL APPOINT AN INDEPENDENT EVALUATOR WITH EXPERTISE IN,
45 BUT NOT LIMITED TO, CHILD PSYCHOLOGY, DOMESTIC VIOLENCE COUNSELING, ETC.
46 TO INVESTIGATE THE FAMILY DYNAMIC AND INTERVIEW THE PARENTS, CHILDREN
47 AND OTHER INTERESTED PARTIES, INCLUDING BUT NOT LIMITED TO, FAMILY
48 MEMBERS, FRIENDS AND CO-WORKERS. THE INDEPENDENT EVALUATOR'S GOAL IS TO
49 DETERMINE WHAT CUSTODY ARRANGEMENT IS IN THE BEST INTERESTS OF THE CHILD
50 AND TO ENSURE THAT DOMESTIC VIOLENCE AND/OR ANY OTHER TYPE OF ABUSE,
51 REPORTED OR UNREPORTED BY THE VICTIM OR BY AN APPROPRIATE FEDERAL, STATE
52 OR MUNICIPAL AGENCY, IS NOT PRESENT IN THE HOUSEHOLD SETTING. THE COURT
53 SHALL UTILIZE THE INDEPENDENT EVALUATOR'S ANALYSIS AND REPORT, ALONG
54 WITH OTHER SUPPORTING DOCUMENTS PROVIDED BY THE PARTIES, TO DETERMINE
55 THE BEST INTERESTS OF THE CHILD AND TO AWARD CUSTODY BASED ON THAT
56 DETERMINATION. IF ONE PARTY SOUGHT SHARED PARENTING, AND THE COURT FOUND

1 THAT SUCH AN AWARD WOULD NOT BE IN THE BEST INTERESTS OF THE CHILD, THE
2 COURT MUST STATE ITS REASONING BEHIND SUCH DETERMINATION IN THE ORDER
3 SETTING OUT THE CUSTODY AWARD.

4 4. THE COURT, IN ITS DISCRETION, MAY REQUIRE THE PARENT WHO WAS NOT
5 AWARDED SHARED PARENTING TO FULFILL CERTAIN CONDITIONS, INCLUDING BUT
6 NOT LIMITED TO, PARENTING CLASSES, GENERAL COUNSELING, ANGER MANAGEMENT
7 CLASSES, AND SUBSTANCE ABUSE COUNSELING, AND SHALL LIST SUCH CONDITIONS
8 ON THE CUSTODY ORDER.

9 5. UPON THE NON-CUSTODIAL PARENT'S MOTION, THE COURT SHALL, ONE YEAR
10 FOLLOWING THE INITIAL AWARD OF CUSTODY, REVISIT ITS FINDINGS AND MAKE A
11 SUBSEQUENT DETERMINATION WHETHER OR NOT SHARED PARENTING IS IN THE BEST
12 INTERESTS OF THE CHILD. SUCH REVIEW IS CONTINGENT ON THE NON-CUSTODIAL
13 PARENT'S COMPLETION OF THE CONDITIONS SET FORTH IN THE CUSTODY ORDER.

14 S 5. Subdivision (b) of section 70 of the domestic relations law, as
15 added by chapter 457 of the laws of 1988, is amended to read as follows:

16 (b) Any order under this section which applies to rights of visitation
17 OR PARENTING TIME with a child remanded or placed in the care of a
18 person, official, agency or institution pursuant to article ten of the
19 family court act or pursuant to an instrument approved under section
20 three hundred fifty-eight-a of the social services law, shall be
21 enforceable pursuant to the provisions of part eight of article ten of
22 [such] THE FAMILY COURT act, sections three hundred fifty-eight-a and
23 three hundred eighty-four-a of the social services law and other appli-
24 cable provisions of law against any person or official having care and
25 custody, or temporary care and custody, of such child.

26 S 6. Subdivision 1 of section 235 of the domestic relations law, as
27 amended by chapter 122 of the laws of 1979, is amended to read as
28 follows:

29 1. An officer of the court with whom the proceedings in a matrimonial
30 action or a written agreement of separation or an action or proceeding
31 for custody, visitation, PARENTING TIME or maintenance of a child are
32 filed, or before whom the testimony is taken, or his clerk, either
33 before or after the termination of the suit, shall not permit a copy of
34 any of the pleadings, affidavits, findings of fact, conclusions of law,
35 judgment of dissolution, written agreement of separation or memorandum
36 thereof, or testimony, or any examination or perusal thereof, to be
37 taken by any other person than a party, or the attorney or counsel of a
38 party, except by order of the court.

39 S 7. Subdivision (b) of section 237 of the domestic relations law, as
40 amended by chapter 329 of the laws of 2010, is amended to read as
41 follows:

42 (b) Upon any application to enforce, annul or modify an order or judg-
43 ment for alimony, maintenance, distributive award, distribution of mari-
44 tal property or for custody, [visitation] PARENTING TIME, or maintenance
45 of a child, made as in section two hundred thirty-six or section two
46 hundred forty of this article provided, or upon any application by writ
47 of habeas corpus or by petition and order to show cause concerning
48 custody, [visitation] PARENTING TIME or maintenance of a child, the
49 court may direct a spouse or parent to pay counsel fees and fees and
50 expenses of experts directly to the attorney of the other spouse or
51 parent to enable the other party to carry on or defend the application
52 or proceeding by the other spouse or parent as, in the court's
53 discretion, justice requires, having regard to the circumstances of the
54 case and of the respective parties. There shall be a rebuttable presump-
55 tion that counsel fees shall be awarded to the less monied spouse. In
56 exercising the court's discretion, the court shall seek to assure that

1 each party shall be adequately represented and that where fees and
2 expenses are to be awarded, they shall be awarded on a timely basis,
3 pendente lite, so as to enable adequate representation from the
4 commencement of the proceeding. Applications for the award of fees and
5 expenses may be made at any time or times prior to final judgment. Both
6 parties to the action or proceeding and their respective attorneys,
7 shall file an affidavit with the court detailing the financial agree-
8 ment, between the party and the attorney. Such affidavit shall include
9 the amount of any retainer, the amounts paid and still owing thereunder,
10 the hourly amount charged by the attorney, the amounts paid, or to be
11 paid, any experts, and any additional costs, disbursements or expenses.
12 Any applications for fees and expenses may be maintained by the attorney
13 for either spouse in counsel's own name in the same proceeding. Payment
14 of any retainer fees to the attorney for the petitioning party shall not
15 preclude any awards of fees and expenses to an applicant which would
16 otherwise be allowed under this section.

17 S 8. Subdivisions 1 and 1-a of section 240 of the domestic relations
18 law, subdivision 1 as amended by chapter 624 of the laws of 2002, para-
19 graph (a) of subdivision 1 as amended by chapter 476 of the laws of
20 2009, paragraph (a-1) of subdivision 1 as amended by chapter 295 of the
21 laws of 2009, paragraph (a-2) of subdivision 1 as added by chapter 473
22 of the laws of 2009, subparagraph 3 of paragraph (b) and paragraph (d)
23 of subdivision 1 as added and clause (iii) of subparagraph 2 of para-
24 graph (c) of subdivision 1 as amended by chapter 215 of the laws of
25 2009, and subdivision 1-a as amended by chapter 12 of the laws of 1996,
26 are amended to read as follows:

27 1. (a) In any action or proceeding brought (1) to annul a marriage or
28 to declare the nullity of a void marriage, or (2) for a separation, or
29 (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by
30 petition and order to show cause, the custody of or right to [visita-
31 tion] PARENTING TIME with any child of a marriage, the court shall
32 require verification of the status of any child of the marriage with
33 respect to such child's custody and support, including any prior orders,
34 and shall enter orders for custody and support as, in the court's
35 discretion, justice requires, having regard to the circumstances of the
36 case and of the respective parties and to the best interests of the
37 child and subject to the provisions of subdivision one-c of this
38 section. Where either party to an action concerning custody of or a
39 right to [visitation] PARENTING TIME with a child alleges in a sworn
40 petition or complaint or sworn answer, cross-petition, counterclaim or
41 other sworn responsive pleading that the other party has committed an
42 act of domestic violence against the party making the allegation or a
43 family or household member of either party, as such family or household
44 member is defined in article eight of the family court act, and such
45 allegations are proven by a preponderance of the evidence, the court
46 must consider the effect of such domestic violence upon the best inter-
47 ests of the child, together with such other facts and circumstances as
48 the court deems relevant in making a direction pursuant to this section
49 and state on the record how such findings, facts and circumstances
50 factored into the direction. HOWEVER, SHOULD SUCH ALLEGATIONS BE PROVEN
51 FALSE, THE COURT SHALL HAVE WITHIN ITS POWER THE AUTHORITY TO SANCTION
52 THE ACCUSING PARTY. THE SUBJECT OF AN UNFOUNDED REPORT OF DOMESTIC ABUSE
53 WHO BELIEVES THE REPORT WAS MADE MALICIOUSLY AND IN BAD FAITH MAY PRES-
54 ENT A WRITTEN REQUEST TO THE COURT FOR A DETERMINATION THAT THE REPORTER
55 ACTED MALICIOUSLY OR IN BAD FAITH AND MUST BE SANCTIONED. If a parent
56 makes a good faith allegation based on a reasonable belief supported by

1 facts that the child is the victim of child abuse, child neglect, or the
2 effects of domestic violence, and if that parent acts lawfully and in
3 good faith in response to that reasonable belief to protect the child or
4 seek treatment for the child, then that parent shall not be deprived of
5 custody, [visitation] PARENTING TIME or contact with the child, or
6 restricted in custody, [visitation] PARENTING TIME or contact, based
7 solely on that belief or the reasonable actions taken based on that
8 belief. If an allegation that a child is abused is supported by a
9 preponderance of the evidence, then the court shall consider such
10 evidence of abuse in determining the [visitation] PARENTING TIME
11 arrangement that is in the best interest of the child, and the court
12 shall not place a child in the custody of a parent who presents a
13 substantial risk of harm to that child, and shall state on the record
14 how such findings were factored into the determination. An order direct-
15 ing the payment of child support shall contain the social security
16 numbers of the named parties. [In all cases there shall be no prima
17 facie right to the custody of the child in either parent. Such direc-
18 tion] BEFORE THE COURT MAKES ANY ORDER AWARDING CUSTODY TO A PERSON OR
19 PERSONS OTHER THAN A PARENT WITHOUT CONSENT OF THE PARENTS, IT SHALL
20 MAKE A FINDING THAT AN AWARD OF CUSTODY TO A PARENT WOULD BE DETRIMENTAL
21 TO THE CHILD AND THE AWARD TO THE NONPARENT IS REQUIRED TO SERVE THE
22 BEST INTERESTS OF THE CHILD. ALLEGATIONS THAT PARENTAL CUSTODY WOULD BE
23 DETRIMENTAL TO THE CHILD, OTHER THAN A STATEMENT OF THE ULTIMATE FACT,
24 SHALL NOT APPEAR IN THE PLEADINGS. THE COURT MAY, IN ITS DISCRETION,
25 EXCLUDE THE PUBLIC FOR THE HEARING ON THIS ISSUE. THE COURT SHALL STATE
26 IN WRITING THE REASONS FOR ITS DECISION AND WHY THE AWARD MADE WAS FOUND
27 TO BE IN THE BEST INTEREST OF THE CHILD. ANY DIRECTION MADE PURSUANT TO
28 THIS SUBDIVISION shall make provision for child support out of the prop-
29 erty of [either or] both parents. The court shall make its award for
30 child support pursuant to subdivision one-b of this section. Such direc-
31 tion may provide for reasonable visitation rights to the maternal and/or
32 paternal grandparents of any child of the parties. Such direction as it
33 applies to rights of visitation OR PARENTING TIME with a child remanded
34 or placed in the care of a person, official, agency or institution
35 pursuant to article ten of the family court act, or pursuant to an
36 instrument approved under section three hundred fifty-eight-a of the
37 social services law, shall be enforceable pursuant to part eight of
38 article ten of the family court act and sections three hundred fifty-
39 eight-a and three hundred eighty-four-a of the social services law and
40 other applicable provisions of law against any person having care and
41 custody, or temporary care and custody, of the child. Notwithstanding
42 any other provision of law, any written application or motion to the
43 court for the establishment, modification or enforcement of a child
44 support obligation for persons not in receipt of public assistance and
45 care must contain either a request for child support enforcement
46 services which would authorize the collection of the support obligation
47 by the immediate issuance of an income execution for support enforcement
48 as provided for by this chapter, completed in the manner specified in
49 section one hundred eleven-g of the social services law; or a statement
50 that the applicant has applied for or is in receipt of such services; or
51 a statement that the applicant knows of the availability of such
52 services, has declined them at this time and where support enforcement
53 services pursuant to section one hundred eleven-g of the social services
54 law have been declined that the applicant understands that an income
55 deduction order may be issued pursuant to subdivision (c) of section
56 fifty-two hundred forty-two of the civil practice law and rules without

