

6715

2015-2016 Regular Sessions

I N A S S E M B L Y

March 30, 2015

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to non-respondent parents in child protective and permanency proceedings in family court

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

1 Section 1. Section 651 of the family court act is amended by adding a
2 new subdivision (c-1) to read as follows:
3 (C-1) WHERE A PROCEEDING FILED PURSUANT TO ARTICLE TEN OR TEN-A OF
4 THIS ACT IS PENDING AT THE SAME TIME AS A PROCEEDING BROUGHT IN THE
5 FAMILY COURT PURSUANT TO THIS ARTICLE, THE COURT PRESIDING OVER THE
6 PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT MAY JOINTLY HEAR THE
7 HEARING ON THE CUSTODY AND VISITATION PETITION UNDER THIS ARTICLE AND
8 THE DISPOSITIONAL HEARING ON THE PETITION UNDER ARTICLE TEN OR THE
9 PERMANENCY HEARING UNDER ARTICLE TEN-A OF THIS ACT; PROVIDED, HOWEVER,
10 THE COURT MUST DETERMINE THE CUSTODY AND VISITATION PETITION IN ACCORD-
11 ANCE WITH THE TERMS OF THIS ARTICLE.
12 S 2. Section 1012 of the family court act is amended by adding three
13 new subdivisions (l), (m) and (n) to read as follows:
14 (L) "PARENT" MEANS A PERSON WHO IS RECOGNIZED UNDER THE LAWS OF THE
15 STATE OF NEW YORK TO BE THE CHILD'S LEGAL PARENT.
16 (M) "RELATIVE" MEANS ANY PERSON WHO IS RELATED TO THE CHILD BY BLOOD,
17 MARRIAGE OR ADOPTION AND WHO IS NOT A PARENT, PUTATIVE PARENT OR RELA-
18 TIVE OF A PUTATIVE PARENT OF THE CHILD.
19 (N) "SUITABLE PERSON" MEANS ANY PERSON WHO PLAYS OR HAS PLAYED A
20 SIGNIFICANT POSITIVE ROLE IN THE CHILD'S LIFE OR IN THE LIFE OF THE
21 CHILD'S FAMILY.
22 S 3. Subdivision 1, paragraph (a) of subdivision 2 and subdivision 3
23 of section 1017 of the family court act, subdivision 1 and paragraph (a)

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

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1 of subdivision 2 as amended by section 10 of part A of chapter 3 of the
2 laws of 2005, the opening paragraph of subdivision 1 as separately
3 amended by chapter 671 of the laws of 2005, subparagraphs (i) and (ii)
4 of paragraph (a) of subdivision 2 as amended and subdivision 3 as added
5 by chapter 519 of the laws of 2008, are amended to read as follows:

6 1. In any proceeding under this article, when the court determines
7 that a child must be removed from his or her home, pursuant to part two
8 of this article, or placed, pursuant to section one thousand fifty-five
9 of this article[,]:

10 (A) the court shall direct the local commissioner of social services
11 to conduct an immediate investigation to locate any non-respondent
12 parent of the child and any relatives of the child, including all of the
13 child's grandparents, all [suitable] relatives OR SUITABLE PERSONS iden-
14 tified by any respondent parent or any non-respondent parent and any
15 relative identified by a child over the age of five as a relative who
16 plays or has played a significant positive role in his or her life[,
17 and]. THE LOCAL COMMISSIONER SHALL inform them IN WRITING of the
18 pendency of the proceeding and of the opportunity for [becoming foster
19 parents or for seeking custody or care] NON-RESPONDENT PARENTS TO SEEK
20 TEMPORARY RELEASE of the child[, and that the child may be adopted by
21 foster parents if attempts at reunification with the birth parent are
22 not required or are unsuccessful] UNDER THIS ARTICLE OR CUSTODY UNDER
23 ARTICLE SIX OF THIS ACT OR FOR RELATIVES TO SEEK TO BECOME FOSTER
24 PARENTS OR TO PROVIDE FREE CARE UNDER THIS ARTICLE OR TO SEEK CUSTODY
25 PURSUANT TO ARTICLE SIX OF THIS ACT; OR FOR SUITABLE PERSONS TO BECOME
26 FOSTER PARENTS OR PROVIDE FREE CARE UNDER THIS ARTICLE OR TO SEEK GUAR-
27 DIANSHIP PURSUANT TO ARTICLE SIX OF THIS ACT. UNIFORM STATEWIDE RULES OF
28 COURT SHALL SPECIFY THE CONTENTS OF THE NOTICE CONSISTENT WITH THE
29 PROVISIONS OF THIS SECTION. The local commissioner of social services
30 shall [record] REPORT the results of such investigation, OR INVESTI-
31 GATIONS TO THE COURT AND PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD.
32 THE LOCAL COMMISSIONER SHALL ALSO RECORD THE RESULTS OF THE INVESTI-
33 GATION OR INVESTIGATIONS, including, but not limited to, the name, last
34 known address, social security number, employer's address and any other
35 identifying information to the extent known regarding any non-respondent
36 parent, in the uniform case record maintained pursuant to section four
37 hundred nine-f of the social services law. For the purpose of this
38 section, "non-respondent parent" shall include a person entitled to
39 notice of the pendency of the proceeding and of the right to intervene
40 as an interested party pursuant to subdivision (d) of section one thou-
41 sand thirty-five of this article, and a non-custodial parent entitled to
42 notice and the right to enforce visitation rights pursuant to subdivi-
43 sion (e) of section one thousand thirty-five of this article.

