

# STATE OF NEW YORK

5998

2025-2026 Regular Sessions

## IN SENATE

March 4, 2025

Introduced by Sens. SKOUFIS, ADDABBO, ASHBY, CANZONERI-FITZPATRICK, CLEARE, COMRIE, COONEY, GALLIVAN, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KRUEGER, MARTINEZ, MARTINS, MATTERA, MAY, MAYER, MURRAY, MYRIE, OBERACKER, O'MARA, PALUMBO, RAMOS, RHOADS, RIVERA, ROLISON, SCARCELLA-SPANTON, SEPULVEDA, WEBB, WEBER, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the domestic relations law, the family court act and the civil practice law and rules, in relation to establishing "Kyra's Law"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 "Kyra's Law".  
3 § 2. Legislative intent. The legislature recognizes that the safety  
4 of children is of paramount importance and is an integral element of  
5 their best interests. To that end, the legislature finds that judicial  
6 decisions regarding custody of, and access to, children shall promote  
7 the safety of children as a threshold issue.  
8 § 3. Paragraphs (a) and (a-1) of subdivision 1 of section 240 of the  
9 domestic relations law, paragraph (a) as amended by chapter 567 of the  
10 laws of 2015 and paragraph (a-1) as amended by chapter 295 of the laws  
11 of 2009, are amended to read as follows:  
12 (a) In any action or proceeding brought (1) to annul a marriage or to  
13 declare the nullity of a void marriage, or (2) for a separation, or (3)  
14 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-  
15 tion and order to show cause, the custody of or right to visitation with  
16 any child of a marriage, the court shall require verification of the  
17 status of any child of the marriage with respect to such child's custody  
18 and support, including any prior orders, and shall enter orders for  
19 custody and support as, in the court's discretion, justice requires,  
20 having regard to the circumstances of the case and of the respective

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

LBD10304-01-5

1 parties and to the best interests of the child and subject to the  
2 provisions of subdivision one-c of this section. When the parties first  
3 appear in court, the court shall advise the parties before proceeding of  
4 the right to be represented by counsel of their own choosing, of the  
5 right to an adjournment of no longer than thirty days to confer with  
6 counsel, and the right to seek counsel fees and expenses, pursuant to  
7 section two hundred thirty-seven of this article. The court shall assign  
8 counsel to the eligible parties and children, pursuant to article two of  
9 the family court act and subdivisions seven and eight of section thir-  
10 ty-five of the judiciary law. Where either party to an action concerning  
11 custody of or a right to visitation with a child alleges in a sworn  
12 petition or complaint or sworn answer, cross-petition, counterclaim or  
13 other sworn responsive pleading that the other party has committed an  
14 act of domestic violence against the party making the allegation or a  
15 family or household member of either party, as such family or household  
16 member is defined in article eight of the family court act, and such  
17 allegations are proven by a preponderance of the evidence, the court  
18 [~~must~~] shall consider the effect of such domestic violence upon the best  
19 interests of the child, together with such other facts and circumstances  
20 as the court deems relevant in making a direction pursuant to this  
21 section and state on the record how such findings, facts and circum-  
22 stances factored into the direction. If a parent makes a good faith  
23 allegation based on a reasonable belief supported by facts that the  
24 child is the victim of child abuse, child neglect, or the effects of  
25 domestic violence, and if that parent acts lawfully and in good faith in  
26 response to that reasonable belief to protect the child or seek treat-  
27 ment for the child, then that parent shall not be deprived of custody,  
28 visitation or contact with the child, or restricted in custody, visita-  
29 tion or contact, based solely on that belief or the reasonable actions  
30 taken based on that belief. If an allegation that a child is abused is  
31 supported by a preponderance of the evidence, then the court shall  
32 consider such evidence of abuse in determining the visitation arrange-  
33 ment that is in the best interest of the child, and the court shall not  
34 place a child in the custody of a parent who presents a substantial risk  
35 of harm to that child, and shall state on the record how such findings  
36 were factored into the determination. Where a proceeding filed pursuant  
37 to article ten or ten-A of the family court act is pending at the same  
38 time as a proceeding brought in the supreme court involving the custody  
39 of, or right to visitation with, any child of a marriage, the court  
40 presiding over the proceeding under article ten or ten-A of the family  
41 court act may jointly hear the dispositional hearing on the petition  
42 under article ten or the permanency hearing under article ten-A of the  
43 family court act and, upon referral from the supreme court, the hearing  
44 to resolve the matter of custody or visitation in the proceeding pending  
45 in the supreme court; provided however, the court [~~must~~] shall determine  
46 custody or visitation in accordance with the terms of this section.

47 An order directing the payment of child support shall contain the  
48 social security numbers of the named parties. In all cases there shall  
49 be no prima facie right to the custody of the child in either parent.  
50 Such direction shall make provision for child support out of the proper-  
51 ty of either or both parents. The court shall make its award for child  
52 support pursuant to subdivision one-b of this section. Such direction  
53 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~~ shall contain either a  
11 request for child support enforcement services which would authorize the  
12 collection of the support obligation by the immediate issuance of an  
13 income execution for support enforcement as provided for by this chap-  
14 ter, completed in the manner specified in section one hundred eleven-g  
15 of the social services law; or a statement that the applicant has  
16 applied for or is in receipt of such services; or a statement that the  
17 applicant knows of the availability of such services, has declined them  
18 at this time and where support enforcement services pursuant to section  
19 one hundred eleven-g of the social services law have been declined that  
20 the 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 (a-1)(1) ~~Permanent and initial temporary orders of custody or visita-~~  
49 ~~tion. Prior to the issuance of any permanent or initial temporary order~~  
50 ~~of custody or visitation, the court shall conduct a review of the deci-~~  
51 ~~sions and reports listed in subparagraph three of this paragraph.~~