1 other child support enforcement services and that payment of an adminis-
2 trative fee may be required. The court shall provide a copy of any such
3 request for child support enforcement services to the support collection
4 unit of the appropriate social services district any time it directs
5 payments to be made to such support collection unit. Additionally, the
6 copy of any such request shall be accompanied by the name, address and
7 social security number of the parties; the date and place of the
8 parties' marriage; the name and date of birth of the child or children;
9 and the name and address of the employers and income payors of the party
10 from whom child support is sought or from the party ordered to pay child
11 support to the other party. Such direction may require the payment of a
12 sum or sums of money either directly to the custodial parent or to third
13 persons for goods or services furnished for such child, or for both
14 payments to the custodial parent and to such third persons; provided,
15 however, that unless the party seeking or receiving child support has
16 applied for or is receiving such services, the court shall not direct
17 such payments to be made to the support collection unit, as established
18 in section one hundred eleven-h of the social services law. Every order
19 directing the payment of support shall require that if either parent
20 currently, or at any time in the future, has health insurance benefits
21 available that may be extended or obtained to cover the child, such
22 parent is required to exercise the option of additional coverage in
23 favor of such child and execute and deliver to such person any forms,
24 notices, documents or instruments necessary to assure timely payment of
25 any health insurance claims for such child.

26 (a-1)(1) Permanent and initial temporary orders of custody or [visita-
27 tion] PARENTING TIME. Prior to the issuance of any permanent or initial
28 temporary order of custody or [visitation] PARENTING TIME, the court
29 shall conduct a review of the decisions and reports listed in subpara-
30 graph three of this paragraph.

31 (2) Successive temporary orders of custody or [visitation] PARENTING
32 TIME. Prior to the issuance of any successive temporary order of custody
33 or [visitation] PARENTING TIME, the court shall conduct a review of the
34 decisions and reports listed in subparagraph three of this paragraph,
35 unless such a review has been conducted within ninety days prior to the
36 issuance of such order.

37 (3) Decisions and reports for review. The court shall conduct a review
38 of the following:

39 (i) related decisions in court proceedings initiated pursuant to arti-
40 cle ten of the family court act, and all warrants issued under the fami-
41 ly court act; and

42 (ii) reports of the statewide computerized registry of orders of
43 protection established and maintained pursuant to section two hundred
44 twenty-one-a of the executive law, and reports of the sex offender
45 registry established and maintained pursuant to section one hundred
46 sixty-eight-b of the correction law.

47 (4) Notifying counsel and issuing orders. Upon consideration of deci-
48 sions pursuant to article ten of the family court act, and registry
49 reports and notifying counsel involved in the proceeding, or in the
50 event of a self-represented party, notifying such party of the results
51 thereof, including any court appointed attorney for children, the court
52 may issue a temporary, successive temporary or final order of custody or
53 [visitation] PARENTING TIME.

54 (5) Temporary emergency order. Notwithstanding any other provision of
55 the law, upon emergency situations, including computer malfunctions, to
56 serve the best interest of the child, the court may issue a temporary

1 emergency order for custody or [visitation] PARENTING TIME in the event
2 that it is not possible to timely review decisions and reports on regis-
3 tries as required pursuant to subparagraph three of this paragraph.

4 (6) After issuing a temporary emergency order. After issuing a tempo-
5 rary emergency order of custody or [visitation] PARENTING TIME, the
6 court shall conduct reviews of the decisions and reports on registries
7 as required pursuant to subparagraph three of this paragraph within
8 twenty-four hours of the issuance of such temporary emergency order.
9 Should such twenty-four hour period fall on a day when court is not in
10 session, then the required reviews shall take place the next day the
11 court is in session. Upon reviewing decisions and reports the court
12 shall notify associated counsel, self-represented parties and attorneys
13 for children pursuant to subparagraph four of this paragraph and may
14 issue temporary or permanent custody or [visitation] PARENTING TIME
15 orders.

16 (7) Feasibility study. The commissioner of the office of children and
17 family services, in conjunction with the office of court administration,
18 is hereby authorized and directed to examine, study, evaluate and make
19 recommendations concerning the feasibility of the utilization of comput-
20 ers in courts which are connected to the statewide central register of
21 child abuse and maltreatment established and maintained pursuant to
22 section four hundred twenty-two of the social services law, as a means
23 of providing courts with information regarding parties requesting orders
24 of custody or [visitation] PARENTING TIME. Such commissioner shall make
25 a preliminary report to the governor and the legislature of findings,
26 conclusions and recommendations not later than January first, two thou-
27 sand nine, and a final report of findings, conclusions and recommenda-
28 tions not later than June first, two thousand nine, and shall submit
29 with the reports such legislative proposals as are deemed necessary to
30 implement the commissioner's recommendations.

31 (a-2) Military service by parent; effect on child custody orders. (1)
32 During the period of time that a parent is activated, deployed or tempo-
33 rarily assigned to military service, such that the parent's ability to
34 continue as a joint caretaker or the primary caretaker of a minor child
35 is materially affected by such military service, any orders issued
36 pursuant to this section, based on the fact that the parent is acti-
37 vated, deployed or temporarily assigned to military service, which would
38 materially affect or change a previous judgment or order regarding
39 custody of that parent's child or children as such judgment or order
40 existed on the date the parent was activated, deployed, or temporarily
41 assigned to military service, shall be subject to review pursuant to
42 subparagraph three of this paragraph. Any relevant provisions of the
43 Service Member's Civil Relief Act shall apply to all proceedings
44 governed by this section.

45 (2) During such period, the court may enter an order to modify custody
46 if there is clear and convincing evidence that the modification is in
47 the best interests of the child. An attorney for the child shall be
48 appointed in all cases where a modification is sought during such mili-
49 tary service. Such order shall be subject to review pursuant to subpara-
50 graph three of this paragraph. When entering an order pursuant to this
51 section, the court shall consider and provide for, if feasible and if in
52 the best interests of the child, contact between the military service
53 member and his or her child, including, but not limited to, electronic
54 communication by e-mail, webcam, telephone, or other available means.
55 During the period of the parent's leave from military service, the court
56 shall consider the best interests of the child when establishing a

1 parenting schedule, including [visiting] PARENTING TIME and other
2 contact. For such purposes, a "leave from military service" shall be a
3 period of not more than three months.

4 (3) Unless the parties have otherwise stipulated or agreed, if an
5 order is issued pursuant to this paragraph, the return of the parent
6 from active military service, deployment or temporary assignment shall
7 be considered a substantial change in circumstances. Upon the request of
8 either parent, the court shall determine on the basis of the child's
9 best interests whether the custody judgment or order previously in
10 effect should be modified.

11 (4) This paragraph shall not apply to assignments to permanent duty
12 stations or permanent changes of station.

13 (b) As used in this section, the following terms shall have the
14 following meanings:

15 (1) "Health insurance benefits" means any medical, dental, optical and
16 prescription drugs and health care services or other health care bene-
17 fits that may be provided for a dependent through an employer or organ-
18 ization, including such employers or organizations which are self
19 insured, or through other available health insurance or health care
20 coverage plans.

21 (2) "Available health insurance benefits" means any health insurance
22 benefits that are reasonable in cost and that are reasonably accessible
23 to the person on whose behalf the petition is brought. Health insurance
24 benefits that are not reasonable in cost or whose services are not
25 reasonably accessible to such person, shall be considered unavailable.

26 (3) When the person on whose behalf the petition is brought is a child
27 in accordance with paragraph (c) of this subdivision, health insurance
28 benefits shall be considered "reasonable in cost" if the cost of health
29 insurance benefits does not exceed five percent of the combined parental
30 gross income. The cost of health insurance benefits shall refer to the
31 cost of the premium and deductible attributable to adding the child or
32 children to existing coverage or the difference between such costs for
33 self-only and family coverage. Provided, however, the presumption that
34 the health insurance benefits are reasonable in cost may be rebutted
35 upon a finding that the cost is unjust or inappropriate which finding
36 shall be based on the circumstances of the case, the cost and comprehen-
37 siveness of the health insurance benefits for which the child or chil-
38 dren may otherwise be eligible, and the best interests of the child or
39 children. In no instance shall health insurance benefits be considered
40 "reasonable in cost" if a parent's share of the cost of extending such
41 coverage would reduce the income of that parent below the self-support
42 reserve. Health insurance benefits are "reasonably accessible" if the
43 child lives within the geographic area covered by the plan or lives
44 within thirty minutes or thirty miles of travel time from the child's
45 residence to the services covered by the health insurance benefits or
46 through benefits provided under a reciprocal agreement; provided, howev-
47 er, this presumption may be rebutted for good cause shown including, but
48 not limited to, the special health needs of the child. The court shall
49 set forth such finding and the reasons therefor in the order of support.

50 (c) When the person on whose behalf the petition is brought is a
51 child, the court shall consider the availability of health insurance
52 benefits to all parties and shall take the following action to ensure
53 that health insurance benefits are provided for the benefit of the
54 child:

55 (1) Where the child is presently covered by health insurance benefits,
56 the court shall direct in the order of support that such coverage be

1 maintained, unless either parent requests the court to make a direction
2 for health insurance benefits coverage pursuant to paragraph two of this
3 subdivision.

4 (2) Where the child is not presently covered by health insurance bene-
5 fits, the court shall make a determination as follows:

6 (i) If only one parent has available health insurance benefits, the
7 court shall direct in the order of support that such parent provide
8 health insurance benefits.

9 (ii) If both parents have available health insurance benefits the
10 court shall direct in the order of support that either parent or both
11 parents provide such health insurance. The court shall make such deter-
12 mination based on the circumstances of the case, including, but not
13 limited to, the cost and comprehensiveness of the respective health
14 insurance benefits and the best interests of the child.

15 (iii) If neither parent has available health insurance benefits, the
16 court shall direct in the order of support that the custodial parent
17 apply for the state's child health insurance plan pursuant to title
18 one-A of article twenty-five of the public health law and the medical
19 assistance program established pursuant to title eleven of article five
20 of the social services law. A direction issued under this subdivision
21 shall not limit or alter either parent's obligation to obtain health
22 insurance benefits at such time as they become available, as required
23 pursuant to paragraph (a) of this subdivision. Nothing in this subdivi-
24 sion shall alter or limit the authority of the medical assistance
25 program to determine when it is considered cost effective to require a
26 custodial parent to enroll a child in an available group health insur-
27 ance plan pursuant to paragraphs (b) and (c) of subdivision one of
28 section three hundred sixty-seven-a of the social services law.

29 (d) The cost of providing health insurance benefits or benefits under
30 the state's child health insurance plan or the medical assistance
31 program, pursuant to paragraph (c) of this subdivision, shall be deemed
32 cash medical support, and the court shall determine the obligation of
33 either or both parents to contribute to the cost thereof pursuant to
34 subparagraph five of paragraph (c) of subdivision one-b of this section.

35 (e) The court shall provide in the order of support that the legally
36 responsible relative immediately notify the other party, or the other
37 party and the support collection unit when the order is issued on behalf
38 of a child in receipt of public assistance and care or in receipt of
39 services pursuant to section one hundred eleven-g of the social services
40 law, of any change in health insurance benefits, including any termi-
41 nation of benefits, change in the health insurance benefit carrier,
42 premium, or extent and availability of existing or new benefits.

43 (f) Where the court determines that health insurance benefits are
44 available, the court shall provide in the order of support that the
45 legally responsible relative immediately enroll the eligible dependents
46 named in the order who are otherwise eligible for such benefits without
47 regard to any seasonal enrollment restrictions. Such order shall further
48 direct the legally responsible relative to maintain such benefits as
49 long as they remain available to such relative. Such order shall further
50 direct the legally responsible relative to assign all insurance
51 reimbursement payments for health care expenses incurred for his or her
52 eligible dependents to the provider of such services or the party actu-
53 ally having incurred and satisfied such expenses, as appropriate.