44 (B) THE COURT SHALL ALSO DIRECT THE LOCAL COMMISSIONER OF SOCIAL
45 SERVICES TO CONDUCT AN INVESTIGATION TO LOCATE ANY PERSON WHO IS NOT
46 RECOGNIZED TO BE THE CHILD'S LEGAL PARENT AND DOES NOT HAVE THE RIGHTS
47 OF A LEGAL PARENT UNDER THE LAWS OF THE STATE OF NEW YORK BUT WHO (I)
48 HAS FILED WITH A PUTATIVE FATHER REGISTRY AN INSTRUMENT ACKNOWLEDGING
49 PATERNITY OF THE CHILD, PURSUANT TO SECTION 4-1.2 OF THE ESTATES, POWERS
50 AND TRUSTS LAW, OR (II) HAS A PENDING PATERNITY PETITION, OR (III) HAS
51 BEEN IDENTIFIED AS A PARENT OF THE CHILD BY THE CHILD'S OTHER PARENT IN
52 A WRITTEN SWORN STATEMENT. THE LOCAL COMMISSIONER OF SOCIAL SERVICES
53 SHALL REPORT THE RESULTS OF SUCH INVESTIGATION TO THE COURT AND PARTIES,
54 INCLUDING THE ATTORNEY FOR THE CHILD.

55 (C) The court shall determine:

1 [(a)] (I) whether there is a [suitable] non-respondent parent [or
2 other person related to the child], RELATIVE OR SUITABLE PERSON with
3 whom such child may appropriately reside; and

4 [(b)] (II) in the case of a relative OR SUITABLE PERSON, whether such
5 [relative] INDIVIDUAL seeks approval as a foster parent pursuant to the
6 social services law for the purposes of providing care for such child,
7 or wishes to provide free care [and custody] for the child during the
8 pendency of any orders pursuant to this article.

9 (a) where the court, AFTER A REVIEW OF THE REPORTS OF THE SEX OFFENDER
10 REGISTRY ESTABLISHED AND MAINTAINED PURSUANT TO SECTION ONE HUNDRED
11 SIXTY-EIGHT-B OF THE CORRECTION LAW, REPORTS OF THE STATEWIDE COMPUTER-
12 IZED REGISTRY OF ORDERS OF PROTECTION ESTABLISHED AND MAINTAINED PURSU-
13 ANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE EXECUTIVE LAW, RELATED
14 DECISIONS IN COURT PROCEEDINGS UNDER THIS ARTICLE AND ALL WARRANTS
15 ISSUED UNDER THIS ACT, determines that the child may APPROPRIATELY
16 reside with a [suitable] non-respondent parent or other relative or
17 [other] suitable person, either:

18 (i) grant [an] A TEMPORARY order of custody or guardianship to such
19 non-respondent parent, [other] relative or [other] suitable person
20 pursuant to A PETITION FILED UNDER ARTICLE SIX OF THIS ACT PENDING
21 FURTHER ORDER OF THE COURT, OR AT DISPOSITION OF THE PROCEEDING, GRANT A
22 FINAL ORDER OF CUSTODY OR GUARDIANSHIP TO SUCH NON-RESPONDENT PARENT,
23 RELATIVE OR SUITABLE PERSON PURSUANT TO ARTICLE SIX OF THIS ACT AND
24 section one thousand fifty-five-b of this article; or

25 (ii) [place] TEMPORARILY RELEASE the child directly [in the custody
26 of] TO such non-respondent parent[, other] OR TEMPORARILY PLACE THE
27 CHILD WITH A relative or [other] suitable person pursuant to this arti-
28 cle during the pendency of the proceeding or until further order of the
29 court, whichever is earlier and conduct such other and further investi-
30 gations as the court deems necessary. THE COURT MAY DIRECT THE COMMIS-
31 SIONER OF SOCIAL SERVICES, PURSUANT TO REGULATIONS OF THE OFFICE OF
32 CHILDREN AND FAMILY SERVICES, TO COMMENCE AN INVESTIGATION OF THE HOME
33 OF SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON WITHIN TWEN-
34 TY-FOUR HOURS AND TO REPORT THE RESULTS TO THE COURT AND THE PARTIES,
35 INCLUDING THE ATTORNEY FOR THE CHILD. IF THE HOME OF A NON-RESPONDENT
36 PARENT, RELATIVE OR SUITABLE PERSON, IS FOUND UNQUALIFIED AS APPROPRIATE
37 FOR THE TEMPORARY RELEASE OR PLACEMENT OF THE CHILD UNDER THIS ARTICLE,
38 THE LOCAL COMMISSIONER SHALL REPORT SUCH FACT AND THE REASONS THEREFOR
39 TO THE COURT AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD,
40 FORTHWITH; or

41 (iii) remand or place the child, as applicable, with the local commis-
42 sioner of social services and direct such commissioner to have the child
43 reside with such relative or [other] suitable person and further direct
44 such commissioner pursuant to regulations of the office of children and
45 family services, to commence an investigation of the home of such rela-
46 tive or other suitable person within twenty-four hours and thereafter
47 approve such relative or other suitable person, if qualified, as a
48 foster parent. If such home is found to be unqualified for approval, the
49 local commissioner shall report such fact AND THE REASONS THEREAFTER to
50 the court AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD, forth-
51 with.