52 ~~(2) Successive temporary orders of custody or visitation. Prior to the~~  
53 ~~issuance of any successive temporary order of custody or visitation, the~~  
54 ~~court shall conduct a review of the decisions and reports listed in~~  
55 ~~subparagraph three of this paragraph, unless such a review has been~~  
56 ~~conducted within ninety days prior to the issuance of such order.~~

1 ~~(3) Decisions and reports for review. The court shall conduct a review~~  
2 ~~of the following:]~~ Prompt evidentiary hearing. Upon the application of  
3 any party to an action concerning custody of or visitation with a child,  
4 or of an attorney for the child, asserting facially credible allega-  
5 tions, including, but not limited to, allegations of domestic violence  
6 that, if true, would pose a substantial risk to the safety of the child,  
7 the court shall hold a prompt evidentiary hearing to determine whether  
8 temporary limitations or conditions on the custody or visitation rights  
9 of the party against whom such allegations have been made are necessary  
10 to avoid a substantial risk to the child's safety. Except for good cause  
11 shown, the hearing for such determination shall commence within twenty  
12 court days of the application for such hearing with an adjournment of up  
13 to thirty days, if needed, for the appearance by counsel for the parties  
14 and attorney for the child. The court shall remind the parties of their  
15 right to the assistance of counsel for the prompt evidentiary hearing.  
16 During such hearing, only competent, material and relevant evidence  
17 shall be admitted; provided, however, that certification or authentica-  
18 tion of a law enforcement record or medical record shall not be required  
19 for the record, or a portion thereof, to be admitted. If a party waives  
20 their right to a hearing under this section, the court shall advise such  
21 party at that time that, notwithstanding such waiver, an application  
22 under this section may be made at any time during the pendency of the  
23 proceedings. After a hearing has been held pursuant to this provision,  
24 a party may request a subsequent prompt evidentiary hearing during the  
25 pendency of litigation for good cause shown.

26 (2) Decisions and reports for review. The court shall conduct a review  
27 of the following:

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

31 (ii) reports of the statewide computerized registry of orders of  
32 protection established and maintained pursuant to section two hundred  
33 twenty-one-a of the executive law, and reports of the sex offender  
34 registry established and maintained pursuant to section one hundred  
35 sixty-eight-b of the correction law.

36 (2-a) Evidence. The court shall also consider competent, material and  
37 relevant evidence, if presented to the court, including, but not limited  
38 to, the following; provided, however, that certification or authentica-  
39 tion of a law enforcement record or medical record shall not be required  
40 for the record, or a portion thereof, to be admitted:

41 (i) any party's history of domestic violence or child abuse, incidents  
42 involving harm to a child, or substantial risk to the child's safety;

43 (ii) police reports, including domestic violence incident reports or  
44 reporting of incidents involving child abuse or domestic violence by a  
45 party; and

46 (iii) evidence and prior judicial findings of child abuse, domestic  
47 violence, or substantial risk to the child's safety, including but not  
48 limited to:

49 (A) an increase in frequency or severity of domestic violence;

50 (B) use or threats to use a weapon or dangerous instrument, or unlaw-  
51 ful possession of firearms;

52 (C) threats to harm or kill the child, the other party, the other  
53 party's children, self or others, or companion animals;

54 (D) sexual abuse or other sexual offenses against the child or the  
55 other party;

1 (E) unlawful dissemination or publication of an intimate image, pursu-  
2 ant to section 245.15 of the penal law;

3 (F) incidents involving obstruction of breathing or strangulation;

4 (G) any party's pattern of alcohol or substance abuse that poses  
5 substantial risk to the child's safety;

6 (H) incidents of violence during pregnancy;

7 (I) incidents of stalking or cyber stalking; and

8 (J) coercive control, as defined in paragraph (b) of subdivision one  
9 of section two hundred forty-e of this article.

10 (3) Conditions of custody or visitation. If the court finds upon the  
11 evidence adduced at the hearing that a substantial risk exists to the  
12 safety of the child, the court shall set forth conditions of custody or  
13 visitation in a temporary order of custody or visitation that prior-  
14 itizes the avoidance of substantial risk to the child's safety.

15 (i) There shall be a rebuttable presumption that the court shall not  
16 award, in a temporary order of custody or visitation, sole or joint  
17 custody or visitation that is unsupervised or without sufficient  
18 protections of the child's safety to a party who poses a substantial  
19 risk to the child's safety. Supervision in such cases may also be  
20 provided by a relative or other resource deemed appropriate by the  
21 court.

22 (ii) The court shall state in writing or on the record its determi-  
23 nation of whether a substantial risk exists to the child's safety, and  
24 the factors, decisions and reports considered in making such findings  
25 and the reasons for the limitations or restrictions placed on a party's  
26 custody, visitation or contact with such child. When a prompt evidenti-  
27 ary hearing has been held regarding an allegation of a substantial risk  
28 to the child's safety and the court has rendered its decision, the  
29 parties shall be notified of their right to appeal.

30 (iii) In addition to the right of appeal regarding a final order, any  
31 party or the attorney for the child in a proceeding for a temporary  
32 order of custody or visitation pursuant to this subparagraph in which a  
33 prompt evidentiary hearing has been held regarding a facially credible  
34 allegation of a substantial risk to the child's safety pursuant to the  
35 provisions of this paragraph shall have a right to appeal the granting  
36 or denial of the temporary order, or the terms of such order, to the  
37 appropriate appellate division. An appeal under this subparagraph shall  
38 be given a preference pursuant to rule five thousand five hundred twen-  
39 ty-one of the civil practice law and rules.

