

2375--A

2015-2016 Regular Sessions

I N S E N A T E

January 22, 2015

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law, in relation to establishing a presumption of shared parenting of minor children in matrimonial proceedings

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

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that it is the public policy of the state to assure minor chil-
3 dren have frequent and continuing contact with both parents after the
4 parents have separated or dissolved their marriage and that it is in the
5 public interest to encourage parents to share the rights and responsi-
6 bilities of child-rearing in order to effectuate this policy. At the
7 outset and thereafter, in any proceeding where there is at issue the
8 custody of a minor child, the court may, during the pendency of the
9 proceeding or at any time thereafter, make such order for the custody of
10 minor children as may seem necessary or proper. The provisions of this
11 act establish a presumption, affecting the burden of proof, that shared
12 parenting is in the best interests of minor children.

13 S 2. Subdivision (a) of section 70 of the domestic relations law, as
14 amended by chapter 457 of the laws of 1988, is amended to read as
15 follows:

16 (a) Where a minor child is residing within this state, either parent
17 may apply to the supreme court for a writ of habeas corpus to have such
18 minor child brought before such court; and on the return thereof, the
19 court, on due consideration, [may] SHALL award the natural guardianship,
20 charge and custody of such child to [either parent] BOTH PARENTS, IN THE
21 ABSENCE OF AN ALLEGATION THAT SUCH SHARED PARENTING WOULD BE DETRIMENTAL

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

LBD06470-02-6

1 TO SUCH CHILD, for such time, under such regulations and restrictions,
2 and with such provisions and directions, as the case may require, and
3 may at any time thereafter vacate or modify such order. [In all cases
4 there shall be no prima facie right to the custody of the child in
5 either parent, but the] THE BURDEN OF PROOF THAT SUCH SHARED PARENTING
6 WOULD BE DETRIMENTAL TO SUCH CHILD SHALL BE UPON THE PARENT REQUESTING
7 SOLE CUSTODY. THE court shall determine solely what is for the best
8 interest of the child, and what will best promote [its] THE CHILD'S
9 welfare and happiness, and make award accordingly.

10 S 3. Paragraph (a) of subdivision 1 of section 240 of the domestic
11 relations law, as amended by chapter 476 of the laws of 2009, is amended
12 to read as follows:

13 (a) (I) In any action or proceeding brought (1) to annul a marriage or
14 to declare the nullity of a void marriage, or (2) for a separation, or
15 (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by
16 petition and order to show cause, the custody of or right to visitation
17 with any child of a marriage, the court shall require verification of
18 the status of any child of the marriage with respect to such child's
19 custody and support, including any prior orders, and shall enter orders
20 for custody and support as, in the court's discretion, justice requires,
21 having regard to the circumstances of the case and of the respective
22 parties and to the best interests of the child and subject to the
23 provisions of subdivision one-c of this section. Where either party to
24 an action concerning custody of or a right to visitation with a child
25 alleges in a sworn petition or complaint or sworn answer, cross-peti-
26 tion, counterclaim or other sworn responsive pleading that the other
27 party has committed an act of domestic violence against the party making
28 the allegation or a family or household member of either party, as such
29 family or household member is defined in article eight of the family
30 court act, and such allegations are proven by a preponderance of the
31 evidence, the court must consider the effect of such domestic violence
32 upon the best interests of the child, together with such other facts and
33 circumstances as the court deems relevant in making a direction pursuant
34 to this section and state on the record how such findings, facts and
35 circumstances factored into the direction. If a parent makes a good
36 faith allegation based on a reasonable belief supported by facts that
37 the child is the victim of child abuse, child neglect, or the effects of
38 domestic violence, and if that parent acts lawfully and in good faith in
39 response to that reasonable belief to protect the child or seek treat-
40 ment for the child, then that parent shall not be deprived of custody,
41 visitation or contact with the child, or restricted in custody, visita-
42 tion or contact, based solely on that belief or the reasonable actions
43 taken based on that belief. If an allegation that a child is abused is
44 supported by a preponderance of the evidence, then the court shall
45 consider such evidence of abuse in determining the visitation arrange-
46 ment that is in the best interest of the child, and the court shall not
47 place a child in the custody of a parent who presents a substantial risk
48 of harm to that child, and shall state on the record how such findings
49 were factored into the determination. An order directing the payment of
50 child support shall contain the social security numbers of the named
51 parties. [In all cases there shall be no prima facie right to the custo-
52 dy of the child in either parent. Such] (II) CUSTODY SHALL BE AWARDED
53 IN THE FOLLOWING ORDER OF PREFERENCE, ACCORDING TO THE BEST INTERESTS OF
54 THE CHILD:

55 (1) TO BOTH PARENTS JOINTLY PURSUANT TO SECTION TWO HUNDRED FORTY-D OF
56 THIS ARTICLE. IN SUCH CASES THE COURT MUST REQUIRE THE PARENTS TO

1 SUBMIT A PARENTING PLAN AS DEFINED IN SUBDIVISION TWO OF SECTION TWO
2 HUNDRED FORTY-D OF THIS ARTICLE FOR IMPLEMENTATION OF THE CUSTODY ORDER
3 OR THE PARENTS ACTING INDIVIDUALLY OR IN CONCERT MAY SUBMIT A CUSTODY
4 IMPLEMENTATION PLAN TO THE COURT PRIOR TO ISSUANCE OF A CUSTODY DECREE.
5 THERE SHALL BE A PRESUMPTION, AFFECTING THE BURDEN OF PROOF, THAT SHARED
6 PARENTING IS IN THE BEST INTERESTS OF A MINOR CHILD UNLESS THE PARENTS
7 HAVE AGREED TO AN AWARD OF CUSTODY TO ONE PARENT OR SO AGREE IN OPEN
8 COURT AT A HEARING FOR THE PURPOSE OF DETERMINING CUSTODY OF A MINOR
9 CHILD OF THE MARRIAGE OR THE COURT FINDS THAT SHARED PARENTING WOULD BE
10 DETRIMENTAL TO A PARTICULAR CHILD OF A SPECIFIC MARRIAGE. FOR THE
11 PURPOSE OF ASSISTING THE COURT IN MAKING A DETERMINATION WHETHER AN
12 AWARD OF SHARED PARENTING IS APPROPRIATE, THE COURT MAY DIRECT THAT AN
13 INVESTIGATION BE CONDUCTED. IF THE COURT DECLINES TO ENTER AN ORDER
14 AWARDED SHARED PARENTING PURSUANT TO THIS PARAGRAPH, THE COURT SHALL
15 STATE IN ITS DECISION THE REASONS FOR DENIAL OF AN AWARD OF SHARED
16 PARENTING. IN JURISDICTIONS HAVING A PRIVATE OR PUBLICLY-SUPPORTED
17 CONCILIATION SERVICE, THE COURT OR THE PARTIES MAY, AT ANY TIME, PURSU-
18 ANT TO LOCAL RULES OF COURT, CONSULT WITH THE CONCILIATION SERVICE FOR
19 THE PURPOSE OF ASSISTING THE PARTIES TO FORMULATE A PLAN FOR IMPLEMENTA-
20 TION OF THE CUSTODY ORDER OR TO RESOLVE ANY CONTROVERSY WHICH HAS ARISEN
21 IN THE IMPLEMENTATION OF A PLAN FOR CUSTODY. ANY ORDER FOR SHARED
22 PARENTING MAY BE MODIFIED OR TERMINATED UPON THE PETITION OF ONE OR BOTH
23 PARENTS OR ON THE COURT'S OWN MOTION IF IT IS SHOWN THAT THE BEST INTER-
24 ESTS OF THE CHILD REQUIRE MODIFICATION OR TERMINATION OF THE SHARED
25 PARENTING ORDER. ANY ORDER FOR THE CUSTODY OF A MINOR CHILD OF A
26 MARRIAGE ENTERED BY A COURT IN THIS STATE OR IN ANY OTHER STATE, SUBJECT
27 TO JURISDICTIONAL REQUIREMENTS, MAY BE MODIFIED AT ANY TIME TO AN ORDER
28 OF SHARED PARENTING IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

