

6715--A

Cal. No. 431

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I N   A S S E M B L Y

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Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- reported and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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.

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

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1 S 3. Subdivision 1, paragraph (a) of subdivision 2 and subdivision 3  
2 of section 1017 of the family court act, subdivision 1 and paragraph (a)  
3 of subdivision 2 as amended by section 10 of part A of chapter 3 of the  
4 laws of 2005, the opening paragraph of subdivision 1 as separately  
5 amended by chapter 671 of the laws of 2005, subparagraphs (i) and (ii)  
6 of paragraph (a) of subdivision 2 as amended and subdivision 3 as added  
7 by chapter 519 of the laws of 2008, are amended to read as follows:

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

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

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

(C) The court shall determine:

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

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

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

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

(ii) [place] TEMPORARILY RELEASE the child directly [in the custody of] TO such non-respondent parent[, other] OR TEMPORARILY PLACE THE CHILD WITH A relative or [other] suitable person pursuant to this article during the pendency of the proceeding or until further order of the court, whichever is earlier and conduct such other and further investigations as the court deems necessary. THE COURT MAY DIRECT THE COMMISSIONER OF SOCIAL SERVICES, PURSUANT TO REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO COMMENCE AN INVESTIGATION OF THE HOME OF SUCH NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON WITHIN TWENTY-FOUR HOURS AND TO REPORT THE RESULTS TO THE COURT AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD. IF THE HOME OF A NON-RESPONDENT PARENT, RELATIVE OR SUITABLE PERSON, IS FOUND UNQUALIFIED AS APPROPRIATE FOR THE TEMPORARY RELEASE OR PLACEMENT OF THE CHILD UNDER THIS ARTICLE, THE LOCAL COMMISSIONER SHALL REPORT SUCH FACT AND THE REASONS THEREFOR TO THE COURT AND THE PARTIES, INCLUDING THE ATTORNEY FOR THE CHILD, FORTHWITH; or

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

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

1 REMANDING OR PLACING A CHILD WITH A LOCAL COMMISSIONER OF SOCIAL  
2 SERVICES TO RESIDE WITH A RELATIVE OR RELATIVES OR SUITABLE PERSON OR  
3 PERSONS AS FOSTER PARENTS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH  
4 (A) OF SUBDIVISION TWO OF THIS SECTION may not be granted unless the  
5 [relative or other suitable] person [consents] OR PERSONS TO WHOM THE  
6 CHILD IS RELEASED, REMANDED OR PLACED SUBMITS to the jurisdiction of the  
7 court WITH RESPECT TO THE CHILD. The [court] ORDER SHALL SET FORTH THE  
8 TERMS AND CONDITIONS APPLICABLE TO SUCH PERSON OR PERSONS AND CHILD  
9 PROTECTIVE AGENCY, SOCIAL SERVICES OFFICIAL AND DULY AUTHORIZED AGENCY  
10 WITH RESPECT TO THE CHILD AND may [place the person with whom the child  
11 has been directly placed under supervision during the pendency of the  
12 proceeding. Such supervision shall be provided by a] INCLUDE, BUT MAY  
13 NOT BE LIMITED TO, A DIRECTION FOR SUCH PERSON OR PERSONS TO COOPERATE  
14 IN MAKING THE CHILD AVAILABLE FOR COURT-ORDERED VISITATION WITH RESPOND-  
15 ENTS, SIBLINGS AND OTHERS AND FOR APPOINTMENTS WITH AND VISITS BY THE  
16 child protective agency, INCLUDING VISITS IN THE HOME AND IN-PERSON  
17 CONTACT WITH THE CHILD PROTECTIVE AGENCY, social services official or  
18 duly authorized agency, AND FOR APPOINTMENTS WITH THE CHILD'S ATTORNEY,  
19 CLINICIAN OR OTHER INDIVIDUAL OR PROGRAM PROVIDING SERVICES TO THE CHILD  
20 DURING THE PENDENCY OF THE PROCEEDING. The court also may issue a tempo-  
21 rary order of protection under subdivision (f) of section one thousand  
22 twenty-two, section one thousand twenty-three or section one thousand  
23 twenty-nine of this article AND AN ORDER DIRECTING THAT SERVICES BE  
24 PROVIDED PURSUANT TO SECTION ONE THOUSAND FIFTEEN-A OF THIS PART. [An  
25 order of supervision issued pursuant to this subdivision shall set forth  
26 the terms and conditions that the relative or suitable person must meet  
27 and the actions that the child protective agency, social services offi-  
28 cial or duly authorized agency must take to exercise such supervision.]  
29 S 4. Section 1022-a of the family court act, as added by chapter 336  
30 of the laws of 1990, is amended to read as follows:

