

S T A T E   O F   N E W   Y O R K

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7189--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

May 7, 2013

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Introduced by M. of A. ROZIC, CLARK, COOK, CRESPO, MOYA, RIVERA, ROBERTS, RODRIGUEZ, RYAN, SCARBOROUGH, WEPRIN, ROSA, AUBRY, MILLER, LAVINE, FAHY, COLTON, ROBINSON, LUPARDO, MAYER, BENEDETTO, KELLNER, ROSENTHAL, GANTT -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, HEASTIE, HOOPER, KAVANAGH, MARKEY, MONTESANO, MOSLEY, PEOPLES-STOKES, PERRY, RAMOS, SEPULVEDA, SIMOTAS, SKARTADOS, TITONE, TITUS -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law and the family court act, in relation to the standing of certain relatives in custody and guardianship proceedings

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

1     Section 1. Subdivision 2 of section 72 of the domestic relations law,  
2     as added by chapter 657 of the laws of 2003, is amended to read as  
3     follows:  
4     2. (a) Where a grandparent or the grandparents of a minor child,  
5     residing within this state, OR RELATIVE WHO IS RELATED TO A PARENT WITH-  
6     IN THE SECOND DEGREE OF CONSANGUINITY OR AFFINITY, RESIDING IN THIS  
7     STATE can demonstrate to the satisfaction of the court the existence of  
8     extraordinary circumstances, such grandparent [or], grandparents OR  
9     RELATIVE of such child may apply to the supreme court by commencing a  
10    special proceeding or for a writ of habeas corpus to have such child  
11    brought before such court, or may apply to family court pursuant to  
12    subdivision (b) of section six hundred fifty-one OR SECTION SIX HUNDRED  
13    SIXTY-ONE of the family court act; and on the return thereof, the court,  
14    by order, after due notice to the parent or any other person or party

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

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1 having the care, custody, and control of such child, to be given in such  
2 manner as the court shall prescribe, may make such directions as the  
3 best interests of the child may require, for custody rights for such  
4 grandparent [or], grandparents OR RELATIVE in respect to such child. An  
5 extended disruption of custody, as such term is defined in this section,  
6 shall constitute an extraordinary circumstance.

7 (b) For the purposes of this section "extended disruption of custody"  
8 shall include, but not be limited to, a prolonged separation of the  
9 respondent parent and the child for at least twenty-four continuous  
10 months, during which TIME the parent voluntarily relinquished care and  
11 control of the child and the child resided in the household of the peti-  
12 tioner grandparent [or], grandparents OR RELATIVE, provided, however,  
13 that the court may find that extraordinary circumstances exist should  
14 the prolonged separation have lasted for less than twenty-four months  
15 AND PROVIDED THAT WHERE THE PARENT PROVES BY PREPONDERANCE OF THE  
16 EVIDENCE THAT AN ACT OR ACTS OF DOMESTIC VIOLENCE COMMITTED AGAINST THE  
17 PARENT CONTRIBUTED TO THE RELINQUISHMENT OF CARE AND CONTROL, THE COURT  
18 SHALL FIND NO EXTRAORDINARY CIRCUMSTANCES EXIST.

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

22 S 2. Subdivisions (b) and (d) of section 651 of the family court act,  
23 subdivision (b) as amended by chapter 657 of the laws of 2003 and subdi-  
24 vision (d) as amended by chapter 41 of the laws of 2010, are amended to  
25 read as follows:

26 (b) When initiated in the family court, the family court has jurisdic-  
27 tion to determine, in accordance with subdivision one of section two  
28 hundred forty of the domestic relations law and with the same powers  
29 possessed by the supreme court in addition to its own powers, habeas  
30 corpus proceedings and proceedings brought by petition and order to show  
31 cause, for the determination of the custody or visitation of minors,  
32 including applications by a grandparent or grandparents for visitation  
33 or custody rights pursuant to section seventy-two or two hundred forty  
34 of the domestic relations law , OR BY A RELATIVE WHO IS RELATED TO A  
35 PARENT OF A CHILD IN THE SECOND DEGREE OF CONSANGUINITY OR AFFINITY FOR  
36 CUSTODY RIGHTS PURSUANT TO SECTION SEVENTY-TWO OF THE DOMESTIC RELATIONS  
37 LAW.

38 (d) With respect to applications by a grandparent or grandparents for  
39 visitation or custody rights, made pursuant to section seventy-two or  
40 two hundred forty of the domestic relations law, OR BY A RELATIVE WHO IS  
41 RELATED TO A PARENT OF A CHILD IN THE SECOND DEGREE OF CONSANGUINITY OR  
42 AFFINITY FOR CUSTODY RIGHTS PURSUANT TO SECTION SEVENTY-TWO OF THE  
43 DOMESTIC RELATIONS LAW, with a child remanded or placed in the care of a  
44 person, official, agency or institution pursuant to the provisions of  
45 article ten of this act, the applicant, in such manner as the court  
46 shall prescribe, shall serve a copy of the application upon the social  
47 services official having care and custody of such child, and the child's  
48 attorney, who shall be afforded an opportunity to be heard thereon.

49 S 3. This act shall take effect immediately.