

STATE OF NEW YORK

8860

IN SENATE

January 12, 2026

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law, in relation to prohibiting the consideration of evidence that either parent has ever obtained or attempted to obtain reproductive health services relating to the termination of a pregnancy in certain legal proceedings

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

1 Section 1. Subdivision (a) of section 70 of the domestic relations
2 law, as amended by chapter 457 of the laws of 1988, is amended to read
3 as follows:

4 (a) Where a minor child is residing within this state, either parent
5 may apply to the supreme court for a writ of habeas corpus to have such
6 minor child brought before such court; and on the return thereof, the
7 court, on due consideration, may award the natural guardianship, charge
8 and custody of such child to either parent for such time, under such
9 regulations and restrictions, and with such provisions and directions,
10 as the case may require, and may at any time thereafter vacate or modify
11 such order. In all cases there shall be no prima facie right to the
12 custody of the child in either parent, but the court shall determine
13 solely what is for the best interest of the child, and what will best
14 promote its welfare and happiness, and make award accordingly. In
15 making a determination of the best interest of the child pursuant to
16 this section, the court shall not consider evidence that either parent
17 has ever obtained or attempted to obtain reproductive health services.
18 For the purposes of this section, reproductive health services means
19 health care services provided in a hospital, clinic, physician's office
20 or other facility and includes medical, surgical, counseling or referral
21 services relating to the human reproductive system, including services
22 relating to pregnancy or the termination of a pregnancy.

23 § 2. Paragraph (a) of subdivision 1 of section 240 of the domestic
24 relations law, as amended by chapter 567 of the laws of 2015, is amended
25 to read as follows:

26 (a) In any action or proceeding brought (1) to annul a marriage or to
27 declare the nullity of a void marriage, or (2) for a separation, or (3)
28 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
29 tion and order to show cause, the custody of or right to visitation with

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

LBD07348-01-5

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

52 An order directing the payment of child support shall contain the
53 social security numbers of the named parties. In all cases there shall
54 be no prima facie right to the custody of the child in either parent.
55 Such direction shall make provision for child support out of the proper-
56 ty of either or both parents. The court shall make its award for child

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

53 § 3. This act shall take effect immediately.