52 3. An order [placing] TEMPORARILY RELEASING a child [with] TO A
53 NON-RESPONDENT PARENT OR PARENTS, OR TEMPORARILY PLACING A CHILD WITH a
54 relative or RELATIVES OR other suitable person OR PERSONS pursuant to
55 SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF this section OR
56 REMANDING OR PLACING A CHILD WITH A LOCAL COMMISSIONER OF SOCIAL

1 SERVICES TO RESIDE WITH A RELATIVE OR RELATIVES OR SUITABLE PERSON OR
2 PERSONS AS FOSTER PARENTS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH
3 (A) OF SUBDIVISION TWO OF THIS SECTION may not be granted unless the
4 [relative or other suitable] person [consents] OR PERSONS TO WHOM THE
5 CHILD IS RELEASED, REMANDED OR PLACED SUBMITS to the jurisdiction of the
6 court WITH RESPECT TO THE CHILD. The [court] ORDER SHALL SET FORTH THE
7 TERMS AND CONDITIONS APPLICABLE TO SUCH PERSON OR PERSONS AND CHILD
8 PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY
9 WITH RESPECT TO THE CHILD AND may [place the person with whom the child
10 has been directly placed under supervision during the pendency of the
11 proceeding. Such supervision shall be provided by a] INCLUDE, BUT MAY
12 NOT BE LIMITED TO, A DIRECTION FOR SUCH PERSON OR PERSONS TO COOPERATE
13 IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED VISITATION WITH RESPOND-
14 ENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS WITH AND VISITS BY THE
15 child protective agency, social services official or duly authorized
16 agency, AND FOR APPOINTMENTS WITH THE CHILD'S ATTORNEY, CLINICIAN OR
17 OTHER INDIVIDUAL OR PROGRAM PROVIDING SERVICES TO THE CHILD DURING THE
18 PENDENCY OF THE PROCEEDING. The court also may issue a temporary order
19 of protection under subdivision (f) of section one thousand twenty-two,
20 section one thousand twenty-three or section one thousand twenty-nine of
21 this article AND AN ORDER DIRECTING THAT SERVICES BE PROVIDED PURSUANT
22 TO SECTION ONE THOUSAND FIFTEEN-A OF THIS PART. [An order of supervision
23 issued pursuant to this subdivision shall set forth the terms and condi-
24 tions that the relative or suitable person must meet and the actions
25 that the child protective agency, social services official or duly
26 authorized agency must take to exercise such supervision.]

27 S 4. Section 1022-a of the family court act, as added by chapter 336
28 of the laws of 1990, is amended to read as follows:

29 S 1022-a. Preliminary orders; notice and appointment of counsel. At a
30 hearing held pursuant to section [ten hundred] ONE THOUSAND twenty-two
31 of this [act] PART at which the respondent is present, the court shall
32 advise the respondent AND ANY NON-RESPONDENT PARENT WHO IS PRESENT of
33 the allegations in the application and shall appoint counsel for [the
34 respondent pursuant to] EACH IN ACCORDANCE WITH section two hundred
35 sixty-two of this act [where the respondent is indigent], UNLESS WAIVED.

36 S 5. Subparagraph (C) of paragraph (i) of subdivision (b) and subdivi-
37 sion (d) of section 1027 of the family court act, subparagraph (C) of
38 paragraph (i) of subdivision (b) as amended by chapter 671 of the laws
39 of 2005 and subdivision (d) as added by chapter 962 of the laws of 1970,
40 are amended to read as follows:

41 (C) [in the custody of] WITH a relative or suitable person other than
42 the respondent.

43 (d) Upon such hearing, the court may, for good cause shown, release
44 the child to [the custody of] his OR HER parent or other person legally
45 responsible for his OR HER care, pending a final order of disposition,
46 in accord with SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO OF
47 section one thousand [fifty-four] SEVENTEEN OF THIS ARTICLE.

48 S 6. The opening paragraph of subdivision (d) of section 1035 of the
49 family court act, as amended by chapter 526 of the laws of 2003, is
50 amended to read as follows:

51 Where the respondent is not the child's parent, service of the summons
52 and petition shall also be ordered on both of the child's parents; where
53 only one of the child's parents is the respondent, service of the
54 summons and petition shall also be ordered on the child's other parent.
55 The summons and petition shall be accompanied by a notice of pendency of
56 the child protective proceeding advising the parents or parent of the

1 right to appear and participate in the proceeding as an interested party
2 intervenor for the purpose of seeking temporary and permanent RELEASE OF
3 THE CHILD UNDER THIS ARTICLE OR custody of the child UNDER ARTICLE SIX
4 OF THIS ACT, and to participate thereby in all arguments and hearings
5 insofar as they affect the temporary RELEASE OR custody of the child
6 during fact-finding proceedings, and in all phases of dispositional
7 proceedings. The notice shall also ADVISE THE PARENT OR PARENTS OF THE
8 RIGHT TO COUNSEL, INCLUDING ASSIGNED COUNSEL, PURSUANT TO SECTION TWO
9 HUNDRED SIXTY-TWO OF THIS ACT, AND ALSO indicate that:

10 S 7. Subdivision (a) of section 1052 of the family court act, as
11 amended by chapter 519 of the laws of 2008, is amended to read as
12 follows:

13 (a) At the conclusion of a dispositional hearing under this article,
14 the court shall enter an order of disposition directing one or more of
15 the following:

16 (i) suspending judgment in accord with section one thousand fifty-
17 three of this part; or

18 (ii) releasing the child to [the custody of his] A NON-RESPONDENT
19 PARENT OR parents or [other person legally responsible] LEGAL CUSTODIAN
20 OR CUSTODIANS OR GUARDIAN OR GUARDIANS, WHO IS NOT OR ARE NOT RESPOND-
21 ENTS IN THE PROCEEDING, in accord with section one thousand fifty-four
22 of this part; or

23 (iii) placing the child in accord with section one thousand fifty-five
24 of this part; or

25 (iv) making an order of protection in accord with SECTION one thousand
26 fifty-six of this part; or

27 (v) RELEASING THE CHILD TO THE RESPONDENT OR RESPONDENTS OR placing
28 the respondent OR RESPONDENTS under supervision, OR BOTH, in accord with
29 section one thousand fifty-seven of this part; or

30 (vi) granting custody of the child to A RESPONDENT PARENT OR PARENTS,
31 A RELATIVE OR relatives or A suitable PERSON OR persons pursuant to
32 ARTICLE SIX OF THIS ACT AND section one thousand fifty-five-b of this
33 part; OR

34 (VII) GRANTING CUSTODY OF THE CHILD TO A NON-RESPONDENT PARENT OR
35 PARENTS PURSUANT TO ARTICLE SIX OF THIS ACT.