54 (g) When the court issues an order of child support or combined child
55 and spousal support on behalf of persons in receipt of public assistance
56 and care or in receipt of services pursuant to section one hundred

1 eleven-g of the social services law, such order shall further direct
2 that the provision of health care benefits shall be immediately enforced
3 pursuant to section fifty-two hundred forty-one of the civil practice
4 law and rules.

5 (h) When the court issues an order of child support or combined child
6 and spousal support on behalf of persons other than those in receipt of
7 public assistance and care or in receipt of services pursuant to section
8 one hundred eleven-g of the social services law, the court shall also
9 issue a separate order which shall include the necessary direction to
10 ensure the order's characterization as a qualified medical child support
11 order as defined by section six hundred nine of the employee retirement
12 income security act of 1974 (29 USC 1169). Such order shall: (i) clearly
13 state that it creates or recognizes the existence of the right of the
14 named dependent to be enrolled and to receive benefits for which the
15 legally responsible relative is eligible under the available group
16 health plans, and shall clearly specify the name, social security number
17 and mailing address of the legally responsible relative, and of each
18 dependent to be covered by the order; (ii) provide a clear description
19 of the type of coverage to be provided by the group health plan to each
20 such dependent or the manner in which the type of coverage is to be
21 determined; and (iii) specify the period of time to which the order
22 applies. The court shall not require the group health plan to provide
23 any type or form of benefit or option not otherwise provided under the
24 group health plan except to the extent necessary to meet the require-
25 ments of a law relating to medical child support described in section
26 one thousand three hundred and ninety-six g of title forty-two of the
27 United States code.

28 (i) Upon a finding that a legally responsible relative wilfully failed
29 to obtain health insurance benefits in violation of a court order, such
30 relative will be presumptively liable for all health care expenses
31 incurred on behalf of such dependents from the first date such depen-
32 dents were eligible to be enrolled to receive health insurance benefits
33 after the issuance of the order of support directing the acquisition of
34 such coverage.

35 (j) The order shall be effective as of the date of the application
36 therefor, and any retroactive amount of child support due shall be
37 support arrears/past due support and shall, except as provided for here-
38 in, be paid in one lump sum or periodic sums, as the court shall direct,
39 taking into account any amount of temporary support which has been paid.
40 In addition, such retroactive child support shall be enforceable in any
41 manner provided by law including, but not limited to, an execution for
42 support enforcement pursuant to subdivision (b) of section fifty-two
43 hundred forty-one of the civil practice law and rules. When a child
44 receiving support is a public assistance recipient, or the order of
45 support is being enforced or is to be enforced pursuant to section one
46 hundred eleven-g of the social services law, the court shall establish
47 the amount of retroactive child support and notify the parties that such
48 amount shall be enforced by the support collection unit pursuant to an
49 execution for support enforcement as provided for in subdivision (b) of
50 section fifty-two hundred forty-one of the civil practice law and rules,
51 or in such periodic payments as would have been authorized had such an
52 execution been issued. In such case, the courts shall not direct the
53 schedule of repayment of retroactive support. Where such direction is
54 for child support and paternity has been established by a voluntary
55 acknowledgement of paternity as defined in section forty-one hundred
56 thirty-five-b of the public health law, the court shall inquire of the

1 parties whether the acknowledgement has been duly filed, and unless
2 satisfied that it has been so filed shall require the clerk of the court
3 to file such acknowledgement with the appropriate registrar within five
4 business days. Such direction may be made in the final judgment in such
5 action or proceeding, or by one or more orders from time to time before
6 or subsequent to final judgment, or by both such order or orders and the
7 final judgment. Such direction may be made notwithstanding that the
8 court for any reason whatsoever, other than lack of jurisdiction,
9 refuses to grant the relief requested in the action or proceeding. Any
10 order or judgment made as in this section provided may combine in one
11 lump sum any amount payable to the custodial parent under this section
12 with any amount payable to such parent under section two hundred thir-
13 ty-six of this article. Upon the application of either parent, or of any
14 other person or party having the care, custody and control of such child
15 pursuant to such judgment or order, after such notice to the other
16 party, parties or persons having such care, custody and control and
17 given in such manner as the court shall direct, the court may annul or
18 modify any such direction, whether made by order or final judgment, or
19 in case no such direction shall have been made in the final judgment
20 may, with respect to any judgment of annulment or declaring the nullity
21 of a void marriage rendered on or after September first, nineteen
22 hundred forty, or any judgment of separation or divorce whenever
23 rendered, amend the judgment by inserting such direction. Subject to
24 the provisions of section two hundred forty-four of this article, no
25 such modification or annulment shall reduce or annul arrears accrued
26 prior to the making of such application unless the defaulting party
27 shows good cause for failure to make application for relief from the
28 judgment or order directing such payment prior to the accrual of such
29 arrears. Such modification may increase such child support nunc pro tunc
30 as of the date of application based on newly discovered evidence. Any
31 retroactive amount of child support due shall be support arrears/past
32 due support and shall be paid in one lump sum or periodic sums, as the
33 court shall direct, taking into account any amount of temporary child
34 support which has been paid. In addition, such retroactive child support
35 shall be enforceable in any manner provided by law including, but not
36 limited to, an execution for support enforcement pursuant to subdivision
37 (b) of section fifty-two hundred forty-one of the civil practice law and
38 rules.

39 1-a. In any proceeding brought pursuant to this section to determine
40 the custody or [visitation] PARENTING TIME of minors, a report made to
41 the statewide central register of child abuse and maltreatment, pursuant
42 to title six of article six of the social services law, or a portion
43 thereof, which is otherwise admissible as a business record pursuant to
44 rule forty-five hundred eighteen of the civil practice law and rules
45 shall not be admissible in evidence, notwithstanding such rule, unless
46 an investigation of such report conducted pursuant to title six of arti-
47 cle six of the social services law has determined that there is some
48 credible evidence of the alleged abuse or maltreatment and that the
49 subject of the report has been notified that the report is indicated. In
50 addition, if such report has been reviewed by the state commissioner of
51 [social services] CHILDREN AND FAMILY SERVICES or his OR HER designee
52 and has been determined to be unfounded, it shall not be admissible in
53 evidence. If such report has been so reviewed and has been amended to
54 delete any finding, each such deleted finding shall not be admissible.
55 If the state commissioner of [social services] CHILDREN AND FAMILY
56 SERVICES or his OR HER designee has amended the report to add any new

1 finding, each such new finding, together with any portion of the
2 original report not deleted by the commissioner or his designee, shall
3 be admissible if it meets the other requirements of this subdivision and
4 is otherwise admissible as a business record. If such a report, or
5 portion thereof, is admissible in evidence but is uncorroborated, it
6 shall not be sufficient to make a fact finding of abuse or maltreatment
7 in such proceeding. Any other evidence tending to support the reliabil-
8 ity of such report shall be sufficient corroboration.

9 S 9. Paragraph c of subdivision 3 of section 240 of the domestic
10 relations law, as amended by chapter 597 of the laws of 1998, is amended
11 to read as follows:

12 c. An order of protection entered pursuant to this subdivision may be
13 made in the final judgment in any matrimonial action or in a proceeding
14 to obtain custody of or [visitation] PARENTING TIME with any child under
15 this section, or by one or more orders from time to time before or
16 subsequent to final judgment, or by both such order or orders and the
17 final judgment. The order of protection may remain in effect after entry
18 of a final matrimonial judgment and during the minority of any child
19 whose custody or [visitation] PARENTING TIME is the subject of a
20 provision of a final judgment or any order. An order of protection may
21 be entered notwithstanding that the court for any reason whatsoever,
22 other than lack of jurisdiction, refuses to grant the relief requested
23 in the action or proceeding.

24 S 10. Section 241 of the domestic relations law, as amended by chapter
25 892 of the laws of 1986, is amended to read as follows:

26 S 241. Interference with or withholding of [visitation] PARENTING TIME
27 rights; alimony or maintenance suspension. When it appears to the satis-
28 faction of the court that a custodial parent receiving alimony or main-
29 tenance pursuant to an order, judgment or decree of a court of competent
30 jurisdiction has wrongfully interfered with or withheld [visitation]
31 PARENTING TIME rights provided by such order, judgment or decree, the
32 court, in its discretion, [may] SHALL suspend such payments or cancel
33 any arrears that may have accrued during the time that [visitation]
34 PARENTING TIME rights have been or are being interfered with or with-
35 held. Nothing in this section shall constitute a defense in any court to
36 an application to enforce payment of child support or grounds for the
37 cancellation of arrears for child support.

38 S 11. Section 251 of the domestic relations law, as added by chapter
39 164 of the laws of 1973, is amended to read as follows:

40 S 251. Filing of order in family court. When, in a matrimonial action,
41 the supreme court refers the issues of support, custody or [visitation]
42 PARENTING TIME to the family court, the order or judgment shall provide
43 that a copy thereof shall be filed by the plaintiff's attorney, within
44 ten days, with the clerk of the family court therein specified.

45 S 12. Paragraph (b) of subdivision 1 of section 252 of the domestic
46 relations law, as added by chapter 349 of the laws of 1995, is amended
47 to read as follows:

48 (b) to permit a parent, or a person entitled to visitation OR PARENT-
49 ING TIME by a court order or a separation agreement, to visit the child
50 at stated periods;

51 S 13. Subdivision 3 of section 252 of the domestic relations law, as
52 added by chapter 349 of the laws of 1995, is amended to read as follows:

53 3. An order of protection entered pursuant to this subdivision may be
54 made in the final judgment in any matrimonial action, or by one or more
55 orders from time to time before or subsequent to final judgment, or by
56 both such order or orders and the final judgment. The order of

1 protection may remain in effect after entry of a final matrimonial judg-
2 ment and during the minority of any child whose custody or [visitation]
3 PARENTING TIME is the subject of a provision of a final judgment or any
4 order. An order of protection may be entered notwithstanding that the
5 court for any reason whatsoever, other than lack of jurisdiction,
6 refuses to grant the relief requested in the action or proceeding.

7 S 14. Subdivision 10 of section 358-a of the social services law, as
8 added by chapter 457 of the laws of 1988, paragraphs (b) and (c) as
9 amended by chapter 41 of the laws of 2010, is amended to read as
10 follows:

11 (10) Visitation AND PARENTING TIME rights; non-custodial parents and
12 grandparents. (a) Where a social services official incorporates in an
13 instrument visitation OR PARENTING TIME rights set forth in an order,
14 judgment or agreement as described in paragraph (d) of subdivision two
15 of section three hundred eighty-four-a of this chapter, such official
16 shall make inquiry of the state central register of child abuse and
17 maltreatment to determine whether or not the person having such visita-
18 tion OR PARENTING TIME rights is a subject or another person named in an
19 indicated report of child abuse or maltreatment, as such terms are
20 defined in section four hundred twelve of this chapter, and shall
21 further ascertain, to the extent practicable, whether or not such person
22 is a respondent in a proceeding under article ten of the family court
23 act whereby the respondent has been alleged or adjudicated to have
24 abused or neglected such child.

25 (b) Where a social services official or the attorney for the child
26 opposes incorporation of an order, judgment or agreement conferring
27 visitation rights OR PARENTING TIME as provided for in paragraph (e) of
28 subdivision two of section three hundred eighty-four-a of this chapter,
29 the social services official or attorney for the child shall apply for
30 an order determining that the provisions of such order, judgment or
31 agreement should not be incorporated into the instrument executed pursu-
32 ant to such section. Such order shall be granted upon a finding, based
33 on competent, relevant and material evidence, that the child's life or
34 health would be endangered by incorporation and enforcement of visita-
35 tion rights OR PARENTING TIME as described in such order, judgment or
36 agreement. Otherwise, the court shall deny such application.

37 (c) Where visitation rights OR PARENTING TIME pursuant to an order,
38 judgment or agreement are incorporated in an instrument, the parties may
39 agree to an alternative schedule of visitation OR PARENTING TIME equiv-
40 alent to and consistent with the original or modified visitation OR
41 PARENTING TIME order, judgment, or agreement where such alternative
42 schedule reflects changed circumstances of the parties and is consistent
43 with the best interests of the child. In the absence of such an agree-
44 ment between the parties, the court may, in its discretion, upon appli-
45 cation of any party or the child's attorney, order an alternative sched-
46 ule of visitation OR PARENTING TIME, as described herein, where it
47 determines that such schedule is necessary to facilitate visitation and
48 to protect the best interests of the child.