29 (2) TO EITHER PARENT, IN WHICH CASE, THE COURT, IN MAKING AN ORDER FOR
30 CUSTODY TO EITHER PARENT SHALL CONSIDER, AMONG OTHER FACTORS, WHICH
31 PARENT IS MORE LIKELY TO ALLOW THE CHILD OR CHILDREN FREQUENT AND
32 CONTINUING CONTACT WITH THE NONCUSTODIAL PARENT, AND SHALL NOT PREFER A
33 PARENT AS CUSTODIAN BECAUSE OF THAT PARENT'S GENDER. THE BURDEN OF PROOF
34 THAT SHARED PARENTING WOULD NOT BE IN THE CHILD'S BEST INTEREST SHALL BE
35 UPON THE PARENT REQUESTING SOLE CUSTODY. NOTWITHSTANDING ANY OTHER
36 PROVISION OF LAW, ACCESS TO RECORDS AND INFORMATION PERTAINING TO A
37 MINOR CHILD, INCLUDING BUT NOT LIMITED TO MEDICAL, DENTAL AND SCHOOL
38 RECORDS, SHALL NOT BE DENIED TO A PARENT BECAUSE THE PARENT IS NOT THE
39 CHILD'S CUSTODIAL PARENT.

40 (3) IF TO NEITHER PARENT, TO THE PERSON OR PERSONS IN WHOSE HOME THE
41 CHILD HAS BEEN LIVING IN A NURTURING AND STABLE ENVIRONMENT.

42 (4) TO ANY OTHER PERSON OR PERSONS DEEMED BY THE COURT TO BE SUITABLE
43 AND ABLE TO PROVIDE A NURTURING AND STABLE ENVIRONMENT.

44 BEFORE THE COURT MAKES ANY ORDER AWARDED CUSTODY TO A PERSON OR
45 PERSONS OTHER THAN A PARENT WITHOUT THE CONSENT OF THE PARENTS, IT SHALL
46 MAKE A FINDING THAT AN AWARD OF CUSTODY TO A PARENT WOULD BE DETRIMENTAL
47 TO THE CHILD AND THE AWARD TO A NON-PARENT IS REQUIRED TO SERVE THE BEST
48 INTERESTS OF THE CHILD. ALLEGATIONS THAT PARENTAL CUSTODY WOULD BE
49 DETRIMENTAL TO THE CHILD, OTHER THAN A STATEMENT OF THAT ULTIMATE FACT,
50 SHALL NOT APPEAR IN THE PLEADINGS. THE COURT MAY, IN ITS DISCRETION,
51 EXCLUDE THE PUBLIC FROM THE HEARING ON THIS ISSUE. THE COURT SHALL STATE
52 IN WRITING THE REASON FOR ITS DECISION AND WHY THE AWARD MADE WAS FOUND
53 TO BE IN THE BEST INTERESTS OF THE CHILD. ANY DIRECTION MADE PURSUANT TO
54 THIS SUBDIVISION shall make provision for child support out of the prop-
55 erty of [either or] both parents. The court shall make its award for
56 child support pursuant to subdivision one-b of this section. Such direc-

tion may provide for reasonable visitation rights to the maternal and/or paternal grandparents of any child of the parties. Such direction as it applies to rights of visitation with a child remanded or placed in the care of a person, official, agency or institution pursuant to article ten of the family court act, or pursuant to an instrument approved under section three hundred fifty-eight-a of the social services law, shall be enforceable pursuant to part eight of article ten of the family court act and sections three hundred fifty-eight-a and three hundred eighty-four-a of the social services law and other applicable provisions of law against any person having care and custody, or temporary care and custody, of the child. Notwithstanding any other provision of law, any written application or motion to the court for the establishment, modification or enforcement of a child support obligation for persons not in receipt of public assistance and care must contain either a request for child support enforcement services which would authorize the collection of the support obligation by the immediate issuance of an income execution for support enforcement as provided for by this chapter, completed in the manner specified in section one hundred eleven-g of the social services law; or a statement that the applicant has applied for or is in receipt of such services; or a statement that the applicant knows of the availability of such services, has declined them at this time and where support enforcement services pursuant to section one hundred eleven-g of the social services law have been declined that the applicant understands that an income deduction order may be issued pursuant to subdivision (c) of section fifty-two hundred forty-two of the civil practice law and rules without other child support enforcement services and that payment of an administrative fee may be required. The court shall provide a copy of any such request for child support enforcement services to the support collection unit of the appropriate social services district any time it directs payments to be made to such support collection unit. Additionally, the copy of any such request shall be accompanied by the name, address and social security number of the parties; the date and place of the parties' marriage; the name and date of birth of the child or children; and the name and address of the employers and income payors of the party from whom child support is sought or from the party ordered to pay child support to the other party. Such direction may require the payment of a sum or sums of money either directly to the custodial parent or to third persons for goods or services furnished for such child, or for both payments to the custodial parent and to such third persons; provided, however, that unless the party seeking or receiving child support has applied for or is receiving such services, the court shall not direct such payments to be made to the support collection unit, as established in section one hundred eleven-h of the social services law. Every order directing the payment of support shall require that if either parent currently, or at any time in the future, has health insurance benefits available that may be extended or obtained to cover the child, such parent is required to exercise the option of additional coverage in favor of such child and execute and deliver to such person any forms, notices, documents or instruments necessary to assure timely payment of any health insurance claims for such child.