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

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

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

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

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

53 Where the respondent is not the child's parent, service of the summons  
54 and petition shall also be ordered on both of the child's parents; where  
55 only one of the child's parents is the respondent, service of the  
56 summons and petition shall also be ordered on the child's other parent.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 UNDER THIS ARTICLE. AN ORDER UNDER THIS SECTION MAY BE EXTENDED UPON A  
2 HEARING FOR A PERIOD OF UP TO ONE YEAR FOR GOOD CAUSE.

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

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

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

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

47 S 9. The section heading and subdivisions (a) and (b) of section  
48 1055-b of the family court act, as amended by section 7 of part F of  
49 chapter 58 of the laws of 2010, are amended and two new subdivisions  
50 (a-1) and (a-2) are added to read as follows:

51 Custody or guardianship with A PARENT OR PARENTS, relatives or suit-  
52 able persons pursuant to article six of this act or guardianship with  
53 [such a person] RELATIVES OR SUITABLE PERSONS pursuant to article seven-  
54 teen of the surrogate's court procedure act. (a) CUSTODY OR GUARDIAN-  
55 SHIP WITH RESPONDENT PARENT OR PARENTS, RELATIVES OR SUITABLE PERSONS.  
56 At the conclusion of the dispositional hearing under this article, the

1 court may enter an order of disposition granting custody or guardianship  
2 of the child to a RESPONDENT PARENT OR PARENTS, AS DEFINED IN SUBDIVI-  
3 SION (1) OF SECTION ONE THOUSAND TWELVE OF THIS ARTICLE, OR A relative  
4 OR RELATIVES or other suitable person [under] OR PERSONS PURSUANT TO  
5 article six of this act or an order of guardianship of the child to  
6 [such] a RELATIVE OR RELATIVES OR SUITABLE person OR PERSONS under arti-  
7 cle seventeen of the surrogate's court procedure act if THE FOLLOWING  
8 CONDITIONS HAVE BEEN MET:

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

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

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

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

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

1 SUITABLE PERSON OR PERSONS AND THAT THE GRANTING OF THE ORDER WILL SERVE  
2 THE CHILD'S BEST INTERESTS; or

3 (B) if a RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE  
4 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND A party other than the  
5 parent or parents fail to consent to the granting of [custody or guardi-  
6 anship under article six of this act or] the PETITION [granting of guar-  
7 dianship under article seventeen of the surrogate's court procedure  
8 act], the court finds that granting custody or guardianship of the child  
9 to the relative OR RELATIVES or suitable person OR PERSONS is in the  
10 best interests of the child; OR

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

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

22 (A-1) CUSTODY AND VISITATION PETITION OF NON-RESPONDENT PARENT UNDER  
23 ARTICLE SIX OF THIS ACT. WHERE A PROCEEDING FILED BY THE NON-RESPONDENT  
24 PARENT PURSUANT TO ARTICLE SIX OF THIS ACT IS PENDING AT THE SAME TIME  
25 AS A PROCEEDING BROUGHT IN THE FAMILY COURT PURSUANT TO THIS ARTICLE,  
26 THE COURT PRESIDING OVER THE PROCEEDING UNDER THIS ARTICLE MAY JOINTLY  
27 HEAR THE DISPOSITIONAL HEARING ON THE CHILD PROTECTIVE PETITION UNDER  
28 THIS ARTICLE AND THE HEARING ON THE CUSTODY AND VISITATION PETITION  
29 UNDER ARTICLE SIX OF THIS ACT; PROVIDED HOWEVER, THE COURT MUST DETER-  
30 MINE THE NON-RESPONDENT PARENT'S CUSTODY AND VISITATION PETITION FILED  
31 UNDER ARTICLE SIX OF THIS ACT IN ACCORDANCE WITH THE TERMS OF THAT ARTI-  
32 CLE.

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

46 (b) An order made in accordance with the provisions of this section  
47 shall set forth the required findings as described in subdivision (a) of  
48 this section WHERE APPLICABLE, including, if the guardian and the local  
49 department of social services have entered into an agreement to provide  
50 kinship guardianship assistance payments for the child to the relative  
51 under title ten of article six of the social services law, that a fact-  
52 finding hearing pursuant to section one thousand fifty-one of this part  
53 and a permanency hearing pursuant to section one thousand eighty-nine of  
54 this chapter [has] HAVE occurred, and the compelling reasons that exist  
55 for determining that the return home of the child and the adoption of  
56 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 services to provide services to the respondent or respondents when granting custody or guardianship pursuant to article six of this act under this section or granting guardianship under article seventeen of the surrogate's court procedure act.