40 A notice of appeal regarding the granting or denial of the temporary  
41 order, or the terms of such order, by the supreme court under this  
42 subparagraph shall be filed in accordance with subdivision (a) of  
43 section five thousand five hundred thirteen of the civil practice law  
44 and rules. A notice of appeal regarding the granting or denial of the  
45 temporary order, or the terms of such order, by a family court under  
46 this subdivision shall be filed no later than thirty days after the  
47 service by a party or the child's attorney upon the appellant of any  
48 order from which the appeal is taken or receipt of the order in court or  
49 thirty-five days from mailing or electronic transmission of the order by  
50 the court, whichever is earliest.

51 Pending the determination of such appeal, the appellate division in  
52 which the appeal is pending may stay the order on appeal pursuant to  
53 subdivision (c) of section five thousand five hundred nineteen of the  
54 civil practice law and rules where such court determines that the effect  
55 of the order on appeal creates a substantial risk to the safety of the  
56 child and that a stay is necessary to avoid such risk. The party apply-

1 ing for the stay shall provide reasonable notice to the attorneys for  
2 all parties and the attorney for the child of the time and place of such  
3 application. The party applying for the stay shall state in the applica-  
4 tion the errors of fact or law allegedly committed by the trial court. A  
5 party applying to the appellate division for the stay shall make reason-  
6 able effort to obtain a complete transcript of the proceeding before the  
7 trial court in accordance with the rules of the applicable appellate  
8 division.

9 (iv) Nothing contained in this subparagraph shall be deemed in any way  
10 to limit, restrict, expand or impair the rights of any party to file for  
11 a modification of a temporary order as is otherwise provided by law.

12 (4) Notifying counsel and issuing orders. Upon consideration of deci-  
13 sions pursuant to article ten of the family court act, and registry  
14 reports and notifying counsel involved in the proceeding, or in the  
15 event of a self-represented party, notifying such party of the results  
16 thereof, including any court appointed attorney for children, the court  
17 may issue a temporary, successive temporary or final order of custody or  
18 visitation.

19 (5) Temporary emergency order. Notwithstanding any other provision of  
20 the law, upon emergency situations, including computer malfunctions, to  
21 serve the best interest of the child, the court may issue a temporary  
22 emergency order for custody or visitation in the event that it is not  
23 possible to timely review decisions and reports on registries as  
24 required pursuant to subparagraph [~~three~~] two of this paragraph.

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

36 (7) Expedited hearing request. Nothing in this paragraph shall be  
37 construed to limit the ability of a party or the child's attorney to  
38 request, or the ability of the court to hold, an expedited hearing to  
39 address other urgent matters that affect the child's well-being.

40 (8) Feasibility study. The commissioner of the office of children and  
41 family services, in conjunction with the office of court administration,  
42 is hereby authorized and directed to examine, study, evaluate and make  
43 recommendations concerning the feasibility of the utilization of comput-  
44 ers in courts which are connected to the statewide central register of  
45 child abuse and maltreatment established and maintained pursuant to  
46 section four hundred twenty-two of the social services law, as a means  
47 of providing courts with information regarding parties requesting orders  
48 of custody or visitation. Such commissioner shall make a preliminary  
49 report to the governor and the legislature of findings, conclusions and  
50 recommendations not later than January first, two thousand nine, and a  
51 final report of findings, conclusions and recommendations not later than  
52 June first, two thousand nine, and shall submit with the reports such  
53 legislative proposals as are deemed necessary to implement the commis-  
54 sioner's recommendations.

55 § 4. The domestic relations law is amended by adding a new section  
56 240-e to read as follows:

1 § 240-e. Custody and visitation; safety of the child. 1. For the  
2 purposes of this section, the following terms shall have the following  
3 meanings:

4 (a) "Victim of domestic violence" shall have the same meaning as  
5 defined in section four hundred fifty-nine-a of the social services law.

6 (b) "Coercive control" means a pattern of behavior that unreasonably  
7 restricts a party's safety or autonomy through threats, or intimidation,  
8 or by compelling compliance. This conduct includes, but is not limited  
9 to:

10 (i) isolating the other party from friends, family or other sources of  
11 support;

12 (ii) interfering with a party's freedom of movement;

13 (iii) depriving the other party of basic necessities such as food,  
14 sleep, clothing, housing, medication or medical care;

15 (iv) controlling, regulating, surveilling or monitoring the other  
16 party's movements, communications, daily behavior, appearance, finances,  
17 economic resources or access to services;

18 (v) compelling the other party by force, threat of force or intim-  
19 idation, including but not limited to threats based on actual or  
20 suspected immigration status, to engage in conduct from which the other  
21 party has a right to abstain or to abstain from conduct in which the  
22 other party has a right to engage;

23 (vi) interfering with the other party's education or employment;

24 (vii) forcing or compelling the other party to perform sex acts, or  
25 threats of a sexual nature, including but not limited to threatened acts  
26 of sexual conduct, threats based on a person's sexuality or threats to  
27 release intimate images; or

28 (viii) cleaning, accessing, displaying, using or wearing a firearm or  
29 other dangerous weapon in an intimidating or threatening manner.