S 4. Paragraph (a) of subdivision 1 of section 240 of the domestic relations law, as amended by chapter 567 of the laws of 2015, is amended to read as follows:

(a) (I) In any action or proceeding brought (1) to annul a marriage or to declare the nullity of a void marriage, or (2) for a separation, or

1 (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by
2 petition and order to show cause, the custody of or right to visitation
3 with any child of a marriage, the court shall require verification of
4 the status of any child of the marriage with respect to such child's
5 custody and support, including any prior orders, and shall enter orders
6 for custody and support as, in the court's discretion, justice requires,
7 having regard to the circumstances of the case and of the respective
8 parties and to the best interests of the child and subject to the
9 provisions of subdivision one-c of this section. Where either party to
10 an action concerning custody of or a right to visitation with a child
11 alleges in a sworn petition or complaint or sworn answer, cross-peti-
12 tion, counterclaim or other sworn responsive pleading that the other
13 party has committed an act of domestic violence against the party making
14 the allegation or a family or household member of either party, as such
15 family or household member is defined in article eight of the family
16 court act, and such allegations are proven by a preponderance of the
17 evidence, the court must consider the effect of such domestic violence
18 upon the best interests of the child, together with such other facts and
19 circumstances as the court deems relevant in making a direction pursuant
20 to this section and state on the record how such findings, facts and
21 circumstances factored into the direction. If a parent makes a good
22 faith allegation based on a reasonable belief supported by facts that
23 the child is the victim of child abuse, child neglect, or the effects of
24 domestic violence, and if that parent acts lawfully and in good faith in
25 response to that reasonable belief to protect the child or seek treat-
26 ment for the child, then that parent shall not be deprived of custody,
27 visitation or contact with the child, or restricted in custody, visita-
28 tion or contact, based solely on that belief or the reasonable actions
29 taken based on that belief. If an allegation that a child is abused is
30 supported by a preponderance of the evidence, then the court shall
31 consider such evidence of abuse in determining the visitation arrange-
32 ment that is in the best interest of the child, and the court shall not
33 place a child in the custody of a parent who presents a substantial risk
34 of harm to that child, and shall state on the record how such findings
35 were factored into the determination. Where a proceeding filed pursuant
36 to article ten or ten-A of the family court act is pending at the same
37 time as a proceeding brought in the supreme court involving the custody
38 of, or right to visitation with, any child of a marriage, the court
39 presiding over the proceeding under article ten or ten-A of the family
40 court act may jointly hear the dispositional hearing on the petition
41 under article ten or the permanency hearing under article ten-A of the
42 family court act and, upon referral from the supreme court, the hearing
43 to resolve the matter of custody or visitation in the proceeding pending
44 in the supreme court; provided however, the court must determine custody
45 or visitation in accordance with the terms of this section.

46 An order directing the payment of child support shall contain the
47 social security numbers of the named parties. [In all cases there shall
48 be no prima facie right to the custody of the child in either parent.
49 Such] (II) CUSTODY SHALL BE AWARDED IN THE FOLLOWING ORDER OF PREFER-
50 ENCE, ACCORDING TO THE BEST INTERESTS OF THE CHILD:

51 (1) TO BOTH PARENTS JOINTLY PURSUANT TO SECTION TWO HUNDRED FORTY-D OF
52 THIS ARTICLE. IN SUCH CASES THE COURT MUST REQUIRE THE PARENTS TO SUBMIT
53 A PARENTING PLAN AS DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED
54 FORTY-D OF THIS ARTICLE FOR IMPLEMENTATION OF THE CUSTODY ORDER OR THE
55 PARENTS ACTING INDIVIDUALLY OR IN CONCERT MAY SUBMIT A CUSTODY IMPLEMEN-
56 TATION PLAN TO THE COURT PRIOR TO ISSUANCE OF A CUSTODY DECREE. THERE