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

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

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

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

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

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

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

Custody or guardianship with A PARENT OR PARENTS, A RELATIVE OR relatives or A suitable PERSON OR persons pursuant to article six of this act or guardianship OF A RELATIVE OR RELATIVES OR A SUITABLE PERSON OR PERSONS pursuant to article seventeen of the surrogate's court procedure act. (a) Where the permanency plan is placement with a fit and willing relative OR A RESPONDENT PARENT, the court may issue an order of custody or guardianship in response to a petition filed by a RESPONDENT PARENT, relative or suitable person seeking custody or guardianship of the child under article six of this act or an order of guardianship of the child

1 under article seventeen of the surrogate's court procedure act [at]. A  
2 PETITION FOR CUSTODY OR GUARDIANSHIP MAY BE HEARD JOINTLY WITH a perman-  
3 ency hearing held pursuant to this article [and terminate]. AN ORDER OF  
4 CUSTODY OR GUARDIANSHIP ISSUED IN ACCORDANCE WITH THIS SUBDIVISION WILL  
5 RESULT IN TERMINATION OF all pending orders issued pursuant to THIS  
6 article OR ARTICLE ten of this act if THE FOLLOWING CONDITIONS HAVE BEEN  
7 MET:

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

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

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

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

54 (B) if A RELATIVE OR RELATIVES OR SUITABLE PERSON OR PERSONS HAVE  
55 FILED A PETITION FOR CUSTODY OR GUARDIANSHIP AND the local department of  
56 social services, the attorney for the child, or the foster parent of the

1 child who has been the foster parent for the child for one year or more  
2 [fail to consent] OBJECTS to the granting of [custody or guardianship  
3 under article six of this act or the granting of guardianship under  
4 article seventeen of the surrogate's court procedure act] THE PETITION,  
5 the court finds that granting custody or guardianship of the child to  
6 the relative OR RELATIVES or suitable person OR PERSONS is in the best  
7 interests of the child; OR

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

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

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

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

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

1 six of this act UNDER THIS SECTION or the granting of guardianship under  
2 article seventeen of the surrogate's court procedure act in accordance  
3 with this section.

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

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

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

1 of harm to that child, and shall state on the record how such findings  
2 were factored into the determination. WHERE A PROCEEDING FILED PURSUANT  
3 TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS PENDING AT THE SAME  
4 TIME AS A PROCEEDING BROUGHT IN THE SUPREME COURT INVOLVING THE CUSTODY  
5 OF, OR RIGHT TO VISITATION WITH, ANY CHILD OF A MARRIAGE, THE COURT  
6 PRESIDING OVER THE PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY  
7 COURT ACT MAY JOINTLY HEAR THE DISPOSITIONAL HEARING ON THE PETITION  
8 UNDER ARTICLE TEN OR THE PERMANENCY HEARING UNDER ARTICLE TEN-A OF THE  
9 FAMILY COURT ACT AND, UPON REFERRAL FROM THE SUPREME COURT, THE HEARING  
10 TO RESOLVE THE MATTER OF CUSTODY OR VISITATION IN THE PROCEEDING PENDING  
11 IN THE SUPREME COURT; PROVIDED HOWEVER, THE COURT MUST DETERMINE CUSTODY  
12 OR VISITATION IN ACCORDANCE WITH THE TERMS OF THIS SECTION.

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

1 services furnished for such child, or for both payments to the custodial  
2 parent and to such third persons; provided, however, that unless the  
3 party seeking or receiving child support has applied for or is receiving  
4 such services, the court shall not direct such payments to be made to  
5 the support collection unit, as established in section one hundred  
6 eleven-h of the social services law. Every order directing the payment  
7 of support shall require that if either parent currently, or at any time  
8 in the future, has health insurance benefits available that may be  
9 extended or obtained to cover the child, such parent is required to  
10 exercise the option of additional coverage in favor of such child and  
11 execute and deliver to such person any forms, notices, documents or  
12 instruments necessary to assure timely payment of any health insurance  
13 claims for such child.

14 S 13. This act shall take effect on the one hundred eightieth day  
15 after it shall have become a law.