30 2. Notwithstanding any other provision of law to the contrary, a court  
31 making a final determination of custody or visitation based on the best  
32 interests of a child pursuant to the provisions of this chapter shall  
33 prioritize and promote the safety of such child when making such deter-  
34 minations. Only competent, material, and relevant evidence shall be  
35 admitted. Promoting the safety of a child shall include efforts to  
36 prevent physical or emotional harm to such child. In making such final  
37 determinations, the court should consider evidence, if any, presented by  
38 the parties and attorney for the child including, but not limited to:

39 (a) which party is more likely to protect the safety of the child, and  
40 whether any party poses a substantial risk to the safety of the child;

41 (b) whether any party to the proceeding has committed, or has threat-  
42 ened to commit an act of child abuse against the child, or has committed  
43 or threatened to commit an act of domestic violence against the party  
44 making the allegation, or a family or household member of either party  
45 as such family or household member is defined in article eight of the  
46 family court act;

47 (c) any party's history of domestic violence, child abuse, incidents  
48 involving harm to a child or substantial risk to the child's safety;

49 (d) police reports, including domestic violence incident reports or  
50 reporting of incidents involving child abuse or domestic violence by a  
51 party;

52 (e) incidents of child abuse, domestic violence, or substantial risk  
53 to the child's safety, including but not limited to:

54 (i) an increase in frequency or severity of domestic violence;

55 (ii) use or threats to use a weapon or dangerous instrument, or unlaw-  
56 ful possession of firearms;

1 (iii) threats to harm or kill the child, the other party, the other  
2 party's children, self or others, or companion animals;

3 (iv) sexual abuse or other sexual offenses against the child or other  
4 party;

5 (v) unlawful dissemination or publication of an intimate image, pursu-  
6 ant to section 245.15 of the penal law;

7 (vi) incidents involving obstruction of breathing or strangulation;

8 (vii) any party's pattern of alcohol or substance abuse that poses a  
9 substantial risk to the child's safety;

10 (viii) incidents of violence during pregnancy;

11 (ix) incidents of stalking or cyber stalking; and

12 (x) coercive control, as defined in paragraph (b) of subdivision one  
13 of this section;

14 (f) whether any party has been found to have committed an act pursuant  
15 to section eight hundred twelve of the family court act between spouses  
16 or former spouses, or between parent and child or between members of the  
17 same family or household; and

18 (g) whether any party has used or threatened to use a dangerous  
19 instrument to harm the other party, child, or a third party, including a  
20 firearm, except in incidents involving self-defense, or has unlawfully  
21 possessed a weapon or firearm, or has been convicted of criminal  
22 possession of a weapon or criminal use of a firearm pursuant to article  
23 two hundred sixty-five of the penal law, or is or has been subject to an  
24 extreme risk protection order, pursuant to article sixty-three-A of the  
25 civil practice law and rules.

26 3. There shall be a rebuttable presumption that custody or visitation  
27 that is unsupervised or without sufficient protection of the child's  
28 safety shall not be awarded to a party who poses a substantial risk to  
29 the child's safety. Supervision in such cases may also be provided by a  
30 relative or other resource deemed appropriate by the court.

31 4. (a) In any proceeding for custody or visitation where a party  
32 asserts credible allegations of incidents or threats of domestic  
33 violence, child abuse or a substantial risk to the child's safety, the  
34 court shall not find that protective behaviors to safeguard the child  
35 which were engaged in by the party who has made such allegations consti-  
36 tute failure to support the child's relationship with the other party.

37 (b) The court shall not presume that a child's reluctance to interact  
38 with a party was caused by the other party, nor shall a party be given  
39 custody for the sole purpose of improving a relationship between the  
40 child and such party or in an attempt to address the child's reluctance  
41 to interact with such party. Where appropriate, however, the court may  
42 enter an order directing one or more parties to refrain from disparaging  
43 the other party or parties in the presence of the child or children.

44 (c) Nothing in this section shall be construed to create an exception  
45 to section seven hundred fifty-three of the judiciary law, or any other  
46 enforcement provision, such that a party may seek to enforce any proper  
47 ruling of the court, unless stayed, concerning access to the child or  
48 conditions of access to the child.

49 5. The chief administrator of the courts shall promulgate and enforce  
50 rules mandating comprehensive training on domestic violence, child abuse  
51 and child neglect before judges, referees, and other hearing officers  
52 preside over child custody proceedings in which one or more parties have  
53 alleged substantial risk to the child's safety, and supplemental train-  
54 ing every two years thereafter to remain eligible to preside over such  
55 proceedings. Such training shall address current knowledge and law  
56 relating to domestic violence, child abuse and child neglect, with the

1 goal of making appropriate custody and visitation decisions that prior-  
2 itize children's safety and are culturally sensitive and appropriate for  
3 diverse communities. Such training shall include, but not be limited  
4 to, trauma-informed judicial practices, the dynamics and effects of  
5 domestic violence and child abuse, including, but not limited to,  
6 emotional, financial, physical, technological and sexual abuse; assess-  
7 ment of domestic violence, coercive control, child abuse, lethality risk  
8 factors and heightened danger to a child's safety; tactics used by abuse  
9 partners, including, but not limited to allegations of parental alien-  
10 ation and parental gatekeeping, litigation abuse, and cyber abuse; and  
11 the distinction between inappropriate interference with the child-parent  
12 relationship and protective parenting in the context of domestic  
13 violence or child abuse. The office of court administration, in consul-  
14 tation with the office for the prevention of domestic violence, shall  
15 develop and conduct such training, which shall be reviewed and updated  
16 at least once every two years.

17 § 5. Section 70 of the domestic relations law, as amended by chapter  
18 457 of the laws of 1988, is amended to read as follows:

19 § 70. Habeas corpus for child detained by parent. (a) (i) Where a  
20 minor child is residing within this state, either parent may apply to  
21 the supreme court for a writ of habeas corpus to have such minor child  
22 brought before such court; and on the return thereof, the court, on due  
23 consideration, may award the natural guardianship, charge and custody of  
24 such child to either parent for such time, under such regulations and  
25 restrictions, and with such provisions and directions, as the case may  
26 require, and may at any time thereafter vacate or modify such order. In  
27 all cases there shall be no prima facie right to the custody of the  
28 child in either parent, but the court shall determine solely what is for  
29 the best interest of the child, and what will best promote its welfare  
30 and happiness, and make award accordingly. Where the court issues any  
31 initial or successive temporary order of custody or visitation or perma-  
32 nent order of custody or visitation, the court shall conduct a review of  
33 the decisions and reports listed in subparagraph two of paragraph (a-1)  
34 of subdivision one of section two hundred forty of this chapter, unless  
35 such a review has been conducted within ninety days prior to the issu-  
36 ance of such order.