1 SHALL BE A PRESUMPTION, AFFECTING THE BURDEN OF PROOF, THAT SHARED
2 PARENTING IS IN THE BEST INTERESTS OF A MINOR CHILD UNLESS THE PARENTS
3 HAVE AGREED TO AN AWARD OF CUSTODY TO ONE PARENT OR SO AGREE IN OPEN
4 COURT AT A HEARING FOR THE PURPOSE OF DETERMINING CUSTODY OF A MINOR
5 CHILD OF THE MARRIAGE OR THE COURT FINDS THAT SHARED PARENTING WOULD BE
6 DETRIMENTAL TO A PARTICULAR CHILD OF A SPECIFIC MARRIAGE. FOR THE
7 PURPOSE OF ASSISTING THE COURT IN MAKING A DETERMINATION WHETHER AN
8 AWARD OF SHARED PARENTING IS APPROPRIATE, THE COURT MAY DIRECT THAT AN
9 INVESTIGATION BE CONDUCTED. IF THE COURT DECLINES TO ENTER AN ORDER
10 AWARDING SHARED PARENTING PURSUANT TO THIS PARAGRAPH, THE COURT SHALL
11 STATE IN ITS DECISION THE REASONS FOR DENIAL OF AN AWARD OF SHARED
12 PARENTING. IN JURISDICTIONS HAVING A PRIVATE OR PUBLICLY-SUPPORTED
13 CONCILIATION SERVICE, THE COURT OR THE PARTIES MAY, AT ANY TIME, PURSU-
14 ANT TO LOCAL RULES OF COURT, CONSULT WITH THE CONCILIATION SERVICE FOR
15 THE PURPOSE OF ASSISTING THE PARTIES TO FORMULATE A PLAN FOR IMPLEMENTA-
16 TION OF THE CUSTODY ORDER OR TO RESOLVE ANY CONTROVERSY WHICH HAS ARISEN
17 IN THE IMPLEMENTATION OF A PLAN FOR CUSTODY. ANY ORDER FOR SHARED
18 PARENTING MAY BE MODIFIED OR TERMINATED UPON THE PETITION OF ONE OR BOTH
19 PARENTS OR ON THE COURT'S OWN MOTION IF IT IS SHOWN THAT THE BEST INTER-
20 ESTS OF THE CHILD REQUIRE MODIFICATION OR TERMINATION OF THE SHARED
21 PARENTING ORDER. ANY ORDER FOR THE CUSTODY OF A MINOR CHILD OF A
22 MARRIAGE ENTERED BY A COURT IN THIS STATE OR IN ANY OTHER STATE, SUBJECT
23 TO JURISDICTIONAL REQUIREMENTS, MAY BE MODIFIED AT ANY TIME TO AN ORDER
24 OF SHARED PARENTING IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

25 (2) TO EITHER PARENT, IN WHICH CASE, THE COURT, IN MAKING AN ORDER FOR
26 CUSTODY TO EITHER PARENT SHALL CONSIDER, AMONG OTHER FACTORS, WHICH
27 PARENT IS MORE LIKELY TO ALLOW THE CHILD OR CHILDREN FREQUENT AND
28 CONTINUING CONTACT WITH THE NONCUSTODIAL PARENT, AND SHALL NOT PREFER A
29 PARENT AS CUSTODIAN BECAUSE OF THAT PARENT'S GENDER. THE BURDEN OF PROOF
30 THAT SHARED PARENTING WOULD NOT BE IN THE CHILD'S BEST INTEREST SHALL BE
31 UPON THE PARENT REQUESTING SOLE CUSTODY. NOTWITHSTANDING ANY OTHER
32 PROVISION OF LAW, ACCESS TO RECORDS AND INFORMATION PERTAINING TO A
33 MINOR CHILD, INCLUDING BUT NOT LIMITED TO MEDICAL, DENTAL AND SCHOOL
34 RECORDS, SHALL NOT BE DENIED TO A PARENT BECAUSE THE PARENT IS NOT THE
35 CHILD'S CUSTODIAL PARENT.

36 (3) IF TO NEITHER PARENT, TO THE PERSON OR PERSONS IN WHOSE HOME THE
37 CHILD HAS BEEN LIVING IN A NURTURING AND STABLE ENVIRONMENT.

38 (4) TO ANY OTHER PERSON OR PERSONS DEEMED BY THE COURT TO BE SUITABLE
39 AND ABLE TO PROVIDE A NURTURING AND STABLE ENVIRONMENT.