36 However, the court shall not enter an order of disposition combining
37 placement of the child under paragraph (iii) of this subdivision with a
38 disposition under paragraph (i) or (ii) of this subdivision. An order
39 granting custody of the child pursuant to paragraph (vi) OR (VII) of
40 this subdivision shall not be combined with any other disposition under
41 this subdivision.

42 S 8. Section 1054 of the family court act, as amended by chapter 1039
43 of the laws of 1973, subdivision (a) as amended by chapter 41 of the
44 laws of 2010 and subdivision (b) as amended by chapter 458 of the laws
45 of 1989, is amended to read as follows:

46 S 1054. Release to [custody of] NON-RESPONDENT parent or [other person
47 responsible for care; supervision or order of protection] LEGAL CUSTO-
48 DIAN OR GUARDIAN. (a) [If the] AN order of disposition [releases] MAY
49 RELEASE the child FOR A DESIGNATED PERIOD OF UP TO ONE YEAR to [the
50 custody of his or her] A NON-RESPONDENT parent or [other] PARENTS OR A
51 person [legally responsible for his or her care] OR PERSONS WHO HAD BEEN
52 THE CHILD'S LEGAL CUSTODIAN OR GUARDIAN at the time of the filing of the
53 petition, [the] AND WHO IS NOT OR ARE NOT RESPONDENTS IN THE PROCEEDING
54 UNDER THIS ARTICLE. AN ORDER UNDER THIS SECTION MAY BE EXTENDED UPON A
55 HEARING FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

1 (B) THE court may [place] REQUIRE the person OR PERSONS to [whose
2 custody] WHOM the child is released under [supervision of a] THIS
3 SECTION TO SUBMIT TO THE JURISDICTION OF THE COURT WITH RESPECT TO THE
4 CHILD FOR THE PERIOD OF THE DISPOSITION OR AN EXTENSION THEREOF. THE
5 ORDER MAY INCLUDE, BUT IS NOT LIMITED TO, A DIRECTION FOR SUCH PERSON OR
6 PERSONS TO COOPERATE IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED
7 VISITATION WITH RESPONDENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS
8 WITH AND VISITS BY THE child protective agency [or of a], social
9 services official or duly authorized agency, AND FOR APPOINTMENTS WITH
10 THE CHILD'S ATTORNEY, CLINICIAN OR OTHER INDIVIDUAL OR PROGRAM PROVIDING
11 SERVICES TO THE CHILD. THE ORDER SHALL SET FORTH THE TERMS AND CONDI-
12 TIONS APPLICABLE TO SUCH NON-RESPONDENT AND CHILD PROTECTIVE AGENCY,
13 SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY WITH RESPECT TO THE
14 CHILD.

15 (C) IN CONJUNCTION WITH AN ORDER RELEASING THE CHILD TO A NON-RESPON-
16 DENT PARENT, LEGAL CUSTODIAN OR GUARDIAN UNDER THIS SUBDIVISION, THE
17 COURT MAY ALSO ISSUE ANY OR ALL OF THE FOLLOWING ORDERS: AN ORDER OF
18 SUPERVISION OF A RESPONDENT PARENT UNDER SECTION ONE THOUSAND FIFTY-SEV-
19 EN, AN ORDER DIRECTING THAT SERVICES BE PROVIDED TO THE RESPONDENT
20 PARENT UNDER SECTION ONE THOUSAND FIFTEEN-A or [may enter] an order of
21 protection under section one thousand fifty-six[, or both] OF THIS ARTI-
22 CLE. An order of supervision OF THE RESPONDENT entered under this
23 [section shall set forth the terms and conditions of such supervision
24 that the respondent must meet and the actions that the child protective
25 agency, social services official or duly authorized agency must take to
26 exercise such supervision] SUBDIVISION MAY BE EXTENDED UPON A HEARING
27 FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

28 (D) Except as provided for herein, in any order issued pursuant to
29 this section, the court may require the child protective agency to make
30 progress reports to the court, the parties, and the child's attorney on
31 the implementation of such order. Where the order of disposition is
32 issued upon the consent of the parties and the child's attorney, such
33 agency shall report to the court, the parties and the child's attorney
34 no later than ninety days after the issuance of the order AND NO LATER
35 THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF the ORDER, UNLESS THE court
36 determines that the facts and circumstances of the case do not require
37 such report to be made.

38 [(b) Rules of court shall define permissible terms and conditions of
39 supervision under this section. The duration of any period of super-
40 vision shall be for an initial period of no more than one year and the
41 court may at the expiration of that period, upon a hearing and for good
42 cause shown, make successive extensions of such supervision of up to one
43 year each.]

44 S 9. The section heading and subdivisions (a) and (b) of section
45 1055-b of the family court act, as amended by section 7 of part F of
46 chapter 58 of the laws of 2010, are amended and two new subdivisions
47 (a-1) and (a-2) are added to read as follows:

48 Custody or guardianship with A PARENT OR PARENTS, relatives or suit-
49 able persons pursuant to article six of this act or guardianship with
50 [such a person] RELATIVES OR SUITABLE PERSONS pursuant to article seven-
51 teen of the surrogate's court procedure act. (a) CUSTODY OR GUARDIAN-
52 SHIP WITH RESPONDENT PARENT OR PARENTS, RELATIVES OR SUITABLE PERSONS.
53 At the conclusion of the dispositional hearing under this article, the
54 court may enter an order of disposition granting custody or guardianship
55 of the child to a RESPONDENT PARENT OR PARENTS, AS DEFINED IN SUBDIVI-
56 SION (1) OF SECTION ONE THOUSAND TWELVE OF THIS ARTICLE, OR A relative