37 (ii) When issuing any temporary order of custody or visitation, or  
38 denying an application for a temporary order after a prompt evidentiary  
39 hearing, the court shall state in writing or on the record its determi-  
40 nation of whether there is a substantial risk to the child's safety, and  
41 the factors, decisions and reports considered in making such findings,  
42 and the reasons for any limitations or restrictions placed on a party's  
43 custody, visitation or contact with such child. Any party or the attor-  
44 ney for the child in a proceeding for a temporary order in which a  
45 prompt evidentiary hearing has been held regarding a substantial risk to  
46 the child's safety pursuant to this chapter shall have a right to appeal  
47 to the appropriate appellate division, pursuant to article eleven of the  
48 family court act.

49 (iii) Notwithstanding any other provision of law to the contrary, a  
50 court making a final determination of custody or visitation based on the  
51 best interests of a child pursuant to the provisions of this chapter  
52 shall prioritize and promote the safety of such child when making such  
53 determinations. Only competent, material and relevant evidence shall be  
54 admitted. Promoting the safety of a child shall include efforts to  
55 prevent physical or emotional harm to such child and shall be assessed  
56 by considering any evidence adduced of a substantial risk to the child's

1 safety, including decisions and reports identified in subparagraph two  
2 of paragraph (a-1) of subdivision one of section two hundred forty of  
3 this chapter.

4 (iv) In making a decision pursuant to paragraph (i) of this subdivi-  
5 sion, the court shall be bound by the presumptions and admissibility  
6 described pursuant to section two hundred forty of this chapter.

7 (v) Before judges, referees and other hearing officers preside over  
8 child custody proceedings in which one or more parties have alleged  
9 domestic violence or child abuse, they shall complete initial training  
10 for the handling of such cases as described pursuant to paragraph (a) of  
11 subdivision six of section two hundred forty-e of this chapter and in  
12 accordance with the rules of the chief administrator of the courts. Once  
13 initial training requirements have been met, judges, referees and other  
14 hearing officers shall complete additional training every two years  
15 thereafter to remain eligible to preside over such proceedings as  
16 described pursuant to subdivision five of section two hundred forty-e of  
17 this chapter and in accordance with such rules.

18 (b) Any order under this section which applies to rights of visitation  
19 with a child remanded or placed in the care of a person, official, agen-  
20 cy or institution pursuant to article ten of the family court act or  
21 pursuant to an instrument approved under section three hundred fifty-  
22 eight-a of the social services law, shall be enforceable pursuant to the  
23 provisions of part eight of article ten of such act, sections three  
24 hundred fifty-eight-a and three hundred eighty-four-a of the social  
25 services law and other applicable provisions of law against any person  
26 or official having care and custody, or temporary care and custody, of  
27 such child.

28 § 6. Subdivision (b) of section 651 of the family court act, as  
29 amended by chapter 657 of the laws of 2003, is amended to read as  
30 follows:

31 (b) (i) When initiated in the family court, the family court has  
32 jurisdiction to determine, in accordance with subdivision one of section  
33 two hundred forty of the domestic relations law and with the same powers  
34 possessed by the supreme court in addition to its own powers, habeas  
35 corpus proceedings and proceedings brought by petition and order to show  
36 cause, for the determination of the custody or visitation of minors,  
37 including applications by a grandparent or grandparents for visitation  
38 or custody rights pursuant to section seventy-two or two hundred forty  
39 of the domestic relations law.

40 (ii) The family court shall update its petition used by parties to  
41 initiate child custody and visitation proceedings in a manner to permit  
42 petitioners to specify allegations of child abuse, domestic violence, or  
43 a substantial risk to a child's safety.

44 § 7. Subdivision (e) of section 651 of the family court act, as  
45 amended by chapter 295 of the laws of 2009, is amended to read as  
46 follows:

47 (e) 1. ~~Permanent and initial temporary orders of custody or visita-~~  
48 ~~tion. Prior to the issuance of any permanent or initial temporary order~~  
49 ~~of custody or visitation, the court shall conduct a review of the deci-~~  
50 ~~sions and reports listed in paragraph three of this subdivision.] Prompt~~  
51 evidentiary hearing. Upon the application of a party to an action  
52 concerning custody of or visitation with a child, or of an attorney for  
53 the child, asserting facially credible allegations, including allega-  
54 tions of domestic violence that, if true, would pose a substantial risk  
55 to the safety of the child, the court shall hold a prompt evidentiary  
56 hearing to determine whether temporary limitations or conditions on the

1 custody or visitation rights of the party against whom such allegations  
2 have been made are necessary to avoid a substantial risk to the child's  
3 safety, pursuant to paragraph (a-1) of subdivision one of section two  
4 hundred forty and section two hundred forty-e of the domestic relations  
5 law. When the parties first appear in court, the court shall advise the  
6 parties before proceeding of the right to be represented by counsel of  
7 their own choosing, of the right to have an adjournment of no longer  
8 than thirty days to confer with counsel, and the right to seek counsel  
9 fees and expenses, pursuant to section two hundred thirty-seven of the  
10 domestic relations law. The court shall assign counsel to the eligible  
11 parties and children, pursuant to article two of this chapter and subdi-  
12 visions seven and eight of section thirty-five of the judiciary law.