40 BEFORE THE COURT MAKES ANY ORDER AWARDING CUSTODY TO A PERSON OR
41 PERSONS OTHER THAN A PARENT WITHOUT THE CONSENT OF THE PARENTS, IT SHALL
42 MAKE A FINDING THAT AN AWARD OF CUSTODY TO A PARENT WOULD BE DETRIMENTAL
43 TO THE CHILD AND THE AWARD TO A NON-PARENT IS REQUIRED TO SERVE THE BEST
44 INTERESTS OF THE CHILD. ALLEGATIONS THAT PARENTAL CUSTODY WOULD BE
45 DETRIMENTAL TO THE CHILD, OTHER THAN A STATEMENT OF THAT ULTIMATE FACT,
46 SHALL NOT APPEAR IN THE PLEADINGS. THE COURT MAY, IN ITS DISCRETION,
47 EXCLUDE THE PUBLIC FROM THE HEARING ON THIS ISSUE. THE COURT SHALL STATE
48 IN WRITING THE REASON FOR ITS DECISION AND WHY THE AWARD MADE WAS FOUND
49 TO BE IN THE BEST INTERESTS OF THE CHILD. ANY DIRECTION MADE PURSUANT TO
50 THIS SUBDIVISION shall make provision for child support out of the prop-
51 erty of [either or] both parents. The court shall make its award for
52 child support pursuant to subdivision one-b of this section. Such direc-
53 tion may provide for reasonable visitation rights to the maternal and/or
54 paternal grandparents of any child of the parties. Such direction as it
55 applies to rights of visitation with a child remanded or placed in the
56 care of a person, official, agency or institution pursuant to article

1 ten of the family court act, or pursuant to an instrument approved under
2 section three hundred fifty-eight-a of the social services law, shall be
3 enforceable pursuant to part eight of article ten of the family court
4 act and sections three hundred fifty-eight-a and three hundred eighty-
5 four-a of the social services law and other applicable provisions of law
6 against any person having care and custody, or temporary care and custo-
7 dy, of the child. Notwithstanding any other provision of law, any writ-
8 ten application or motion to the court for the establishment, modifica-
9 tion or enforcement of a child support obligation for persons not in
10 receipt of public assistance and care must contain either a request for
11 child support enforcement services which would authorize the collection
12 of the support obligation by the immediate issuance of an income
13 execution for support enforcement as provided for by this chapter,
14 completed in the manner specified in section one hundred eleven-g of the
15 social services law; or a statement that the applicant has applied for
16 or is in receipt of such services; or a statement that the applicant
17 knows of the availability of such services, has declined them at this
18 time and where support enforcement services pursuant to section one
19 hundred eleven-g of the social services law have been declined that the
20 applicant understands that an income deduction order may be issued
21 pursuant to subdivision (c) of section fifty-two hundred forty-two of
22 the civil practice law and rules without other child support enforcement
23 services and that payment of an administrative fee may be required. The
24 court shall provide a copy of any such request for child support
25 enforcement services to the support collection unit of the appropriate
26 social services district any time it directs payments to be made to such
27 support collection unit. Additionally, the copy of any such request
28 shall be accompanied by the name, address and social security number of
29 the parties; the date and place of the parties' marriage; the name and
30 date of birth of the child or children; and the name and address of the
31 employers and income payors of the party from whom child support is
32 sought or from the party ordered to pay child support to the other
33 party. Such direction may require the payment of a sum or sums of money
34 either directly to the custodial parent or to third persons for goods or
35 services furnished for such child, or for both payments to the custodial
36 parent and to such third persons; provided, however, that unless the
37 party seeking or receiving child support has applied for or is receiving
38 such services, the court shall not direct such payments to be made to
39 the support collection unit, as established in section one hundred
40 eleven-h of the social services law. Every order directing the payment
41 of support shall require that if either parent currently, or at any time
42 in the future, has health insurance benefits available that may be
43 extended or obtained to cover the child, such parent is required to
44 exercise the option of additional coverage in favor of such child and
45 execute and deliver to such person any forms, notices, documents or
46 instruments necessary to assure timely payment of any health insurance
47 claims for such child.