1 OR RELATIVES or other suitable person [under] OR PERSONS PURSUANT TO
2 article six of this act or an order of guardianship of the child to
3 [such] a RELATIVE OR RELATIVES OR SUITABLE person OR PERSONS under arti-
4 cle seventeen of the surrogate's court procedure act if THE FOLLOWING
5 CONDITIONS HAVE BEEN MET:

6 (i) the RESPONDENT PARENT OR PARENTS, relative OR RELATIVES or suit-
7 able person OR PERSONS has OR HAVE filed a petition for custody or guar-
8 dianship of the child pursuant to article six of this act or, IN THE
9 CASE OF A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS, a peti-
10 tion for guardianship of the child under article seventeen of the surro-
11 gate's court procedure act; and

12 (ii) the court finds that granting custody or guardianship of the
13 child to [the relative or suitable] SUCH person OR PERSONS is in the
14 best interests of the child and that the safety of the child will not be
15 jeopardized if the respondent or respondents under the child protective
16 proceeding are no longer under supervision or receiving services. In
17 determining whether the best interests of the child will be promoted by
18 the granting of guardianship of the child to a relative who has cared
19 for the child as a foster parent, the court shall give due consideration
20 to the permanency goal of the child, the relationship between the child
21 and the relative, and whether the relative and the social services
22 district have entered into an agreement to provide kinship guardianship
23 assistance payments for the child to the relative under title ten of
24 article six of the social services law, and, if so, whether the fact-
25 finding hearing pursuant to section one thousand fifty-one of this part
26 and a permanency hearing pursuant to section one thousand eighty-nine of
27 this chapter [has] HAVE occurred and whether compelling reasons exist
28 for determining that the return home of the child and the adoption of
29 the child are not in the best interests of the child and are, therefore,
30 not appropriate permanency options; and

31 (iii) the court finds that granting custody or guardianship of the
32 child to the RESPONDENT PARENT, relative or suitable person under arti-
33 cle six of this act or granting guardianship of the child to the rela-
34 tive or [other] suitable person under article seventeen of the surro-
35 gate's court procedure act will provide the child with a safe and
36 permanent home; and

37 (iv) all parties to the child protective proceeding consent to the
38 granting of custody or guardianship under article six of this act or the
39 granting of guardianship under article seventeen of the surrogate's
40 court procedure ACT; or [(v)], IF ANY OF THE PARTIES OBJECT TO THE
41 GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS MADE THE FOLLOWING
42 FINDINGS after a [consolidated] JOINT dispositional hearing on the child
43 protective petition and the petition under article six of this act or
44 under article seventeen of the surrogate's court procedure act[;]:

45 (A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
46 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents
47 fail to consent to the granting of [custody or guardianship under arti-
48 cle six of this act or] the [granting of guardianship under article
49 seventeen of the surrogate's court procedure act] PETITION, the court
50 finds that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
51 DEMONSTRATED THAT extraordinary circumstances exist that support grant-
52 ing an order of custody or guardianship TO THE RELATIVE OR RELATIVES OR
53 SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE
54 THE CHILD'S BEST INTERESTS; or

55 (B) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
56 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A party other than the

parent or parents fail to consent to the granting of [custody or guardianship under article six of this act or] the PETITION [granting of guardianship under article seventeen of the surrogate's court procedure act], the court finds that granting custody or guardianship of the child to the relative OR RELATIVES or suitable person OR PERSONS is in the best interests of the child; OR

(C) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD OBJECTS TO THE GRANTING OF THE PETITION, THE COURT FINDS EITHER THAT THE OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR, IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT GRANTING CUSTODY TO THE PETITIONING RESPONDENT PARENT WOULD NONETHELESS BE IN THE CHILD'S BEST INTERESTS; OR

(D) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER ARTICLE SIX OF THIS ACT AND THE OTHER PARENT OBJECTS TO THE GRANTING OF THE PETITION, THE COURT FINDS THAT GRANTING CUSTODY TO THE PETITIONING RESPONDENT PARENT IS IN THE CHILD'S BEST INTERESTS.

(A-1) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER ARTICLE SIX OF THIS ACT. WHERE A PROCEEDING FILED BY THE NON-RESPONDENT PARENT PURSUANT TO ARTICLE SIX OF THIS ACT IS PENDING AT THE SAME TIME AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE, THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE CHILD PROTECTIVE PETITION UNDER THIS ARTICLE AND THE HEARING ON THE CUSTODY AND VISITATION PETITION UNDER ARTICLE SIX OF THIS ACT; PROVIDED HOWEVER, THE COURT MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODY AND VISITATION PETITION FILED UNDER ARTICLE SIX OF THIS ACT IN ACCORDANCE WITH THE TERMS OF THAT ARTICLE.

(A-2) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW. WHERE A PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY OF, OR RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE IS PENDING AT THE SAME TIME AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE, THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE CHILD PROTECTIVE PETITION UNDER ARTICLE TEN OF THIS ACT AND, UPON REFERRAL FROM THE SUPREME COURT, THE HEARING TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE PROCEEDING PENDING IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODIAL RIGHTS IN ACCORDANCE WITH THE TERMS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW.

(b) An order made in accordance with the provisions of this section shall set forth the required findings as described in subdivision (a) of this section WHERE APPLICABLE, including, if the guardian and the local department of social services have entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, that a fact-finding hearing pursuant to section one thousand fifty-one of this part and a permanency hearing pursuant to section one thousand eighty-nine of this chapter [has] HAVE occurred, and the compelling reasons that exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are, therefore, not appropriate permanency options for the child, and shall constitute the final disposition of the child protective proceeding. Notwithstanding any other provision of law, the court shall not issue an order of supervision nor may the court require the local department of social

1 services to provide services to the respondent or respondents when
2 granting custody or guardianship pursuant to article six of this act
3 under this section or granting guardianship under article seventeen of
4 the surrogate's court procedure act.