49 (d) The order providing an alternative schedule of visitation OR
50 PARENTING TIME shall remain in effect for the length of the placement of
51 the child as provided for in such instrument unless such order is subse-
52 quently modified by the court for good cause shown. Whenever the court
53 makes an order denying or modifying visitation OR PARENTING TIME rights
54 pursuant to this subdivision, the instrument described in section three
55 hundred eighty-four-a of this chapter shall be deemed amended accord-
56 ingly.

1 S 15. Paragraphs (b), (d) and (f) of subdivision 2 of section 384-a of
2 the social services law, paragraph (b) as added by chapter 669 of the
3 laws of 1976, paragraph (d) as added by chapter 457 of the laws of 1988
4 and paragraph (f) as amended by chapter 41 of the laws of 2010, are
5 amended to read as follows:

6 (b) No provisions set forth in any such instrument regarding the right
7 of the parent or guardian to visit the child or to have services
8 provided to the child and to the parent or guardian to strengthen the
9 parental relationship may be terminated or limited by the authorized
10 agency having the care and custody of the child unless: (i) the instru-
11 ment shall have been amended to so limit or terminate such right, pursu-
12 ant to subdivision three of this section; or (ii) the right of visita-
13 tion OR PARENTING TIME or to such services would be contrary to or
14 inconsistent with a court order obtained in any proceeding in which the
15 parent or guardian was a party.

16 (d) In any case where a parent who has transferred care and custody of
17 a child to a social services official pursuant to this section informs
18 the social services official that an order or judgment conferring [visi-
19 tation] PARENTING TIME rights relating to the child has been entered by
20 the family court or supreme court or that a written agreement as
21 described in section two hundred thirty-six of the domestic relations
22 law between the parents confers such rights, any instrument executed
23 pursuant to this section shall incorporate the provisions of such order,
24 judgment or agreement to the extent that [visitation] PARENTING TIME
25 rights are affected and shall provide for [visitation] PARENTING TIME or
26 other rights as required by such order, judgment or agreement. Such
27 incorporation shall not preclude a social services official from exer-
28 cising his authority pursuant to paragraph (e) or (f) of this subdivi-
29 sion.

30 (f) Nothing in this section shall be deemed to prohibit a social
31 services official or an attorney for the child, if any, from making an
32 application to modify the terms of a visitation OR PARENTING TIME order,
33 incorporated pursuant to this section, for good cause shown, upon notice
34 to all interested parties, or to limit the right of a non-custodial
35 parent or grandparent to seek visitation OR PARENTING TIME pursuant to
36 applicable provisions of law.

37 S 16. Subparagraph (iv) of paragraph (c) of subdivision 2 of section
38 384-a of the social services law, as amended by chapter 256 of the laws
39 of 1990, is amended to read as follows:

40 (iv) that the parent or guardian has a right to supportive services,
41 which shall include preventive and other supportive services authorized
42 to be provided pursuant to the state's consolidated services plan, to
43 visit the child, and to determine jointly with the agency the terms and
44 frequency of visitation OR PARENTING TIME;

45 S 17. Subparagraph 5 of paragraph (f) of subdivision 7 of section
46 384-b of the social services law, as amended by chapter 113 of the laws
47 of 2010, is amended to read as follows:

48 (5) making suitable arrangements with a correctional facility and
49 other appropriate persons for an incarcerated parent to [visit] HAVE
50 PARENTING TIME WITH the child within the correctional facility, if such
51 [visiting] PARENTING TIME is in the best interests of the child. When no
52 [visitation] PARENTING TIME between child and incarcerated parent has
53 been arranged for or permitted by the authorized agency because such
54 [visitation] PARENTING TIME is determined not to be in the best interest
55 of the child, then no permanent neglect proceeding under this subdivi-
56 sion shall be initiated on the basis of the lack of such [visitation]

1 PARENTING TIME. Such arrangements shall include, but shall not be
2 limited to, the transportation of the child to the correctional facili-
3 ty, and providing or suggesting social or rehabilitative services to
4 resolve or correct the problems other than incarceration itself which
5 impair the incarcerated parent's ability to maintain contact with the
6 child. When the parent is incarcerated in a correctional facility
7 located outside the state, the provisions of this subparagraph shall be
8 construed to require that an authorized agency make such arrangements
9 with the correctional facility only if reasonably feasible and permissi-
10 ble in accordance with the laws and regulations applicable to such
11 facility; and

12 S 18. Paragraph (o) of subdivision 6 of section 398 of the social
13 services law, as added by chapter 457 of the laws of 1988, is amended to
14 read as follows:

15 (o) Compliance with a court order enforcing visitation OR PARENTING
16 TIME rights of a non-custodial parent or grandparent pursuant to part
17 eight of article ten of the family court act, subdivision ten of section
18 three hundred fifty-eight-a or paragraph (d) of subdivision two of
19 section three hundred eighty-four-a of this chapter, and responsibility
20 for the return of such child after visitation OR PARENTING TIME so
21 ordered.

22 S 19. Subdivision 1 of section 398-d of the social services law, as
23 added by chapter 83 of the laws of 1995, is amended to read as follows:

24 1. The legislature finds that the centralized delivery of child
25 protective services, preventive services, adoption services and foster
26 care services in a social [service] SERVICES district with a population
27 of more than two million hinders their effective delivery and adds
28 unnecessary costs. Numerous studies have recommended that such services
29 serve small areas, be located in such areas, and be integrated. Such
30 relocation will: give caseworkers greater knowledge of their assigned
31 community, the residents of that community and the availability of
32 community-based services; increase the availability of caseworkers;
33 reduce travel time for caseworkers; enable children in foster care to
34 remain in their own communities and schools and maintain their friend-
35 ships; enable children in foster care to have greater [visitation]
36 PARENTING TIME with their parents; provide for more effective delivery
37 of preventive services; and expedite adoptions and otherwise reduce the
38 amount of time children spend in foster care.

39 The relocation of child welfare service delivery to the community
40 sites will strengthen efforts to provide a wide range of community-based
41 early intervention programs including, but not limited to, school-based
42 health clinics and community schools, thereby ensuring the continued
43 development of a critical mass of community services.

44 S 20. Subparagraph 9 of paragraph (f) of subdivision 1 of section 413
45 of the family court act, as added by chapter 567 of the laws of 1989, is
46 amended to read as follows:

47 (9) Provided that the child is not on public assistance (i) extraor-
48 dinary expenses incurred by the non-custodial parent in exercising
49 [visitation] PARENTING TIME, or (ii) expenses incurred by the non-custo-
50 dial parent in extended [visitation] PARENTING TIME provided that the
51 custodial parent's expenses are substantially reduced as a result there-
52 of; and

53 S 21. Subdivisions (a) and (c) of section 439 of the family court act,
54 subdivision (a) as amended by section 1 of chapter 468 of the laws of
55 2012 and subdivision (c) as amended by section 1 of chapter 576 of the
56 laws of 2005, are amended to read as follows:

1 (a) The chief administrator of the courts shall provide, in accordance
2 with subdivision (f) of this section, for the appointment of a suffi-
3 cient number of support magistrates to hear and determine support
4 proceedings. Except as hereinafter provided, support magistrates shall
5 be empowered to hear, determine and grant any relief within the powers
6 of the court in any proceeding under this article, articles five,
7 five-A, and five-B and sections two hundred thirty-four and two hundred
8 thirty-five of this act, and objections raised pursuant to section five
9 thousand two hundred forty-one of the civil practice law and rules.
10 Support magistrates shall not be empowered to hear, determine and grant
11 any relief with respect to issues specified in section four hundred
12 fifty-five of this article, issues of contested paternity involving
13 claims of equitable estoppel, custody, [visitation] PARENTING TIME
14 including [visitation] PARENTING TIME as a defense, and orders of
15 protection or exclusive possession of the home, which shall be referred
16 to a judge as provided in subdivision (b) or (c) of this section. Where
17 an order of filiation is issued by a judge in a paternity proceeding and
18 child support is in issue, the judge, or support magistrate upon refer-
19 ral from the judge, shall be authorized to immediately make a temporary
20 or final order of support, as applicable. A support magistrate shall
21 have the authority to hear and decide motions and issue summonses and
22 subpoenas to produce persons pursuant to section one hundred fifty-three
23 of this act, hear and decide proceedings and issue any order authorized
24 by subdivision (g) of section five thousand two hundred forty-one of the
25 civil practice law and rules, issue subpoenas to produce prisoners
26 pursuant to section two thousand three hundred two of the civil practice
27 law and rules and make a determination that any person before the
28 support magistrate is in violation of an order of the court as author-
29 ized by section one hundred fifty-six of this act subject to confirma-
30 tion by a judge of the court who shall impose any punishment for such
31 violation as provided by law. A determination by a support magistrate
32 that a person is in willful violation of an order under subdivision
33 three of section four hundred fifty-four of this article and that recom-
34 mends commitment shall be transmitted to the parties, accompanied by
35 findings of fact, but the determination shall have no force and effect
36 until confirmed by a judge of the court.

37 (c) The support magistrate, in any proceeding in which issues speci-
38 fied in section four hundred fifty-five of this [act] ARTICLE, or issues
39 of custody, [visitation] PARENTING TIME, including [visitation] PARENT-
40 ING TIME as a defense, orders of protection or exclusive possession of
41 the home are present or in which paternity is contested on the grounds
42 of equitable estoppel, shall make a temporary order of support and refer
43 the proceeding to a judge. Upon determination of such issue by a judge,
44 the judge may make a final determination of the issue of support, or
45 immediately refer the proceeding to a support magistrate for further
46 proceedings regarding child support or other matters within the authori-
47 ty of the support magistrate.

48 S 22. Subdivision (a) of section 439 of the family court act, as
49 amended by section 2 of chapter 468 of the laws of 2012, is amended to
50 read as follows:

51 (a) The chief administrator of the courts shall provide, in accordance
52 with subdivision (f) of this section, for the appointment of a suffi-
53 cient number of support magistrates to hear and determine support
54 proceedings. Except as hereinafter provided, support magistrates shall
55 be empowered to hear, determine and grant any relief within the powers
56 of the court in any proceeding under this article, articles five,

1 five-A, and five-B and sections two hundred thirty-four and two hundred
2 thirty-five of this act, and objections raised pursuant to section five
3 thousand two hundred forty-one of the civil practice law and rules.
4 Support magistrates shall not be empowered to hear, determine and grant
5 any relief with respect to issues specified in section four hundred
6 fifty-five of this article, issues of contested paternity involving
7 claims of equitable estoppel, custody, [visitation] PARENTING TIME
8 including [visitation] PARENTING TIME as a defense, and orders of
9 protection or exclusive possession of the home, which shall be referred
10 to a judge as provided in subdivision (b) or (c) of this section. Where
11 an order of filiation is issued by a judge in a paternity proceeding and
12 child support is in issue, the judge, or support magistrate upon refer-
13 ral from the judge, shall be authorized to immediately make a temporary
14 or final order of support, as applicable. A support magistrate shall
15 have the authority to hear and decide motions and issue summonses and
16 subpoenas to produce persons pursuant to section one hundred fifty-three
17 of this act, hear and decide proceedings and issue any order authorized
18 by subdivision (g) of section five thousand two hundred forty-one of the
19 civil practice law and rules, issue subpoenas to produce prisoners
20 pursuant to section two thousand three hundred two of the civil practice
21 law and rules and make a determination that any person before the
22 support magistrate is in violation of an order of the court as author-
23 ized by section one hundred fifty-six of this act subject to confirma-
24 tion by a judge of the court who shall impose any punishment for such
25 violation as provided by law. A determination by a support magistrate
26 that a person is in willful violation of an order under subdivision
27 three of section four hundred fifty-four of this article and that recom-
28 mends commitment shall be transmitted to the parties, accompanied by
29 findings of fact, but the determination shall have no force and effect
30 until confirmed by a judge of the court.