~~13 2. [Successive temporary orders of custody or visitation. Prior to the~~  
~~14 issuance of any successive temporary order of custody or visitation, the~~  
~~15 court shall conduct a review of the decisions and reports listed in~~  
~~16 paragraph three of this subdivision, unless such a review has been~~  
~~17 conducted within ninety days prior to the issuance of such order.~~

~~3-]~~ Decisions and reports for review. The court shall conduct a review  
 19 of the following:

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

22 (ii) reports of the statewide computerized registry of orders of  
 23 protection established and maintained pursuant to section two hundred  
 24 twenty-one-a of the executive law, and reports of the sex offender  
 25 registry established and maintained pursuant to section one hundred  
 26 sixty-eight-b of the correction law.

27 2-a. Evidence. The court shall also consider competent, material and  
28 relevant evidence, if presented to the court, including, but not limited  
29 to, the following; provided, however, that certification or authentica-  
30 tion of a law enforcement record or medical record shall not be required  
31 for the record, or a portion thereof, to be admitted:

32 (i) any party's history of domestic violence or child abuse, incidents  
33 involving harm to a child, or a substantial risk to a child's safety;

34 (ii) police reports, including domestic violence incident reports, or  
35 reports of incidents involving child abuse or domestic violence by a  
36 party; and

37 (iii) evidence and prior judicial findings of incidents of child  
38 abuse, domestic violence, or a substantial risk to a child's safety,  
39 including but not limited to:

40 (A) an increase in frequency or severity of domestic violence;

41 (B) use or threats to use a weapon or dangerous instrument, or unlaw-  
42 ful possession of firearms;

43 (C) threats to harm or kill the child, the other party, the other  
44 party's children, self or others, or companion animals;

45 (D) sexual abuse or other sexual offenses against the child or other  
46 party;

47 (E) unlawful dissemination or publication of an intimate image, pursu-  
48 ant to section 245.15 of the penal law;

49 (F) incidents involving obstruction of breathing or strangulation;

50 (G) any party's pattern of alcohol or substance abuse that poses a  
51 substantial risk to the child's safety;

52 (H) incidents of violence during pregnancy;

53 (I) incidents of stalking or cyber stalking; and

54 (J) coercive control, as defined in paragraph (b) of subdivision one  
55 of section two hundred forty-e of the domestic relations law.

1 3. Appeal. In addition to the right of appeal regarding a final order,  
2 any party or the attorney for the child in a proceeding for a temporary  
3 order of custody or visitation pursuant to this paragraph in which a  
4 prompt evidentiary hearing has been held regarding an allegation of a  
5 substantial risk to the child's safety by reason of a family offense or  
6 child maltreatment in an application for a permanent or temporary order  
7 of custody or visitation shall have a right to appeal the granting or  
8 denial of the temporary order, or the terms of such order, to the appro-  
9 priate appellate division. An appeal under this subparagraph shall be  
10 given a preference pursuant to subdivision (b) of rule five thousand  
11 five hundred twenty-one of the civil practice law and rules.

12 A notice of appeal regarding the granting or denial of the temporary  
13 order, or the terms of such order, by the supreme court under this  
14 subdivision shall be filed in accordance with subdivision (a) of section  
15 five thousand five hundred thirteen of the civil practice law and rules.  
16 A notice of appeal regarding the granting or denial of the temporary  
17 order, or the terms of such order, by a family court under this subdivi-  
18 sion shall be filed no later than thirty days after the service by a  
19 party or the child's attorney upon the appellant of any order from which  
20 the appeal is taken or receipt of the order in court or thirty-five days  
21 from mailing or electronic transmission of the order by the court,  
22 whichever is earliest.

23 Pending the determination of such appeal, the appellate division in  
24 which the appeal is pending may stay the order on appeal pursuant to  
25 subdivision (c) of section five thousand five hundred nineteen of the  
26 civil practice law and rules where such court determines that the effect  
27 of the order on appeal creates a substantial risk to the safety of the  
28 child and that a stay is necessary to avoid such risk. The party apply-  
29 ing for the stay shall provide reasonable notice to the attorneys for  
30 all parties and the attorney for the child of the time and place of such  
31 application. The party applying for the stay shall state in the applica-  
32 tion the errors of fact or law allegedly committed by the trial court. A  
33 party applying to the appellate division for the stay shall make reason-  
34 able effort to obtain a complete transcript of the proceeding before the  
35 trial court in accordance with the rules of the applicable appellate  
36 division.

37 4. Notifying counsel and issuing orders. Upon consideration of deci-  
38 sions pursuant to article ten of this act, and registry reports and  
39 notifying counsel involved in the proceeding, or in the event of a self-  
40 represented party, notifying such party of the results thereof, includ-  
41 ing any court appointed attorney for children, the court may issue a  
42 temporary, successive temporary or final order of custody or visitation.

43 5. Temporary emergency order. Notwithstanding any other provision of  
44 the law, upon emergency situations, including computer malfunctions, to  
45 serve the best interest of the child, the court may issue a temporary  
46 emergency order for custody or visitation in the event that it is not  
47 possible to timely review decisions and reports on registries as  
48 required pursuant to paragraph ~~three~~ two of this subdivision.

49 6. After issuing a temporary emergency order. After issuing a tempo-  
50 rary emergency order of custody or visitation, the court shall conduct  
51 reviews of the decisions and reports on registries as required pursuant  
52 to paragraph ~~three~~ two of this subdivision within twenty-four hours of  
53 the issuance of such temporary emergency order. Should such twenty-four  
54 hour period fall on a day when court is not in session, then the  
55 required reviews shall take place the next day the court is in session.  
56 Upon reviewing decisions and reports the court shall notify associated

1 counsel, self-represented parties and attorneys for children pursuant to  
2 paragraph four of this subdivision and may issue temporary or permanent  
3 custody or visitation orders.