5 S 10. Section 1057 of the family court act, as amended by chapter 41
6 of the laws of 2010, is amended to read as follows:

7 S 1057. [Supervision] RELEASE OF THE CHILD TO THE RESPONDENT OR
8 RESPONDENTS; SUPERVISION OF THE RESPONDENT OR RESPONDENTS.

9 (A) The court may RELEASE THE CHILD TO THE RESPONDENT OR RESPONDENTS
10 FOR A PERIOD OF UP TO ONE YEAR, WHICH MAY BE EXTENDED PURSUANT TO SUBDI-
11 VISION (D) OF THIS SECTION.

12 (B) IN CONJUNCTION WITH AN ORDER RELEASING A CHILD UNDER THIS SECTION
13 OR AN ORDER UNDER PARAGRAPH (II), (III) OR (IV) OF SUBDIVISION (A) OF
14 SECTION ONE THOUSAND FIFTY-TWO OF THIS PART, THE COURT MAY place the
15 respondent OR RESPONDENTS under supervision of a child protective agency
16 or of a social services official or duly authorized agency. An order of
17 supervision entered under this section shall set forth the terms and
18 conditions of such supervision that the respondent OR RESPONDENTS must
19 meet and the actions that the child protective agency, social services
20 official or duly authorized agency must take to exercise such super-
21 vision.

22 (C) Except as provided for herein, in any order issued pursuant to
23 SUBDIVISION (A) OR (B) OF this section, the court may require the child
24 protective agency to make progress reports to the court, the parties,
25 and the child's attorney on the implementation of such order. Where the
26 order of disposition is issued upon the consent of the parties and the
27 child's attorney, such agency shall report to the court, the parties and
28 the child's attorney no later than ninety days after the issuance of the
29 order[, unless] AND NO LATER THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF
30 the ORDER, UNLESS THE court determines that the facts and circumstances
31 of the case do not require such report to be made. [Rules] UNIFORM
32 STATEWIDE RULES of court shall define permissible terms and conditions
33 of supervision OF THE RESPONDENT OR RESPONDENTS under this section.

34 (D) The duration of any period of RELEASE OF THE CHILD TO THE RESPOND-
35 ENT OR RESPONDENTS OR supervision OF THE RESPONDENT OR RESPONDENTS OR
36 BOTH shall be for an initial period of no more than one year [and the].
37 THE court may at the expiration of that period, upon a hearing and for
38 good cause shown, [make successive extensions of] EXTEND such RELEASE OR
39 supervision OR BOTH FOR A PERIOD of up to one year [each].

40 S 11. The section heading and subdivisions (a), (b) and (c) of section
41 1089-a of the family court act, as amended by section 8 of part F of
42 chapter 58 of the laws of 2010, are amended and two new subdivisions
43 (a-1) and (a-2) are added to read as follows:

44 Custody or guardianship with A PARENT OR PARENTS, A RELATIVE OR rela-
45 tives or A suitable PERSON OR persons pursuant to article six of this
46 act or guardianship OF A RELATIVE OR RELATIVES OR A SUITABLE PERSON OR
47 PERSONS pursuant to article seventeen of the surrogate's court procedure
48 act. (a) Where the permanency plan is placement with a fit and willing
49 relative OR A RESPONDENT PARENT, the court may issue an order of custody
50 or guardianship in response to a petition filed by a RESPONDENT PARENT,
51 relative or suitable person seeking custody or guardianship of the child
52 under article six of this act or an order of guardianship of the child
53 under article seventeen of the surrogate's court procedure act [at]. A
54 PETITION FOR CUSTODY OR GUARDIANSHIP MAY BE HEARD JOINTLY WITH a perman-
55 ency hearing held pursuant to this article [and terminate]. AN ORDER OF
56 CUSTODY OR GUARDIANSHIP ISSUED IN ACCORDANCE WITH THIS SUBDIVISION WILL

1 RESULT IN TERMINATION OF all pending orders issued pursuant to THIS
2 article OR ARTICLE ten of this act if THE FOLLOWING CONDITIONS HAVE BEEN
3 MET:

4 (i) the court finds that granting custody TO THE RESPONDENT PARENT OR
5 PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardi-
6 anship of the child to the relative OR RELATIVES or suitable person OR
7 PERSONS is in the best interests of the child and that the termination
8 of the order placing the child pursuant to article ten of this act will
9 not jeopardize the safety of the child. In determining whether the best
10 interests of the child will be promoted by the granting of guardianship
11 of the child to a relative who has cared for the child as a foster
12 parent, the court shall give due consideration to the permanency goal of
13 the child, the relationship between the child and the relative, and
14 whether the relative and the local department of social services have
15 entered into an agreement to provide kinship guardianship assistance
16 payments for the child to the relative under title ten of article six of
17 the social services law, and, if so, whether a fact-finding hearing
18 pursuant to section one thousand fifty-one of this chapter has occurred,
19 and whether compelling reasons exist for determining that the return
20 home of the child and the adoption of the child are not in the best
21 interests of the child and are, therefore, not appropriate permanency
22 options; and

23 (ii) the court finds that granting custody TO THE RESPONDENT PARENT OR
24 PARENTS, RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS or guardi-
25 anship of the child to the relative or RELATIVES OR suitable person OR
26 PERSONS will provide the child with a safe and permanent home; and

27 (iii) the parents, the attorney for the child, the local department of
28 social services, and the foster parent of the child who has been the
29 foster parent for the child for one year or more consent to the issuance
30 of an order of custody or guardianship under article six of this act or
31 the granting of guardianship under article seventeen of the surrogate's
32 court procedure act and the termination of the order of placement pursu-
33 ant to THIS article OR ARTICLE ten of this act; or [(iv)], IF ANY OF THE
34 PARTIES OBJECT TO THE GRANTING OF CUSTODY OR GUARDIANSHIP, THE COURT HAS
35 MADE THE FOLLOWING FINDINGS after a [consolidated] JOINT hearing on the
36 permanency of the child and the petition under article six of this act
37 or article seventeen of the surrogate's court procedure act[;]:

38 (A) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
39 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A parent or parents
40 fail to consent to the granting of [custody or guardianship under arti-
41 cle six of this act or] the [granting of guardianship under article
42 seventeen of the surrogate's court procedure act] PETITION, the court
43 finds that THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
44 DEMONSTRATED THAT extraordinary circumstances exist that support grant-
45 ing an order of custody or guardianship under article six of this act or
46 the granting of guardianship under article seventeen of the surrogate's
47 court procedure act TO THE RELATIVE OR RELATIVES OR SUITABLE PERSON OR
48 PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE THE CHILD'S BEST
49 INTERESTS; or

50 (B) if A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE
51 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND the local department of
52 social services, the attorney for the child, or the foster parent of the
53 child who has been the foster parent for the child for one year or more
54 [fail to consent] OBJECTS to the granting of [custody or guardianship
55 under article six of this act or the granting of guardianship under
56 article seventeen of the surrogate's court procedure act] THE PETITION,

1 the court finds that granting custody or guardianship of the child to
2 the relative OR RELATIVES or suitable person OR PERSONS is in the best
3 interests of the child; OR

4 (C) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
5 ARTICLE SIX OF THIS ACT AND A PARTY WHO IS NOT A PARENT OF THE CHILD
6 OBJECTS TO THE GRANTING OF THE PETITION, THE COURT FINDS EITHER THAT THE
7 OBJECTING PARTY HAS FAILED TO ESTABLISH EXTRAORDINARY CIRCUMSTANCES, OR,
8 IF THE OBJECTING PARTY HAS ESTABLISHED EXTRAORDINARY CIRCUMSTANCES, THAT
9 GRANTING CUSTODY TO THE PETITIONING RESPONDENT PARENT WOULD NONETHELESS
10 BE IN THE CHILD'S BEST INTERESTS; OR

11 (D) IF A RESPONDENT PARENT HAS FILED A PETITION FOR CUSTODY UNDER
12 ARTICLE SIX OF THIS ACT AND THE OTHER PARENT FAILS TO CONSENT TO THE
13 GRANTING OF THE PETITION, THE COURT FINDS THAT GRANTING CUSTODY TO THE
14 PETITIONING RESPONDENT PARENT IS IN THE CHILD'S BEST INTERESTS.

15 (A-1) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
16 ARTICLE SIX OF THIS ACT. WHERE A PROCEEDING FILED BY A NON-RESPONDENT
17 PARENT PURSUANT TO ARTICLE SIX OF THIS ACT IS PENDING AT THE SAME TIME
18 AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE,
19 THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY
20 HEAR THE PERMANENCY HEARING AND THE HEARING ON THE CUSTODY AND VISITA-
21 TION PETITION UNDER ARTICLE SIX OF THIS ACT; PROVIDED HOWEVER, THE COURT
22 MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODY PETITION FILED UNDER
23 ARTICLE SIX OF THIS ACT IN ACCORDANCE WITH THE TERMS OF THAT ARTICLE.

24 (A-2) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER
25 SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW. WHERE A
26 PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY OF, OR
27 RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE IS PENDING AT THE SAME
28 TIME AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTI-
29 CLE, THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY
30 JOINTLY HEAR THE PERMANENCY HEARING AND, UPON REFERRAL FROM THE SUPREME
31 COURT, THE HEARING TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE
32 PROCEEDING PENDING IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT
33 MUST DETERMINE THE NON-RESPONDENT PARENT'S CUSTODIAL RIGHTS IN ACCORD-
34 ANCE WITH THE TERMS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO
35 HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW.

36 (b) An order made in accordance with the provisions of this section
37 shall set forth the required findings as described in subdivision (a) of
38 this section, WHERE APPLICABLE, including, if the guardian and local
39 department of social services have entered into an agreement to provide
40 kinship guardianship assistance payments for the child to the relative
41 under title ten of article six of the social services law, that a fact-
42 finding hearing pursuant to section one thousand fifty-one of this chap-
43 ter [has] AND A PERMANENCY HEARING PURSUANT TO SECTION ONE THOUSAND
44 EIGHTY-NINE OF THIS PART HAVE occurred, and the compelling reasons that
45 exist for determining that the return home of the child are not in the
46 best interests of the child and are, therefore, not appropriate perman-
47 ency options for the child, and shall result in the termination of any
48 orders in effect pursuant to article ten of this act or pursuant to this
49 article. Notwithstanding any other provision of law, the court shall not
50 issue an order of supervision nor may the court require the local
51 department of social services to provide services to the respondent or
52 respondents when granting custody or guardianship pursuant to article
53 six of this act UNDER THIS SECTION or the granting of guardianship under
54 article seventeen of the surrogate's court procedure act in accordance
55 with this section.

1 (c) As part of the order granting custody or guardianship [to the
2 relative or suitable person] IN ACCORDANCE WITH THIS SECTION pursuant to
3 article six of this act or the granting of guardianship under article
4 seventeen of the surrogate's court procedure act, the court may require
5 that the local department of social services and the attorney for the
6 child receive notice of, and be made parties to, any subsequent proceed-
7 ing to modify the order of custody or guardianship granted pursuant to
8 the article six proceeding; provided, however, if the guardian and the
9 local department of social services have entered into an agreement to
10 provide kinship guardianship assistance payments for the child to the
11 relative under title ten of article six of the social services law, the
12 order must require that the local department of social services and the
13 attorney for the child receive notice of, and be made parties to, any
14 such subsequent proceeding involving custody or guardianship of the
15 child.

