

STATE OF NEW YORK

5143

2025-2026 Regular Sessions

IN ASSEMBLY

February 12, 2025

Introduced by M. of A. DINOWITZ, SEAWRIGHT, TAYLOR, HUNTER, WEPRIN,
DURSO -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, COOK, GLICK --
read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law and the family court act, in
relation to child custody forensic reports

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

1 Section 1. Section 70 of the domestic relations law is amended by
2 adding a new subdivision (c) to read as follows:

3 (c) Court ordered forensic evaluations in proceedings involving child
4 custody and visitation. Where a court order is issued for an evaluation
5 or investigation of the parties or a child by a forensic mental health
6 professional, a probation service, a child protective service or any
7 other person authorized by statute, all of whom shall be considered
8 "court ordered evaluators" for purposes of this subdivision, appointed
9 by the court to assist with the determination of child custody or visi-
10 tation pursuant to this article, for purposes of such court ordered
11 forensic evaluations and investigations:

12 (1) Any report or evaluation prepared by the court ordered evaluator,
13 to be known as a "forensic report" for the purposes of this subdivision,
14 shall be confidential and kept under seal except that, all parties,
15 their attorneys and the attorney for the child shall have a right to
16 receive a copy of any such forensic report upon receipt of such a report
17 by the court, subject to the provisions of section three thousand one
18 hundred three of the civil practice law and rules. Provided, however, in
19 no event shall a party or such party's counsel be prevented from access
20 to or review of a forensic report in advance of and during trial. Any
21 conditions or limitations imposed by the court pursuant to this subdivi-
22 sion relating to disclosure of the forensic report shall accommodate for
23 language access and disability. Upon application by counsel or a party
24 the court shall permit a copy of the forensic report and a copy of the

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

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1 court ordered evaluator's files as provided for under paragraph two of
2 this subdivision to be provided to any person retained to assist counsel
3 or any party, subject to the provisions of section three thousand one
4 hundred three of the civil practice law and rules; and

5 (2) Pursuant to a demand made under rule three thousand one hundred
6 twenty of the civil practice law and rules, the court ordered evaluator
7 shall provide to a party, such party's attorney or the attorney for the
8 child the entire file related to the proceeding including but not limit-
9 ed to, all underlying notes, test data, raw test materials, underlying
10 materials provided to or relied upon by the court ordered evaluator and
11 any records, photographs or other evidence for inspection and photocopy-
12 ing, subject to the provisions of section three thousand one hundred
13 three of the civil practice law and rules; and

14 (3) A willful failure to comply with a court order conditioning or
15 limiting access to a forensic report shall be contempt of court and may
16 be punishable as such as provided under section seven hundred fifty-
17 three of the judiciary law. The court shall notify the parties and coun-
18 sel on the record that a willful failure to comply with the court order
19 shall be contempt of court which may include punishment of a fine or
20 imprisonment or both; and

21 (4) Admissibility into evidence of the forensic report or the court
22 ordered evaluator's file shall be subject to objection of any party,
23 such party's attorney or the attorney for the child pursuant to the
24 rules of evidence and subject to the right of cross-examination.

25 § 2. Paragraph (a-3) of subdivision 1 of section 240 of the domestic
26 relations law is amended by adding four new subparagraphs 6, 7, 8 and 9
27 to read as follows:

28 (6) Any report or evaluation prepared by the court ordered evaluator,
29 to be known as a "forensic report" for the purposes of this paragraph,
30 shall be confidential and kept under seal except that, all parties,
31 their attorneys and the attorney for the child shall have a right to
32 receive a copy of any such forensic report upon receipt of such a report
33 by the court, subject to the provisions of section three thousand one
34 hundred three of the civil practice law and rules. Provided, however, in
35 no event shall a party or such party's counsel be prevented from access
36 to or review of a forensic report in advance of and during trial. Any
37 conditions or limitations imposed by the court pursuant to this subdivi-
38 sion relating to disclosure of the forensic report shall accommodate for
39 language access and disability. Upon application by counsel or a party
40 the court shall permit a copy of the forensic report and a copy of the
41 court ordered evaluator's files as provided for under subparagraph two
42 of this paragraph to be provided to any person retained to assist coun-
43 sel or any party, subject to the provisions of section three thousand
44 one hundred three of the civil practice law and rules; and

45 (7) Pursuant to a demand made under rule three thousand one hundred
46 twenty of the civil practice law and rules, the court ordered evaluator
47 shall provide to a party, such party's attorney or the attorney for the
48 child the entire file related to the proceeding including but not limit-
49 ed to, all underlying notes, test data, raw test materials, underlying
50 materials provided to or relied upon by the court ordered evaluator and
51 any records, photographs or other evidence for inspection and photocopy-
52 ing, subject to the provisions of section three thousand one hundred
53 three of the civil practice law and rules; and

54 (8) A willful failure to comply with a court order conditioning or
55 limiting access to a forensic report shall be contempt of court and may
56 be punishable as such as provided under section seven hundred fifty-

1 three of the judiciary law. The court shall notify the parties and coun-
2 sel on the record that a willful failure to comply with the court order
3 shall be contempt of court which may include punishment of a fine or
4 imprisonment or both; and

5 (9) Admissibility into evidence of the forensic report or the court
6 ordered evaluator's file shall be subject to objection of any party,
7 such party's attorney or the attorney for the child pursuant to the
8 rules of evidence and subject to the right of cross-examination.