31 S 23. Subdivision (b) of section 446 of the family court act, as
32 amended by chapter 483 of the laws of 1995, is amended to read as
33 follows:

34 (b) to permit a parent, or a person entitled to visitation OR PARENT-
35 ING TIME by a court order or a separation agreement, to visit OR HAVE
36 TIME WITH the child at stated periods;

37 S 24. Section 447 of the family court act, subdivision (a) as amended
38 by chapter 85 of the laws of 1996, is amended to read as follows:

39 S 447. Order of [visitation] PARENTING TIME. (a) In the absence of an
40 order of custody or of [visitation] PARENTING TIME entered by the
41 supreme court, the court may make an order of custody or of [visitation]
42 PARENTING TIME, in accordance with subdivision one of section two
43 hundred forty of the domestic relations law, requiring one parent to
44 permit the other to visit the children at stated periods without an
45 order of protection, even where the parents are divorced and the support
46 order is for a child only.

47 (b) Any order of the family court under this section shall terminate
48 when the supreme court makes an order of custody or of [visitation]
49 PARENTING TIME concerning the children, unless the supreme court contin-
50 ues the order of the family court.

51 S 25. Subdivision (a) of section 456 of the family court act, as
52 amended by chapter 809 of the laws of 1963, is amended to read as
53 follows:

54 (a) No person may be placed on probation under this article unless the
55 court makes an order to that effect, either at the time of the making of
56 an order of support or under section four hundred fifty-four OF THIS

1 PART. The period of probation may continue so long as an order of
2 support, order of protection or order of [visitation] PARENTING TIME
3 applies to such person.

4 S 26. Subdivisions (a) and (b) of section 467 of the family court act,
5 subdivision (a) as amended and subdivision (b) as added by chapter 40 of
6 the laws of 1981, are amended to read as follows:

7 (a) In an action for divorce, separation or annulment, the supreme
8 court may refer to the family court the determination of applications to
9 fix temporary or permanent custody or [visitation] PARENTING TIME,
10 applications to enforce judgments and orders of custody or [visitation]
11 PARENTING TIME, and applications to modify judgments and orders of
12 custody which modification may be granted only upon a showing to the
13 family court that there has been a subsequent change of circumstances,
14 SUCH AS LOSS OF EMPLOYMENT OR CHANGE IN INCOME, and that modification is
15 required.

16 (b) In the event no such referral has been made and unless the supreme
17 court provides in the order or judgment awarding custody or [visitation]
18 PARENTING TIME in an action for divorce, separation or annulment, that
19 it may be enforced or modified only in the supreme court, the family
20 court may: (i) determine an application to enforce the order or judgment
21 awarding custody or [visitation] PARENTING TIME, or (ii) determine an
22 application to modify the order or judgment awarding custody or [visita-
23 tion] PARENTING TIME upon a showing that there has been a subsequent
24 change of circumstances and modification is required.

25 S 27. Section 511 of the family court act, as amended by chapter 533
26 of the laws of 1999, is amended to read as follows:

27 S 511. Jurisdiction. Except as otherwise provided, the family court
28 has exclusive original jurisdiction in proceedings to establish paterni-
29 ty and, in any such proceedings in which it makes a finding of paterni-
30 ty, to order support and to make orders of custody or of [visitation]
31 PARENTING TIME, as set forth in this article. On its own motion, the
32 court may at any time in the proceedings also direct the filing of a
33 neglect petition in accord with the provisions of article ten of this
34 act. In accordance with the provisions of section one hundred eleven-b
35 of the domestic relations law, the surrogate's court has original juris-
36 diction concurrent with the family court to determine the issues relat-
37 ing to the establishment of paternity.

38 S 28. Section 549 of the family court act, as added by chapter 952 of
39 the laws of 1971, subdivision (a) as amended by chapter 85 of the laws
40 of 1996, is amended to read as follows:

41 S 549. Order of [visitation] PARENTING TIME. (a) If an order of fili-
42 ation is made or if a paternity agreement or compromise is approved by
43 the court, in the absence of an order of custody or of [visitation]
44 PARENTING TIME entered by the supreme court the family court may make an
45 order of custody or of [visitation] PARENTING TIME, in accordance with
46 subdivision one of section two hundred forty of the domestic relations
47 law, requiring one parent to permit the other to visit the child or
48 children at stated periods.

49 (b) Any order of the family court under this section shall terminate
50 when the supreme court makes an order of custody or of [visitation]
51 PARENTING TIME concerning the child or children, unless the supreme
52 court continues the order of the family court.

53 S 29. Subdivision (b) of section 551 of the family court act, as
54 amended by chapter 483 of the laws of 1995, is amended to read as
55 follows:

1 (b) to permit a parent, or a person entitled to visitation OR PARENT-
2 ING TIME by a court order or a separation agreement to visit the child
3 at stated periods;

4 S 30. Section 651 of the family court act, as amended by chapter 85 of
5 the laws of 1996, subdivision (b) as amended by chapter 657 of the laws
6 of 2003, subdivision (d) as amended by chapter 41 of the laws of 2010,
7 subdivision (e) as amended by chapter 295 of the laws of 2009, and
8 subdivision (f) as added by chapter 473 of the laws of 2009, is amended
9 to read as follows:

10 S 651. Jurisdiction over habeas corpus proceedings and petitions for
11 custody [and] OF, visitation of, OR PARENTING TIME WITH minors. (a) When
12 referred from the supreme court or county court to the family court, the
13 family court has jurisdiction to determine, in accordance with subdivi-
14 sion one of section two hundred forty of the domestic relations law and
15 with the same powers possessed by the supreme court in addition to its
16 own powers, habeas corpus proceedings and proceedings brought by peti-
17 tion and order to show cause, for the determination of the custody [or]
18 OF, visitation of OR PARENTING TIME WITH minors.

19 (b) When initiated in the family court, the family court has jurisdic-
20 tion to determine, in accordance with subdivision one of section two
21 hundred forty of the domestic relations law and with the same powers
22 possessed by the supreme court in addition to its own powers, habeas
23 corpus proceedings and proceedings brought by petition and order to show
24 cause, for the determination of the custody OF or visitation of OR
25 PARENTING TIME WITH minors, including applications by a grandparent or
26 grandparents for visitation or custody rights pursuant to section seven-
27 ty-two or two hundred forty of the domestic relations law.

28 (c) When initiated in the family court pursuant to a petition under
29 part eight of article ten of this act or section three hundred fifty-
30 eight-a of the social services law, the family court has jurisdiction to
31 enforce or modify orders or judgments of the supreme court relating to
32 the visitation of OR PARENTING TIME WITH minors in foster care, notwith-
33 standing any limitation contained in subdivision (b) of section four
34 hundred sixty-seven of this act.

35 (d) With respect to applications by a grandparent or grandparents for
36 visitation or custody rights, made pursuant to section seventy-two or
37 two hundred forty of the domestic relations law, with a child remanded
38 or placed in the care of a person, official, agency or institution
39 pursuant to the provisions of article ten of this act, the applicant, in
40 such manner as the court shall prescribe, shall serve a copy of the
41 application upon the social services official having care and custody of
42 such child, and the child's attorney, who shall be afforded an opportu-
43 nity to be heard thereon.

44 (e) 1. Permanent and initial temporary orders of custody or visitation
45 OR PARENTING TIME. Prior to the issuance of any permanent or initial
46 temporary order of custody or visitation, the court shall conduct a
47 review of the decisions and reports listed in paragraph three of this
48 subdivision.

49 2. Successive temporary orders of custody [or], visitation OR PARENT-
50 ING TIME. Prior to the issuance of any successive temporary order of
51 custody or visitation, OR PARENTING TIME the court shall conduct a
52 review of the decisions and reports listed in paragraph three of this
53 subdivision, unless such a review has been conducted within ninety days
54 prior to the issuance of such order.

55 3. Decisions and reports for review. The court shall conduct a review
56 of the following:

1 (i) related decisions in court proceedings initiated pursuant to arti-
2 cle ten of this act, and all warrants issued under this act; and

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

8 4. Notifying counsel and issuing orders. Upon consideration of deci-
9 sions pursuant to article ten of this act, and registry reports and
10 notifying counsel involved in the proceeding, or in the event of a self-
11 represented party, notifying such party of the results thereof, includ-
12 ing any court appointed attorney for children, the court may issue a
13 temporary, successive temporary or final order of custody [or], visita-
14 tion OR PARENTING TIME.

15 5. Temporary emergency order. Notwithstanding any other provision of
16 the law, upon emergency situations, including computer malfunctions, to
17 serve the best interest of the child, the court may issue a temporary
18 emergency order for custody [or], visitation OR PARENTING TIME in the
19 event that it is not possible to timely review decisions and reports on
20 registries as required pursuant to paragraph three of this subdivision.

21 6. After issuing a temporary emergency order. After issuing a tempo-
22 rary emergency order of custody [or], visitation OR PARENTING TIME, the
23 court shall conduct reviews of the decisions and reports on registries
24 as required pursuant to paragraph three of this subdivision within twen-
25 ty-four hours of the issuance of such temporary emergency order. Should
26 such twenty-four hour period fall on a day when court is not in session,
27 then the required reviews shall take place the next day the court is in
28 session. Upon reviewing decisions and reports the court shall notify
29 associated counsel, self-represented parties and attorneys for children
30 pursuant to paragraph four of this subdivision and may issue temporary
31 or permanent custody [or], visitation OR PARENTING TIME orders.

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

47 (f) Military service by parent; effect on child custody orders. 1.
48 During the period of time that a parent is activated, deployed or tempo-
49 rarily assigned to military service, such that the parent's ability to
50 continue as a joint caretaker or the primary caretaker of a minor child
51 is materially affected by such military service, any orders issued
52 pursuant to this section, based on the fact that the parent is acti-
53 vated, deployed or temporarily assigned to military service, which would
54 materially affect or change a previous judgment or order regarding
55 custody of that parent's child or children as such judgment or order
56 existed on the date the parent was activated, deployed, or temporarily

1 assigned to military service, shall be subject to review pursuant to
2 paragraph three of this subdivision. Any relevant provisions of the
3 Service Member's Civil Relief Act shall apply to all proceedings
4 governed by this section.

5 2. During such period, the court may enter an order to modify custody
6 if there is clear and convincing evidence that the modification is in
7 the best interests of the child. An attorney for the child shall be
8 appointed in all cases where a modification is sought during such mili-
9 tary service. Such order shall be subject to review pursuant to para-
10 graph three of this subdivision. When entering an order pursuant to this
11 section, the court shall consider and provide for, if feasible and if in
12 the best interests of the child, contact between the military service
13 member and his or her child including, but not limited to, electronic
14 communication by e-mail, webcam, telephone, or other available means.
15 During the period of the parent's leave from military service, the court
16 shall consider the best interests of the child when establishing a
17 parenting schedule, including [visiting] PARENTING TIME and other
18 contact. For such purpose, a "leave from military service" shall be a
19 period of not more than three months.

20 3. Unless the parties have otherwise stipulated or agreed, if an order
21 is issued pursuant to this subdivision, the return of the parent from
22 active military service, deployment or temporary assignment shall be
23 considered a substantial change in circumstances. Upon the request of
24 either parent, the court shall determine on the basis of the child's
25 best interests whether the custody judgment or order previously in
26 effect should be modified.

27 4. This subdivision shall not apply to assignments to permanent duty
28 stations or permanent changes of station.

29 S 31. Section 651-a of the family court act, as amended by chapter 12
30 of the laws of 1996, is amended to read as follows:

31 S 651-a. Reports of child abuse and maltreatment; admissibility. In
32 any proceeding brought pursuant to this section to determine the custody
33 [or], visitation OR PARENTING TIME of minors, a report made to the
34 statewide central register of child abuse and maltreatment, pursuant to
35 title six of article six of the social services law, or a portion there-
36 of, which is otherwise admissible as a business record pursuant to rule
37 forty-five hundred eighteen of the civil practice law and rules shall
38 not be admissible in evidence, notwithstanding such rule, unless an
39 investigation of such report conducted pursuant to title six of article
40 six of the social services law has determined that there is some credi-
41 ble evidence of the alleged abuse or maltreatment, that the subject of
42 the report has been notified that the report is indicated. In addition,
43 if such report has been reviewed by the state commissioner of [social
44 services] THE OFFICE OF CHILDREN AND FAMILY SERVICES or his OR HER
45 designee and has been determined to be unfounded, it shall not be admis-
46 sible in evidence. If such report has been so reviewed and has been
47 amended to delete any finding, each such deleted finding shall not be
48 admissible. If the state commissioner of [social services] THE OFFICE OF
49 CHILDREN AND FAMILY SERVICES or his OR HER designee has amended the
50 report to add any new finding, each such new finding, together with any
51 portion of the original report not deleted by the commissioner or his OR
52 HER designee, shall be admissible if it meets the other requirements of
53 this section and is otherwise admissible as a business record. If such a
54 report, or portion thereof, is admissible in evidence but is uncorrob-
55 orated, it shall not be sufficient to make a fact finding of abuse or

1 maltreatment in such proceeding. Any other evidence tending to support
2 the reliability of such report shall be sufficient corroboration.