4 7. Expedited hearing request. Nothing in this paragraph shall be  
5 construed to limit the ability of a party or the child's attorney to  
6 request, or the ability of the court to hold, an expedited hearing to  
7 address other urgent matters that affect the child's well-being.

8 8. Feasibility study. The commissioner of the office of children and  
9 family services, in conjunction with the office of court administration,  
10 is hereby authorized and directed to examine, study, evaluate and make  
11 recommendations concerning the feasibility of the utilization of comput-  
12 ers in family courts which are connected to the statewide central regis-  
13 ter of child abuse and maltreatment established and maintained pursuant  
14 to section four hundred twenty-two of the social services law, as a  
15 means of providing family courts with information regarding parties  
16 requesting orders of custody or visitation. Such commissioner shall make  
17 a preliminary report to the governor and the legislature of findings,  
18 conclusions and recommendations not later than January thirty-first, two  
19 thousand nine, and a final report of findings, conclusions and recommen-  
20 dations not later than June first, two thousand nine, and shall submit  
21 with the reports such legislative proposals as are deemed necessary to  
22 implement the commissioner's recommendations.

23 § 8. Subdivision a of section 1112 of the family court act, as amended  
24 by section 28 of part A of chapter 3 of the laws of 2005, is amended to  
25 read as follows:

26 a. An appeal may be taken as of right from any order of disposition  
27 and, in the discretion of the appropriate appellate division, from any  
28 other order under this act. An appeal may be taken as of right to the  
29 appropriate appellate division of the supreme court from an intermediate  
30 or final order in a case involving abuse or neglect [~~may be taken as of~~  
31 ~~right to the appellate division of the supreme court~~] under article ten  
32 of this act or from an order of the court after a prompt evidentiary  
33 hearing under section six hundred fifty-one of this act or section  
34 seventy or two hundred forty of the domestic relations law determining  
35 an allegation of a substantial risk to the child's safety and granting  
36 or denying a temporary emergency order of custody or visitation. (i)  
37 Pending the determination of such appeal, such order shall be stayed  
38 where the effect of [~~such~~] the order on appeal would be to discharge the  
39 child[, ~~if the family court or the court before which such appeal is~~  
40 ~~pending finds that such a stay is necessary to avoid imminent risk to~~  
41 ~~the child's life or health~~] in a case alleging abuse or neglect pursuant  
42 to article ten of this act. In an appeal from an order in a custody or  
43 visitation proceeding under article six of this act or section seventy  
44 or two hundred forty of the domestic relations law that was issued upon  
45 a prompt evidentiary hearing regarding an allegation of a substantial  
46 risk to a child's safety, the court before which the appeal is taken may  
47 stay the order on appeal where the order would cause a substantial risk  
48 to the child's safety during the pendency of the appeal and where such  
49 court finds that a stay is necessary to avoid such risk. (ii) A prefer-  
50 ence in accordance with rule five thousand five hundred twenty-one of  
51 the civil practice law and rules shall be afforded, without the necessi-  
52 ty of a motion, for appeals under article three; parts one and two of  
53 article six; articles seven, ten, and ten-A of this act; and sections  
54 three hundred fifty-eight-a, three hundred eighty-three-c, three hundred  
55 eighty-four, and three hundred eighty-four-b of the social services law  
56 and appeals from orders issued under part three of article six of this

1 act or section seventy or two hundred forty of the domestic relations  
2 law upon a prompt evidentiary hearing regarding a facially credible  
3 allegation of a substantial risk to the child's safety.

4 § 9. Subdivision (d) of section 1114 of the family court act, as  
5 amended by chapter 41 of the laws of 2010, is amended to read as  
6 follows:

7 (d) Any party to a child protective proceeding, or the attorney for  
8 the child, may apply to a justice of the appellate division for a stay  
9 of an order issued pursuant to part two of article ten of this chapter  
10 returning a child to the custody of a respondent. Such an application  
11 may also be made in accordance with section one thousand one hundred  
12 twelve of this act or subdivision (c) of section five thousand five  
13 hundred nineteen of the civil practice law and rules to stay a court  
14 order of custody or visitation pursuant to this act or the domestic  
15 relations law where the order on appeal would cause a substantial risk  
16 to the child's safety and where the court before which such appeal is  
17 pending finds that such a stay is necessary to avoid such risk. The  
18 party applying for the stay shall notify the attorneys for all parties  
19 and the attorney for the child of the time and place of such applica-  
20 tion. [~~If~~] In an appeal from an order of abuse of neglect pursuant to  
21 article ten of this act, if requested by any party present, oral argu-  
22 ment shall be had on the application, except for good cause stated upon  
23 the record. [~~The~~] In all applications for stays under this subdivision,  
24 the party applying for the stay shall state in the application the  
25 errors of fact or law allegedly committed by the [~~family~~] trial court. A  
26 party applying to the [~~court~~] appellate division for the granting or  
27 continuation of such stay shall make [~~every~~] reasonable effort to obtain  
28 a complete transcript of the proceeding before the [~~family~~] trial court  
29 in accordance with the rules of the applicable appellate division.