48 S 5. The domestic relations law is amended by adding a new section
49 240-d to read as follows:

50 S 240-D. CUSTODY OF CHILDREN. 1. WHERE THE COURT CONSIDERS AWARDING
51 SHARED PARENTING PURSUANT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVI-
52 SION ONE OF SECTION TWO HUNDRED FORTY OF THIS ARTICLE, "SHARED PARENT-
53 ING", SHALL MEAN AN ORDER AWARDING CUSTODY OF THE CHILD TO BOTH PARTIES
54 SO THAT BOTH PARTIES SHARE EQUALLY THE LEGAL RESPONSIBILITY AND CONTROL
55 OF SUCH CHILD AND SHARE EQUALLY THE LIVING EXPERIENCE IN TIME AND PHYS-
56 ICAL CARE TO ASSURE FREQUENT AND CONTINUING CONTACT WITH BOTH PARTIES,

1 AS THE COURT DEEMS TO BE IN THE BEST INTERESTS OF THE CHILD, TAKING INTO
2 CONSIDERATION THE LOCATION AND CIRCUMSTANCES OF EACH PARTY. THE TERM
3 "SHARED PARENTING", SHALL BE CONSIDERED INTERCHANGEABLE WITH "NEARLY
4 EQUAL SHARED PARENTING". AN AWARD OF JOINT PHYSICAL AND LEGAL CUSTODY
5 OBLIGATES THE PARTIES TO EXCHANGE INFORMATION CONCERNING THE HEALTH,
6 EDUCATION AND WELFARE OF THE MINOR CHILD, AND UNLESS ALLOCATED, APPOR-
7 TIONED OR DECREED, THE PARENTS OR PARTIES SHALL CONFER WITH ONE ANOTHER
8 IN THE EXERCISE OF DECISION-MAKING RIGHTS, RESPONSIBILITIES AND AUTHORI-
9 TY.

10 2. FOR THE PURPOSES OF THIS ARTICLE A "PARENTING PLAN", REQUIRED TO BE
11 SUBMITTED TO THE COURT PURSUANT TO CLAUSE ONE OF SUBPARAGRAPH (II) OF
12 PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY OF THIS
13 ARTICLE, SHALL INCLUDE BUT NOT BE LIMITED TO:

14 (A) THE LEGAL RESPONSIBILITIES OF EACH PARENT;

15 (B) A WEEKLY PARENTING SCHEDULE;

16 (C) A HOLIDAY AND VACATION PARENTING SCHEDULE;

17 (D) A SCHEDULE FOR SPECIAL OCCASIONS, INCLUDING BIRTHDAYS;

18 (E) A DESCRIPTION OF ANY SPECIFIC DECISION MAKING AREAS FOR EACH
19 PARENT PROVIDED, HOWEVER, THAT BOTH PARENTS SHALL CONFER AND JOINTLY
20 DETERMINE MAJOR ISSUES AFFECTING THE WELFARE OF THE CHILD INCLUDING
21 HEALTH, EDUCATION, DISCIPLINE AND RELIGION;

22 (F) IF APPLICABLE, THE NEED FOR ANY AND ALL OF THE PARTIES TO PARTIC-
23 IPATE IN COUNSELING;

24 (G) ANY RESTRICTIONS ON EITHER PARENT WHEN IN PHYSICAL CONTROL OF THE
25 CHILD OR CHILDREN; AND

26 (H) PROVISIONS FOR MEDIATION OF DISPUTES.

27 3. ONE PARENT MAY BE DESIGNATED AS A PUBLIC WELFARE RECIPIENT IN SITU-
28 ATIONS WHERE PUBLIC WELFARE AID IS DEEMED NECESSARY AND APPROPRIATE. IN
29 MAKING AN ORDER OF SHARED PARENTING, THE COURT SHALL SPECIFY THE RIGHT
30 OF EACH PARENT TO THE PHYSICAL CONTROL OF THE CHILD IN SUFFICIENT DETAIL
31 TO ENABLE A PARENT DEPRIVED OF THAT CONTROL TO ENFORCE THE COURT ORDER
32 AND TO ENABLE LAW ENFORCEMENT AUTHORITIES TO IMPLEMENT LAWS FOR RELIEF
33 OF PARENTAL KIDNAPPING AND CUSTODIAL INTERFERENCE.

34 S 6. This act shall take effect on the first of November next succeed-
35 ing the date on which it shall have become a law and shall apply to
36 actions and proceedings commenced on and after such date; provided,
37 however, that if chapter 567 of the laws of 2015 shall not have taken
38 effect on or before such date then section four of this act shall take
39 effect on the same date and in the same manner as such chapter of the
40 laws of 2015, takes effect.