3 S 32. Subdivisions (a) and (b) of section 652 of the family court act,
4 subdivision (a) as amended and subdivision (b) as added by chapter 40 of
5 the laws of 1981, are amended to read as follows:

6 (a) When referred from the supreme court to the family court, the
7 family court has jurisdiction to determine, with the same powers
8 possessed by the supreme court, applications to fix temporary or perma-
9 nent custody and applications to modify judgments and orders of custody
10 or [visitation] PARENTING TIME in actions and proceedings for marital
11 separation, divorce, annulment of marriage and dissolution of marriage.
12 Applications to modify judgments and orders of custody may be granted by
13 the family court under this section only upon the showing to the family
14 court that there has been a subsequent change of circumstances and that
15 modification is required.

16 (b) In the event no such referral has been made and unless the supreme
17 court provides in the order or judgment awarding custody or [visitation]
18 PARENTING TIME in an action for divorce, separation or annulment, that
19 it may be enforced or modified only in the supreme court, the family
20 court may: (i) determine an application to enforce the order or judgment
21 awarding custody or [visitation] PARENTING TIME, or (ii) determine an
22 application to modify the order or judgment awarding custody or [visita-
23 tion] PARENTING TIME upon a showing that there has been a subsequent
24 change of circumstances and modification is required.

25 S 33. Subdivision (b) of section 656 of the family court act, as
26 amended by chapter 483 of the laws of 1995, is amended to read as
27 follows:

28 (b) to permit a parent, or a person entitled to visitation OR PARENT-
29 ING TIME by a court order or a separation agreement, to visit the child
30 at stated periods;

31 S 34. Subdivision (b) of section 759 of the family court act, as
32 amended by chapter 483 of the laws of 1995, is amended to read as
33 follows:

34 (b) to permit a parent, or a person entitled to visitation OR PARENT-
35 ING TIME by a court order or a separation agreement, to visit the child
36 at stated periods;

37 S 35. Subdivision (b) of section 842 of the family court act, as
38 amended by chapter 483 of the laws of 1995, is amended to read as
39 follows:

40 (b) to permit a parent, or a person entitled to visitation OR PARENT-
41 ING TIME by a court order or a separation agreement, to visit the child
42 at stated periods;

43 S 36. Section 1030 of the family court act, as added by chapter 457 of
44 the laws of 1988, and subdivisions (b) and (d) as amended by chapter 41
45 of the laws of 2010, is amended to read as follows:

46 S 1030. Order of visitation OR PARENTING TIME by a respondent. (a) A
47 respondent shall have the right to reasonable and regularly scheduled
48 visitation OR PARENTING TIME with a child in the temporary custody of a
49 social services official pursuant to this part or pursuant to subdivi-
50 sion (d) of section one thousand fifty-one of this article, unless
51 limited by an order of the family court.

52 (b) A respondent who has not been afforded such visitation OR PARENT-
53 ING TIME may apply to the court for an order requiring the local social
54 services official having temporary custody of the child pursuant to this
55 part or pursuant to subdivision (d) of section one thousand fifty-one of
56 this article, to permit the respondent to visit the child at stated

1 periods. Such application shall be made upon notice to the local social
2 services official and to any attorney appointed to represent the child,
3 who shall be afforded an opportunity to be heard thereon.

4 (c) A respondent shall be granted reasonable and regularly scheduled
5 visitation OR PARENTING TIME unless the court finds that the child's
6 life or health would be endangered thereby, but the court may order
7 visitation OR PARENTING TIME under the supervision of an employee of a
8 local social services department upon a finding that such supervised
9 visitation OR PARENTING TIME is in the best interest of the child.

10 (d) An order made under this section may be modified by the court for
11 good cause shown, upon application by any party or the child's attorney,
12 and upon notice of such application to all other parties and the child's
13 attorney, who shall be afforded an opportunity to be heard thereon.

14 (e) An order made under this section shall terminate upon the entry of
15 an order of disposition pursuant to part five of this article.

16 (F) INTERFERENCE WITH OR WITHHOLDING OF PARENTING TIME WITHOUT CAUSE
17 SHALL RESULT IN IMMEDIATE SANCTIONS. A JUDGE WHO SANCTIONS A PARTY FOR
18 FAILURE TO COMPLY WITH AN ORDER OF PARENTING TIME SHALL HAVE AVAILABLE
19 THE FOLLOWING REMEDIES:

20 (1) AWARDING OF COUNSEL FEES OF THE AGGRIEVED PARTY AGAINST THE PARTY
21 WHO VIOLATED THE TERMS OF THE ORDER;

22 (2) MEDIATION EDUCATION;

23 (3) COMMUNITY SERVICE;

24 (4) AWARDING OF COMPENSATORY TIME WITH THE CHILD FOR WHICH THE PARTY
25 WAS DEPRIVED; AND

26 (5) OTHER ECONOMIC SANCTIONS WHICH MAY BE DECIDED ON A CASE TO CASE
27 BASIS.

28 S 37. Subdivision (e) of section 1035 of the family court act, as
29 amended by chapter 526 of the laws of 2003, is amended to read as
30 follows:

31 (e) The summons, petition and notice of pendency of a child protective
32 proceeding served on the child's non-custodial parent in accordance with
33 subdivision (d) of this section shall, if applicable, be served together
34 with a notice that the child was removed from his or her home by a
35 social services official. Such notice shall also include the name and
36 address of the official to whom temporary custody of the child has been
37 transferred, the name and address of the agency or official with whom
38 the child has been temporarily placed, if different, and shall advise
39 such parent of the right to request temporary and permanent custody and
40 to seek enforcement of [visitation] PARENTING TIME rights with the child
41 as provided for in part eight of this article.

42 S 38. Paragraph (b) of subdivision 1 of section 1056 of the family
43 court act, as amended by chapter 483 of the laws of 1995, is amended to
44 read as follows:

45 (b) to permit a parent, or a person entitled to visitation OR PARENT-
46 ING TIME by a court order or a separation agreement, to visit the child
47 at stated periods;

48 S 39. Part 8 of article 10 of the family court act, as added by chap-
49 ter 457 of the laws of 1988, subdivision 4 of section 1081, paragraph
50 (b) of subdivision 1, subdivision 2 of section 1082 and subdivision 4 of
51 section 1085 as amended by chapter 41 of the laws of 2010, and section
52 1085 as amended by chapter 378 of the laws of 1999, is amended to read
53 as follows:

54 PART 8

55 VISITATION [OF] AND PARENTING TIME WITH
56 MINORS IN FOSTER CARE

- 1 Section 1081. Visitation OR PARENTING TIME rights.
2 1082. Approval, modification or denial of visitation OR PARENT-
3 ING TIME rights.
4 1083. Duration of orders affecting visitation OR PARENTING TIME
5 rights.
6 1084. Out-of-wedlock children; paternity.
7 1085. Visitation, PARENTING TIME and custody rights unenforcea-
8 ble; murder of parent, custodian, guardian, or child.

9 S 1081. Visitation OR PARENTING TIME rights. 1. A non-custodial parent
10 or grandparent shall have the visitation OR PARENTING TIME rights with a
11 child remanded or placed in the care of a social services official
12 pursuant to this article as conferred by order of the family court or by
13 any order or judgment of the supreme court, or by written agreement
14 between the parents as described in section two hundred thirty-six of
15 the domestic relations law, subject to the provisions of section one
16 thousand eighty-two of this part.

17 2. A non-custodial parent or any grandparent or grandparents who have
18 not been afforded the visitation OR PARENTING TIME rights described in
19 subdivision one of this section, shall have the right to petition the
20 court for enforcement of visitation OR PARENTING TIME rights with a
21 child remanded or placed in the care of a social services official
22 pursuant to this article, as such visitation OR PARENTING TIME rights
23 have been conferred by order of the family court or by any order or
24 judgment of the supreme court, or by written agreement between the
25 parents as described in section two hundred thirty-six of the domestic
26 relations law.

27 3. (a) The petition by a non-custodial parent shall allege that such
28 parent has [visitation] PARENTING TIME rights conferred by order of the
29 family court or by any order or judgment of the supreme court or by
30 written agreement between the parents as described in section two
31 hundred thirty-six of the domestic relations law, shall have a copy of
32 such order, judgment or agreement attached thereto, shall request
33 enforcement of such rights pursuant to this part, and shall state, when
34 known by the petitioner, that [visitation] PARENTING TIME rights with
35 the child by any grandparent or grandparents have been conferred by
36 order of the supreme court or family court pursuant to section seventy-
37 two or two hundred forty of the domestic relations law, and shall
38 provide the name and address of such grandparent or grandparents.

39 (b) A petition by a grandparent or grandparents shall allege that such
40 grandparent or grandparents have been granted visitation rights with the
41 child pursuant to section seventy-two or two hundred forty of the domes-
42 tic relations law, or subdivision (b) of section six hundred fifty-one
43 of this act, shall have a copy of such order or judgment attached there-
44 to, and shall request enforcement of such rights pursuant to this part.

45 4. The petition shall be served upon the respondent in a proceeding
46 under this article, the local social services official having the care
47 of the child, any grandparent or grandparents named in the petition as
48 having visitation rights conferred by court order pursuant to section
49 seventy-two or two hundred forty of the domestic relations law, and upon
50 the child's attorney. The petition shall be served in such manner as the
51 court may direct.

52 5. Upon receipt of such petition the court shall, subject to the
53 provisions of section one thousand eighty-two of this part, require that
54 any order of a family court or order or judgment of the supreme court,
55 or any agreement between the parents as described in subdivision one of
56 this section, granting visitation OR PARENTING TIME rights to the non-

1 custodial parent, grandparent or grandparents, be incorporated in any
2 preliminary order or order of placement made under this article to the
3 extent that such order, judgment or agreement confers visitation OR
4 PARENTING TIME rights. In any case where a dispositional hearing has not
5 been held or will not be held within thirty days of the filing of such
6 petition the court shall order the person, official, agency or institu-
7 tion caring for the child pursuant to this article to comply with such
8 part of the order, judgment or agreement granting visitation OR PARENT-
9 ING TIME rights. Violation of such order shall be punishable pursuant to
10 section seven hundred fifty-three of the judiciary law.

11 S 1082. Approval, modification or denial of visitation OR PARENTING
12 TIME rights. 1. (a) Upon receipt of a petition pursuant to subdivision
13 four of section one thousand eighty-one of this part, the local depart-
14 ment of social services shall make inquiry of the state central register
15 of child abuse and maltreatment to determine whether or not the peti-
16 tioner is a subject of an indicated report of child abuse or maltreat-
17 ment, as such terms are defined in section four hundred twelve of the
18 social services law, and shall further ascertain whether or not the
19 petitioner is a respondent in a proceeding under this article whereby
20 the child with whom visitation OR PARENTING TIME is sought has been
21 allegedly abused or neglected or has been adjudicated as an abused or
22 neglected child.

23 (b) The department, the child's attorney and the respondent in a
24 proceeding under this article, shall have the right to be heard with
25 respect to a petition for an order to enforce visitation OR PARENTING
26 TIME rights under this part.

27 2. Where the local department of social services or the child's attor-
28 ney opposes a petition described in section one thousand eighty-one of
29 this part, the department or the child's attorney as appropriate shall
30 serve and file an answer to the petition. The court shall, upon the
31 filing of such answer, set a date for a hearing on such petition and
32 shall notify the parents, grandparent or grandparents, the department
33 and the child's attorney of such hearing date.

34 3. Whenever a hearing described in subdivision two of this section is
35 to be held within ten court days of a dispositional hearing authorized
36 under this article, the court may in its discretion hear such petition
37 as part of such dispositional hearing.