30 If a stay is granted, a schedule shall be set for an expedited appeal.

31 § 10. Subdivision (a) of section 249 of the family court act, as  
32 amended by chapter 3 of the laws of 2012, is amended to read as follows:

33 (a) In a proceeding under article three, seven, ten, ten-A or ten-C of  
34 this act or where a revocation of an adoption consent is opposed under  
35 section one hundred fifteen-b of the domestic relations law or in any  
36 proceeding under section three hundred fifty-eight-a, three hundred  
37 eighty-three-c, three hundred eighty-four or three hundred eighty-four-b  
38 of the social services law or when a minor is sought to be placed in  
39 protective custody under section one hundred fifty-eight of this act or  
40 in any proceeding where a minor is detained under or governed by the  
41 interstate compact for juveniles established pursuant to section five  
42 hundred one-e of the executive law, the family court shall appoint an  
43 attorney to represent a minor who is the subject of the proceeding or  
44 who is sought to be placed in protective custody, if independent legal  
45 representation is not available to such minor. In any proceeding to  
46 extend or continue the placement of a juvenile delinquent or person in  
47 need of supervision pursuant to section seven hundred fifty-six or 353.3  
48 of this act or any proceeding to extend or continue a commitment to the  
49 custody of the commissioner of mental health or the commissioner of  
50 people with developmental disabilities pursuant to section 322.2 of this  
51 act, the court shall not permit the respondent to waive the right to be  
52 represented by counsel chosen by the respondent, respondent's parent, or  
53 other person legally responsible for the respondent's care, or by  
54 assigned counsel. In any proceeding under article ten-B of this act, the  
55 family court shall appoint an attorney to represent a youth, under the  
56 age of twenty-one, who is the subject of the proceeding, if independent

1 legal representation is not available to such youth. In any proceeding  
2 under article six of this act, the court shall appoint an attorney to  
3 represent the child when facially credible allegations of substantial  
4 risk to the child's safety have been made. In any other proceeding in  
5 which the court has jurisdiction, including all proceedings under arti-  
6 cle six of this act, the court may appoint an attorney to represent the  
7 child, when, in the opinion of the family court judge, such represen-  
8 tation will serve the purposes of this act, if independent legal counsel  
9 is not available to the child. The family court on its own motion may  
10 make such appointment.

11 § 11. Subdivision (a) of section 249 of the family court act, as  
12 amended by chapter 672 of the laws of 2019, is amended to read as  
13 follows:

14 (a) In a proceeding under article three, seven, ten, ten-A or ten-C of  
15 this act or where a revocation of an adoption consent is opposed under  
16 section one hundred fifteen-b of the domestic relations law or in any  
17 proceeding under section three hundred fifty-eight-a, three hundred  
18 eighty-three-c, three hundred eighty-four or three hundred eighty-four-b  
19 of the social services law or when a minor is sought to be placed in  
20 protective custody under section one hundred fifty-eight of this act,  
21 the family court shall appoint an attorney to represent a minor who is  
22 the subject of the proceeding or who is sought to be placed in protec-  
23 tive custody, if independent legal representation is not available to  
24 such minor. In any proceeding to extend or continue the placement of a  
25 juvenile delinquent or person in need of supervision pursuant to section  
26 seven hundred fifty-six or 353.3 of this act or any proceeding to extend  
27 or continue a commitment to the custody of the commissioner of mental  
28 health or the commissioner of the office for people with developmental  
29 disabilities pursuant to section 322.2 of this act, the court shall not  
30 permit the respondent to waive the right to be represented by counsel  
31 chosen by the respondent, respondent's parent, or other person legally  
32 responsible for the respondent's care, or by assigned counsel. In any  
33 proceeding under article ten-B of this act, the family court shall  
34 appoint an attorney to represent a youth, under the age of twenty-one,  
35 who is the subject of the proceeding, if independent legal represen-  
36 tation is not available to such youth. In any proceeding under article  
37 six of this act, the court shall appoint an attorney to represent the  
38 child when facially credible allegations of substantial risk to the  
39 child's safety have been made. In any other proceeding in which the  
40 court has jurisdiction, including all proceedings under article six of  
41 this act, the court may appoint an attorney to represent the child,  
42 when, in the opinion of the family court judge, such representation will  
43 serve the purposes of this act, if independent legal counsel is not  
44 available to the child. The family court on its own motion may make such  
45 appointment.

46 § 12. Subdivision (b) of rule 5521 of the civil practice law and  
47 rules, as amended by chapter 707 of the laws of 2019, is amended to read  
48 as follows:

49 (b) Consistent with the provisions of section one thousand one hundred  
50 twelve of the family court act, appeals from orders, judgments or  
51 decrees in proceedings brought pursuant to articles three, seven, ten  
52 and ten-A and parts one and two of article six of the family court act,  
53 and pursuant to sections three hundred fifty-eight-a, three hundred  
54 eighty-three-c, three hundred eighty-four, and three hundred eighty-  
55 four-b of the social services law, and pursuant to paragraph (d) of  
56 subdivision four and subparagraph (ii) of paragraph (d) of subdivision

1 five of section eighty-nine of the public officers law, and appeals from  
2 orders issued under part three of article six of the family court act or  
3 section seventy or two hundred forty of the domestic relations law upon  
4 a prompt evidentiary hearing regarding a facially credible allegation of  
5 a substantial risk to a child's safety shall be given preference and may  
6 be brought on for argument on such terms and conditions as the court may  
7 direct without the necessity of a motion.

8 § 13. This act shall take effect on the two hundred seventieth day  
9 after it shall have become a law; provided, however, that the amendments  
10 to subdivision (a) of section 249 of the family court act made by  
11 section ten of this act shall be subject to the expiration and reversion  
12 of such subdivision pursuant to section 8 of chapter 29 of the laws of  
13 2011, as amended, when upon such date the provisions of section eleven  
14 of this act shall take effect. Effective immediately, the addition,  
15 amendment and/or repeal of any rule or regulation necessary for the  
16 implementation of this act on its effective date are authorized to be  
17 made and completed on or before such effective date.