16 S 12. Paragraph (a) of subdivision 1 of section 240 of the domestic
17 relations law, as amended by chapter 476 of the laws of 2009, is amended
18 to read as follows:

19 (a) In any action or proceeding brought (1) to annul a marriage or to
20 declare the nullity of a void marriage, or (2) for a separation, or (3)
21 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
22 tion and order to show cause, the custody of or right to visitation with
23 any child of a marriage, the court shall require verification of the
24 status of any child of the marriage with respect to such child's custody
25 and support, including any prior orders, and shall enter orders for
26 custody and support as, in the court's discretion, justice requires,
27 having regard to the circumstances of the case and of the respective
28 parties and to the best interests of the child and subject to the
29 provisions of subdivision one-c of this section. Where either party to
30 an action concerning custody of or a right to visitation with a child
31 alleges in a sworn petition or complaint or sworn answer, cross-peti-
32 tion, counterclaim or other sworn responsive pleading that the other
33 party has committed an act of domestic violence against the party making
34 the allegation or a family or household member of either party, as such
35 family or household member is defined in article eight of the family
36 court act, and such allegations are proven by a preponderance of the
37 evidence, the court must consider the effect of such domestic violence
38 upon the best interests of the child, together with such other facts and
39 circumstances as the court deems relevant in making a direction pursuant
40 to this section and state on the record how such findings, facts and
41 circumstances factored into the direction. If a parent makes a good
42 faith allegation based on a reasonable belief supported by facts that
43 the child is the victim of child abuse, child neglect, or the effects of
44 domestic violence, and if that parent acts lawfully and in good faith in
45 response to that reasonable belief to protect the child or seek treat-
46 ment for the child, then that parent shall not be deprived of custody,
47 visitation or contact with the child, or restricted in custody, visita-
48 tion or contact, based solely on that belief or the reasonable actions
49 taken based on that belief. If an allegation that a child is abused is
50 supported by a preponderance of the evidence, then the court shall
51 consider such evidence of abuse in determining the visitation arrange-
52 ment that is in the best interest of the child, and the court shall not
53 place a child in the custody of a parent who presents a substantial risk
54 of harm to that child, and shall state on the record how such findings
55 were factored into the determination. WHERE A PROCEEDING FILED PURSUANT
56 TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS PENDING AT THE SAME

1 TIME AS A PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY
2 OF, OR RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE, THE COURT
3 PRESIDING OVER THE PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY
4 COURT ACT MAY JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE PETITION
5 UNDER ARTICLE TEN OR THE PERMANENCY HEARING UNDER ARTICLE TEN-A OF THE
6 FAMILY COURT ACT AND, UPON REFERRAL FROM THE SUPREME COURT, THE HEARING
7 TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE PROCEEDING PENDING
8 IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT MUST DETERMINE CUSTODY
9 OR VISITATION IN ACCORDANCE WITH THE TERMS OF THIS SECTION.

10 An order directing the payment of child support shall contain the
11 social security numbers of the named parties. In all cases there shall
12 be no prima facie right to the custody of the child in either parent.
13 Such direction shall make provision for child support out of the proper-
14 ty of either or both parents. The court shall make its award for child
15 support pursuant to subdivision one-b of this section. Such direction
16 may provide for reasonable visitation rights to the maternal and/or
17 paternal grandparents of any child of the parties. Such direction as it
18 applies to rights of visitation with a child remanded or placed in the
19 care of a person, official, agency or institution pursuant to article
20 ten of the family court act, or pursuant to an instrument approved under
21 section three hundred fifty-eight-a of the social services law, shall be
22 enforceable pursuant to part eight of article ten of the family court
23 act and sections three hundred fifty-eight-a and three hundred eighty-
24 four-a of the social services law and other applicable provisions of law
25 against any person having care and custody, or temporary care and custo-
26 dy, of the child. Notwithstanding any other provision of law, any writ-
27 ten application or motion to the court for the establishment, modifica-
28 tion or enforcement of a child support obligation for persons not in
29 receipt of public assistance and care must contain either a request for
30 child support enforcement services which would authorize the collection
31 of the support obligation by the immediate issuance of an income
32 execution for support enforcement as provided for by this chapter,
33 completed in the manner specified in section one hundred eleven-g of the
34 social services law; or a statement that the applicant has applied for
35 or is in receipt of such services; or a statement that the applicant
36 knows of the availability of such services, has declined them at this
37 time and where support enforcement services pursuant to section one
38 hundred eleven-g of the social services law have been declined that the
39 applicant understands that an income deduction order may be issued
40 pursuant to subdivision (c) of section fifty-two hundred forty-two of
41 the civil practice law and rules without other child support enforcement
42 services and that payment of an administrative fee may be required. The
43 court shall provide a copy of any such request for child support
44 enforcement services to the support collection unit of the appropriate
45 social services district any time it directs payments to be made to such
46 support collection unit. Additionally, the copy of any such request
47 shall be accompanied by the name, address and social security number of
48 the parties; the date and place of the parties' marriage; the name and
49 date of birth of the child or children; and the name and address of the
50 employers and income payors of the party from whom child support is
51 sought or from the party ordered to pay child support to the other
52 party. Such direction may require the payment of a sum or sums of money
53 either directly to the custodial parent or to third persons for goods or
54 services furnished for such child, or for both payments to the custodial
55 parent and to such third persons; provided, however, that unless the
56 party seeking or receiving child support has applied for or is receiving

1 such services, the court shall not direct such payments to be made to
2 the support collection unit, as established in section one hundred
3 eleven-h of the social services law. Every order directing the payment
4 of support shall require that if either parent currently, or at any time
5 in the future, has health insurance benefits available that may be
6 extended or obtained to cover the child, such parent is required to
7 exercise the option of additional coverage in favor of such child and
8 execute and deliver to such person any forms, notices, documents or
9 instruments necessary to assure timely payment of any health insurance
10 claims for such child.
11 S 13. This act shall take effect on the one hundred eightieth day
12 after it shall have become a law.