38 4. In any hearing under this section, the court shall approve such
39 petition unless the court finds upon competent, relevant and material
40 evidence that enforcement of visitation OR PARENTING TIME rights as
41 described in the order, judgment or agreement would endanger the child's
42 life or health. Upon such a finding, the court shall make an order deny-
43 ing such petition or make such other order affecting enforcement of
44 visitation OR PARENTING TIME rights as the court deems to be in the best
45 interests of the child.

46 5. (a) Where a petition is approved pursuant to this section the
47 parties may agree in writing to an alternative schedule of visitation OR
48 PARENTING TIME equivalent to and consistent with the original or modi-
49 fied visitation OR PARENTING TIME order or agreement where such alterna-
50 tive schedule reflects changed circumstances of the parties and is
51 consistent with the best interests of the child.

52 (b) In the absence of such an agreement between the parties, the court
53 may, in its discretion, order an alternative schedule of visitation OR
54 PARENTING TIME as defined herein, where it determines that such schedule
55 is necessary to facilitate visitation OR PARENTING TIME and to protect
56 the best interests of the child.

1 S 1083. Duration of orders affecting visitation OR PARENTING TIME
2 rights. 1. Where an order of the court has been made incorporating an
3 order, judgment or agreement conferring visitation OR PARENTING TIME
4 rights with a child on a non-custodial parent or grandparent into a
5 dispositional order under this article, or where the court otherwise
6 orders compliance by a person, official, agency or institution caring
7 for the child, with an order, judgment or agreement granting visitation
8 OR PARENTING TIME rights, such order shall remain in effect for the
9 length of time the child remains in such care pursuant to this article,
10 unless such order is subsequently modified by the court for good cause
11 shown.

12 2. Where the court makes an order denying a petition seeking enforce-
13 ment of visitation OR PARENTING TIME rights or makes an order modifying
14 visitation OR PARENTING TIME rights, pursuant to the provisions of
15 section one thousand eighty-two of this part, such order shall remain in
16 effect for the length of time the child is placed with a person, offi-
17 cial, agency or institution caring for the child pursuant to this arti-
18 cle, unless such order is subsequently modified by the court for good
19 cause shown.

20 S 1084. Out-of-wedlock children; paternity. No [visitation] PARENTING
21 TIME right shall be enforceable under this part concerning any person
22 claiming to be a parent of an out-of-wedlock child without an adjudi-
23 cation of the paternity of such person by a court of competent jurisdic-
24 tion, or without an acknowledgement of the paternity of such person
25 executed pursuant to applicable provisions of law.

26 S 1085. Visitation, PARENTING TIME and custody rights unenforceable;
27 murder of parent, custodian, guardian, or child. 1. No visitation,
28 PARENTING TIME or custody order shall be enforceable under this part by
29 a person who has been convicted of murder in the first or second degree
30 in this state, or convicted of an offense in another jurisdiction which,
31 if committed in this state, would constitute either murder in the first
32 or second degree, of a parent, legal custodian, legal guardian, sibling,
33 half-sibling or step-sibling of the child unless:

34 (i) (A) such child is of suitable age to signify assent and such child
35 assents to such visitation, PARENTING TIME or custody; or

36 (B) if such child is not of suitable age to signify assent the child's
37 custodian or legal guardian assents to such order; or

38 (C) the person who has been convicted of murder in the first or second
39 degree, or an offense in another jurisdiction which if committed in this
40 state, would constitute either murder in the first or second degree, can
41 prove by a preponderance of the evidence that:

42 (1) he or she, or a family or household member of either party, was a
43 victim of domestic violence by the victim of such murder; and

44 (2) the domestic violence was causally related to the commission of
45 such murder; and

46 (ii) the court finds that such visitation, PARENTING TIME or custody
47 is in the best interest of the child.

48 2. Pending determination of a petition for visitation, PARENTING TIME
49 or custody such child shall not visit and no person shall visit, with
50 such child present, such person, legal guardian or legal custodian who
51 has been convicted of murder in the first or second degree in this
52 state, or an offense in another jurisdiction which, if committed in this
53 state, would constitute either murder in the first or second degree, of
54 the other parent, legal guardian, legal custodian, sibling, half-sibling
55 or step-sibling of such child, without the consent of such child's
56 custodian or legal guardian.

1 3. Nothing contained in this section shall be construed to require a
2 court, without petition from any of the interested parties, to review a
3 previously issued order of visitation, PARENTING TIME or custody or
4 denial of such petition.

5 4. For the purposes of making a determination pursuant to subparagraph
6 (C) of paragraph (i) of subdivision one of this section, the court shall
7 not be bound by the findings of fact, conclusions of law or ultimate
8 conclusion as determined by the proceedings leading to the conviction of
9 murder in the first or second degree in this state or of an offense in
10 another jurisdiction which, if committed in this state, would constitute
11 murder in either the first or second degree, of a parent, legal guardi-
12 an, legal custodian, sibling, half-sibling or step-sibling of a child
13 who is the subject of the proceeding. In all proceedings under this
14 section, an attorney shall be appointed for the child.

15 S 40. The domestic relations law is amended by adding a new section
16 242 to read as follows:

17 S 242. MATRIMONIAL ACTIONS INVOLVING CUSTODY OF CHILDREN; MEDIATION
18 AND FAMILY COUNSELLING. IN ANY MATRIMONIAL ACTION INVOLVING THE CUSTODY
19 OF CHILDREN, THE COURT SHALL DIRECT THE PARTIES TO ATTEND MEDIATION AND
20 FAMILY COUNSELLING SESSIONS PRIOR TO THE ENTRY OF ANY ORDERS OR JUDG-
21 MENTS, EXCEPT FOR TEMPORARY ORDERS OF PROTECTION OR SUPPORT, AS PROVIDED
22 FOR IN THE RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS, WHO SHALL
23 PROMULGATE RULES AND REGULATIONS THEREFOR.

24 S 41. Clause (i) of subparagraph 5 of paragraph (b) of subdivision 1-b
25 of section 240 of the domestic relations law, as added by chapter 567 of
26 the laws of 1989, is amended to read as follows:

27 (i) gross (total) income LESS ANY FEDERAL, STATE, AND LOCAL PERSONAL
28 INCOME TAXES PAID AND CONTRIBUTIONS REQUIRED PURSUANT TO THE FEDERAL
29 INSURANCE CONTRIBUTIONS ACT (SOCIAL SECURITY AND MEDICARE), as should
30 have been or should be reported in the most recent federal income tax
31 return. If an individual files his/her federal income tax return as a
32 married person filing jointly, such person shall be required to prepare
33 a form, sworn to under penalty of law, disclosing his/her gross income
34 individually;

35 S 42. Subdivision 11 of section 111-h of the social services law, as
36 amended by chapter 502 of the laws of 1990, is amended to read as
37 follows:

38 11. The department may provide for the performance of the collection
39 and disbursement functions of the support collection units by contract
40 with a fiscal agent. For purposes of any reference to support collection
41 unit in this chapter or any other law, the fiscal agent under contract
42 with the department shall be deemed to be part of all support collection
43 units for which the fiscal agent performs collection and disbursement
44 functions. THE DEPARTMENT SHALL PROVIDE BY RULE FOR AN ANNUAL AUDIT AND
45 PERFORMANCE APPRAISAL OF EACH FISCAL AGENT.

46 S 43. The family court act is amended by adding a new section 385.3 to
47 read as follows:

48 S 385.3. EVIDENCE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FAMI-
49 LY COURT JUDGE SHALL, IN EVERY PROCEEDING AND HEARING UNDER HIS OR HER
50 JURISDICTION, REVIEW ALL EVIDENCE INCLUDING LAW GUARDIAN REPORTS, CHILD
51 ADVOCATE REPORTS, PHYSICIAN REPORTS, PSYCHOLOGIST REPORTS AND COUNSELING
52 REPORTS, AS WELL AS ALL THIRD PARTY COMMUNICATIONS RELATED TO THE
53 PROCEEDING OR HEARING.

54 S 44. Subdivision (a) of section 418 of the family court act, as
55 amended by chapter 214 of the laws of 1998, is amended to read as
56 follows:

1 (a) The court, on its own motion or motion of any party, when paterni-
2 ty is contested, shall order the mother, the child and the alleged
3 father to submit to one or more genetic marker or DNA marker tests of a
4 type generally acknowledged as reliable by an accreditation body desig-
5 nated by the secretary of the federal department of health and human
6 services and performed by a laboratory approved by such an accreditation
7 body and by the commissioner of health or by a duly qualified physician
8 to aid in the determination of whether the alleged father is or is not
9 the father of the child. No such test shall be ordered, however, upon a
10 written finding by the court that it is not in the best interests of the
11 child on the basis of res judicata, equitable estoppel or the presump-
12 tion of legitimacy of a child born to a married woman. The record or
13 report of the results of any such genetic marker or DNA test shall be
14 received in evidence, pursuant to subdivision (e) of rule forty-five
15 hundred eighteen of the civil practice law and rules where no timely
16 objection in writing has been made thereto. Any order pursuant to this
17 section shall state in plain language that the results of such test
18 shall be admitted into evidence, pursuant to rule forty-five hundred
19 eighteen of the civil practice law and rules absent timely objections
20 thereto and that if such timely objections are not made, they shall be
21 deemed waived and shall not be heard by the court. If the record or
22 report of results of any such genetic marker or DNA test or tests indi-
23 cate at least a ninety-five percent probability of paternity, the admis-
24 sion of such record or report shall create a rebuttable presumption of
25 paternity, and, if unrebutted, shall establish the paternity of and
26 liability for the support of a child pursuant to this article and arti-
27 cle five of this act. IF CHILD SUPPORT IS BEING PAID AND THE RECORD OR
28 REPORT OF RESULTS OF ANY GENETIC MARKER OR DNA TEST OR TESTS DO NOT
29 INDICATE AT LEAST A NINETY-FIVE PERCENT PROBABILITY OF PATERNITY, IF
30 UNREBUTTED, THE COURT SHALL ORDER THE IMMEDIATE CESSATION OF ALL CHILD
31 SUPPORT REGARDLESS OF THE LENGTH OF TIME THAT CHILD SUPPORT HAS BEEN
32 PAID, EXCEPT IN A CASE WHERE A SPERM DONOR WAS USED AND THE PUTATIVE
33 FATHER WAS AWARE OF AND CONSENTED TO SUCH USE IN WHICH CASE THERE SHALL
34 NOT BE A CESSATION OF SUPPORT.

35 S 45. The domestic relations law is amended by adding a new section
36 74-a to read as follows:

37 S 74-A. PARENTAL ACCESS TO INFORMATION. UNLESS PROHIBITED BY FEDERAL
38 OR STATE LAW, A PARENT SHALL HAVE COMPLETE ACCESS TO RECORDS AND INFOR-
39 MATION PERTAINING TO THE HEALTH, EDUCATION AND WELFARE OF HIS OR HER
40 MINOR CHILD, REGARDLESS OF WHETHER OR NOT HE OR SHE IS THE CUSTODIAL
41 PARENT, UNLESS A COURT DECREES THAT ACCESS TO THE INFORMATION IS NOT IN
42 THE BEST INTEREST OF THE CHILD.

43 S 46. Subparagraph 3 of paragraph (b) of subdivision 1 of section 413
44 of the family court act, as amended by chapter 567 of the laws of 1989,
45 is amended to read as follows:

46 (3) "Child support percentage" shall mean:

47 (i) seventeen percent of the combined parental income for one child,
48 EXCEPT IN A CASE OF SHARED PARENTING IN WHICH CASE TEN PERCENT OF THE
49 COMBINED PARENTAL INCOME FOR ONE CHILD;

50 (ii) twenty-five percent of the combined parental income for two chil-
51 dren, EXCEPT IN A CASE OF SHARED PARENTING IN WHICH CASE SIXTEEN PERCENT
52 OF THE COMBINED PARENTAL INCOME FOR TWO CHILDREN;

53 (iii) twenty-nine percent of the combined parental income for three
54 children, EXCEPT IN A CASE OF SHARED PARENTING IN WHICH CASE TWENTY-SIX
55 PERCENT OF THE COMBINED PARENTAL INCOME FOR THREE CHILDREN;

1 (iv) thirty-one percent of the combined parental income for four chil-
2 dren; and

3 (v) no less than thirty-five percent of the combined parental income
4 for five or more children.

5 IN ADDITION TO THE PERCENTAGES ESTABLISHED IN THIS SUBPARAGRAPH FOR
6 SHARED PARENTING, THE COURT MAY INCLUDE AN ADDITIONAL SEVEN PERCENT UPON
7 THE DEMONSTRATION OF NECESSITY, BASED UPON RECEIPTS, FOR CLOTHING, CARE,
8 MEDICAL ATTENTION, THE EXPENSE OF EDUCATION, PAYMENT OF FUNERAL
9 EXPENSES, AND OTHER PROPER AND REASONABLE EXPENSES.

10 S 47. Paragraph (c) of subdivision 1 of section 413 of the family
11 court act is amended by adding a new subparagraph 8 to read as follows:

12 (8) WHERE THE COURT DETERMINES THAT THE CUSTODIAL PARENT WILL RECEIVE
13 TAX SAVINGS BECAUSE OF BEING ABLE TO FILE AS HEAD OF A HOUSEHOLD, TAKE A
14 CHILD RELATED TAX DEDUCTION AND/OR TAKE A CHILD RELATED EARNED INCOME
15 TAX CREDIT, THE COURT SHALL ADD THE AMOUNT SAVED TO THE CUSTODIAL
16 PARENT'S INCOME WHEN DETERMINING COMBINED PARENTAL INCOME.

17 S 48. Section 413 of the family court act is amended by adding a new
18 subdivision 2-a to read as follows:

19 2-A. NOTHING IN THIS ARTICLE SHALL IMPOSE ANY LIABILITY UPON A PERSON
20 TO SUPPORT ANY MINOR CHILD WHO HAS BECOME EMANCIPATED, MARRIED, HAS
21 CEASED TO ATTEND SCHOOL, OR WHO, IF IT HAS BEEN DETERMINED BY THE COURT,
22 HAS BECOME SELF-SUPPORTING. SUCH LIABILITY SHALL NOT BE IMPOSED FOR SO
23 LONG AS THE MINOR REMAINS EMANCIPATED, MARRIED, HAS CEASED TO ATTEND
24 SCHOOL OR IS SELF-SUPPORTING.

25 S 49. Paragraph (e) of subdivision 4-a of section 111-b of the social
26 services law, as added by chapter 398 of the laws of 1997, is amended to
27 read as follows:

28 (e) Information maintained as part of the state case registry shall
29 be made available to other state and federal agencies as provided for in
30 federal statutes and regulations promulgated by the federal secretary of
31 health and human services. EVERY JANUARY, MAY AND SEPTEMBER, A SUPPORT
32 PAYER'S INFORMATION SHALL BE MAILED TO HIM OR HER BY FIRST CLASS MAIL
33 FROM THE NEW YORK STATE CHILD SUPPORT COLLECTION UNIT TO THE SUPPORT
34 OBLIGOR'S KNOWN HOME ADDRESS OR SUCH OTHER PLACE WHERE THE SUPPORT OBLI-
35 GOR IS LIKELY TO RECEIVE FIRST CLASS MAIL. THIS SHALL INCLUDE ALL
36 PAYMENTS, INCLUDING ARREARAGES, RECEIVED BY THE CHILD SUPPORT COLLECTION
37 UNIT.

38 S 50. Subdivision (a) of section 458-a of the family court act, as
39 amended by chapter 624 of the laws of 2002, is amended to read as
40 follows:

41 (a) If the respondent has accumulated support arrears equivalent to or
42 greater than the amount of support due pursuant to court order for a
43 period of four months, the court may order the department of motor vehi-
44 cles to suspend the respondent's driving privileges, and if such order
45 issues, the respondent may apply to the department of motor vehicles for
46 a restricted use license pursuant to section five hundred thirty of the
47 vehicle and traffic law. IF THE COURT FINDS THAT THE RESPONDENT HAS IN
48 THE PAST BEEN TIMELY IN PAYING HIS OR HER SUPPORT DUE THEN THE RESPOND-
49 ENT'S DRIVING PRIVILEGES CANNOT BE SUSPENDED WITHOUT A HEARING. The
50 court may at any time upon payment of arrears or partial payment of
51 arrears by the respondent order the department of motor vehicles to
52 terminate the suspension of respondent's driving privileges. For
53 purposes of determining whether a support obligor has accumulated
54 support arrears equivalent to or greater than the amount of support due
55 for a period of four months, the amount of any retroactive support,
56 other than periodic payments of retroactive support which are past due,

1 shall not be included in the calculation of support arrears pursuant to
2 this section.

3 S 51. Subdivision 1 of section 454 of the family court act, as amended
4 by chapter 892 of the laws of 1986, is amended to read as follows:

5 1. If a respondent is brought before the court for failure to obey any
6 lawful order of support [and if, after hearing,] THE PARTIES CAN CHOOSE
7 TO HAVE A HEARING BEFORE THE COURT OR TO GO THROUGH AN ARBITRATOR, IN
8 ORDER TO AVOID A COURT APPEARANCE. AN ARBITRATOR SHALL BE ESTABLISHED
9 THROUGH CHILD SUPPORT COLLECTION TO ARBITRATE DISPUTES WHEN THERE ARE
10 ACCUSATIONS OF CHILD SUPPORT ARREARAGE IN ORDER TO AVERT A COURT APPEAR-
11 ANCE. IF the court is satisfied by competent proof that the respondent
12 has failed to obey any such order, the court may use any or all of the
13 powers conferred upon it by this part. The court has the power to use
14 any or all enforcement powers in every proceeding brought for violation
15 of a court order under this part regardless of the relief requested in
16 the petition.

17 S 52. Paragraph (a) of subdivision 3 of section 454 of the family
18 court act, as amended by chapter 892 of the laws of 1986, is amended to
19 read as follows:

20 (a) commit the respondent to jail for a term not to exceed six months.
21 For purposes of this subdivision, failure to pay support, as ordered,
22 shall constitute prima facie evidence of a willful violation. HOWEVER,
23 THE COURT SHALL CONSIDER REAL CIRCUMSTANCES WHEN FINDING THAT A RESPOND-
24 ENT HAS FAILED TO COMPLY WITH ANY LAWFUL ORDER OF SUPPORT, SUCH AS THAT
25 A PARENT PRESENTLY HAS VOLUNTARILY OR INVOLUNTARILY REDUCED RESOURCES OR
26 INCOME. Such commitment may be served upon certain specified days or
27 parts of days as the court may direct, and the court may, at any time
28 within the term of such sentence, revoke such suspension and commit the
29 respondent for the remainder of the original sentence, or suspend the
30 remainder of such sentence. Such commitment does not prevent the court
31 from subsequently committing the respondent for failure thereafter to
32 comply with any such order; or

33 S 53. Section 451 of the family court act, as amended by chapter 182
34 of the laws of 2010, is amended to read as follows:

35 S 451. Continuing jurisdiction. 1. (A) Except as provided in article
36 five-B of this act, the court has continuing jurisdiction over any
37 support proceeding brought under this article until its judgment is
38 completely satisfied and may modify, set aside or vacate any order
39 issued in the course of the proceeding, provided, however, that the
40 modification, set aside or vacatur shall not reduce or annul child
41 support arrears accrued prior to the making of an application pursuant
42 to this section. The court shall not reduce or annul any other arrears
43 unless the defaulting party shows good cause for failure to make appli-
44 cation for relief from the judgment or order directing payment prior to
45 the accrual of the arrears, in which case the facts and circumstances
46 constituting such good cause shall be set forth in a written memorandum
47 of decision. A modification may increase support payments nunc pro tunc
48 as of the date of the initial application for support based on newly
49 discovered evidence. Any retroactive amount of support due shall be paid
50 and be enforceable as provided in section four hundred forty of this
51 article. Upon an application to modify, set aside or vacate an order of
52 support, no hearing shall be required unless such application shall be
53 supported by affidavit and other evidentiary material sufficient to
54 establish a prima facie case for the relief requested.

55 (B) ONCE A YEAR, A MOTION MAY BE MADE BY A CHILD SUPPORT OBLIGOR TO
56 REQUIRE AN ACCOUNTING BY THE PARENT RECEIVING THE CHILD SUPPORT ON

1 BEHALF OF THE CHILD OR CHILDREN. THE ACCOUNTING SHALL ACCOUNT FOR ALL
2 FUNDS EXPENDED ON THE CHILD OR CHILDREN AND SHALL BE USED BY THE COURT
3 IN DETERMINING WHETHER THE FUNDS ARE BEING MISUSED OR NOT FULFILLING THE
4 CHILD'S OR CHILDREN'S NEEDS. THE ACCOUNTING SHALL INCLUDE, BUT NOT BE
5 LIMITED TO, THE DISPOSITION OF ALL FUNDS PAID BY THE CHILD SUPPORT OBLI-
6 GOR AND ALL FUNDS EXPENDED ON BEHALF OF THE CHILD OR CHILDREN. ANY
7 MOTION FILED BY A CHILD SUPPORT OBLIGOR PURSUANT TO THIS SUBDIVISION
8 SHALL BE ACCOMPANIED BY A SWORN AFFIDAVIT THAT THE OBLIGOR HAS REASON-
9 ABLE GROUNDS TO QUESTION WHETHER THE CHILD SUPPORT FUNDS ARE BEING SPENT
10 APPROPRIATELY AND SHALL STATE THE GROUNDS IN THE AFFIDAVIT.

11 2. (a) The court may modify an order of child support, including an
12 order incorporating without merging an agreement or stipulation of the
13 parties, upon a showing of a substantial change in circumstances.
14 Incarceration shall not be a bar to finding a substantial change in
15 circumstances provided such incarceration is not the result of non-pay-
16 ment of a child support order, or an offense against the custodial
17 parent or child who is the subject of the order or judgment.

18 (b) In addition, unless the parties have specifically opted out of the
19 following provisions in a validly executed agreement or stipulation
20 entered into between the parties, the court may modify an order of child
21 support where:

22 (i) three years have passed since the order was entered, last modified
23 or adjusted; or

24 (ii) there has been a change in either party's gross income by fifteen
25 percent or more since the order was entered, last modified, or adjusted.
26 A reduction in income shall not be considered as a ground for modifica-
27 tion unless it was involuntary and the party has made diligent attempts
28 to secure employment commensurate with his or her education, ability,
29 and experience.

30 S 54. The closing paragraph of subdivision 1 of section 460 of the
31 family court act, as amended by chapter 815 of the laws of 1987, is
32 amended to read as follows:

33 and the party defaults in paying any sum of money due as required by the
34 order directing the payment thereof, the court, without regard to the
35 amount due, shall make an order directing the entry of judgment for the
36 amount of child support arrears, together with costs and disbursements.
37 THIS JUDGMENT SHALL BE DIRECTED TO BE PAID EACH MONTH, AT A RATE NOT TO
38 EXCEED TEN PERCENT OF THE DEFAULTING PARTY'S REGULAR MONTHLY CHILD
39 SUPPORT PAYMENT, UNTIL THE ARREARS ARE PAID. The court shall make an
40 order directing the entry of judgment for the amount of arrears of any
41 other payments so directed, together with costs and disbursements,
42 unless the defaulting party shows good cause for failure to make appli-
43 cation for relief from the judgment or order directing such payment
44 prior to the accrual of such arrears. The court shall not make an order
45 reducing or [cancelling] CANCELING such arrears unless the facts and
46 circumstances constituting good cause are set forth in a written memo-
47 randum of decision. The application for such order shall be made upon
48 such notice to the party or other person as the court may direct. Such
49 judgment shall provide for the payment of interest on the amount of any
50 arrears if the default was willful, in that the defaulting party know-
51 ingly, consciously and voluntarily disregarded the obligation under a
52 lawful court order. Such interest shall be computed from the date on
53 which the payment was due, at the prevailing rate of interest on judg-
54 ments as provided in the civil practice law and rules.

55 S 55. This act shall take effect on the first of January next succeed-
56 ing the date on which it shall have become a law, provided that the

1 amendments to subdivision (a) of section 439 of the family court act
2 made by section twenty-one of this act shall be subject to the expira-
3 tion and reversion of such subdivision pursuant to subdivision 19 of
4 section 246 of chapter 81 of the laws of 1995, as amended, when upon
5 such date the provisions of section twenty-two of this act shall take
6 effect and provided further that any and all rules and regulations and
7 any other measures necessary to implement this act on its effective date
8 may be promulgated or taken on or before such date.