9 § 3. Subdivision (c) of section 251 of the family court act is relet-
10 tered subdivision (d) and a new subdivision (c) is added to read as
11 follows:

12 (c) Court ordered forensic evaluations in child custody and visitation
13 proceedings. Notwithstanding the provisions of this section to the
14 contrary, where a court order is issued for an evaluation or investi-
15 gation of the parties or a child by a forensic mental health profes-
16 sional, a probation service, a child protective service or any other
17 person authorized by statute, all of whom shall be considered "court
18 ordered evaluators" for purposes of this subdivision, appointed by the
19 court to assist with the determination of child custody or visitation
20 pursuant to article four or six of this act, for purposes of such court
21 ordered forensic evaluations and investigations:

22 (1) Notwithstanding section one hundred sixty-five of this act and
23 section four hundred eight of the civil practice law and rules, the
24 provisions and limitations of sections three thousand one hundred one
25 and three thousand one hundred three of the civil practice law and rules
26 shall apply; and

27 (2) Any report or evaluation prepared by the court ordered evaluator,
28 to be known as a "forensic report" for the purposes of this subdivision,
29 shall be confidential and kept under seal except that, all parties,
30 their attorneys and the attorney for the child shall have a right to
31 receive a copy of any such forensic report upon receipt of such a report
32 by the court, subject to the provisions of section three thousand one
33 hundred three of the civil practice law and rules. Provided, however, in
34 no event shall a party or such party's counsel be prevented from access
35 to or review of a forensic report in advance of and during trial. Any
36 conditions or limitations imposed by the court pursuant to this subdivi-
37 sion relating to disclosure of the forensic report shall accommodate for
38 language access and disability. Upon application by counsel or a party
39 the court shall permit a copy of the forensic report and a copy of the
40 court ordered evaluator's files as provided for under paragraph three of
41 this subdivision to be provided to any person retained to assist counsel
42 or any party, subject to the provisions of section three thousand one
43 hundred three of the civil practice law and rules; and

44 (3) Pursuant to a demand made under rule three thousand one hundred
45 twenty of the civil practice law and rules, the court ordered evaluator
46 shall provide to a party, such party's attorney or the attorney for the
47 child the entire file related to the proceeding including but not limit-
48 ed to, all underlying notes, test data, raw test materials, underlying
49 materials provided to or relied upon by the court ordered evaluator and
50 any records, photographs or other evidence for inspection and photocopy-
51 ing, subject to the provisions of section three thousand one hundred
52 three of the civil practice law and rules; and

53 (4) A willful failure to comply with a court order conditioning or
54 limiting access to a forensic report shall be contempt of court and may
55 be punishable as such as provided under section seven hundred fifty-
56 three of the judiciary law. The court shall notify the parties and coun-

1 sel on the record that a willful failure to comply with the court order
2 shall be contempt of court which may include punishment of a fine or
3 imprisonment or both; and

4 (5) Admissibility into evidence of the forensic report or the court
5 ordered evaluator's file shall be subject to objection of any party,
6 such party's attorney or the attorney for the child pursuant to the
7 rules of evidence and subject to the right of cross-examination.

8 § 4. Section 651 of the family court act is amended by adding a new
9 subdivision (g) to read as follows:

10 (g) Court ordered forensic evaluations in child custody and visitation
11 proceedings. Notwithstanding the provisions of this section to the
12 contrary, where a court order is issued for an evaluation or investi-
13 gation of the parties or a child by a forensic mental health profes-
14 sional, a probation service, a child protective service or any other
15 person authorized by statute, all of whom shall be considered "court
16 ordered evaluators" for purposes of this subdivision, appointed by the
17 court to assist with the determination of child custody or visitation
18 pursuant to this article or article four of this act, for purposes of
19 such court ordered forensic evaluations and investigations:

20 (1) Notwithstanding section one hundred sixty-five of this act and
21 section four hundred eight of the civil practice law and rules, the
22 provisions and limitations of sections three thousand one hundred one
23 and three thousand one hundred three of the civil practice law and rules
24 shall apply; and

25 (2) Any report or evaluation prepared by the court ordered evaluator,
26 to be known as a "forensic report" for the purposes of this subdivision,
27 shall be confidential and kept under seal except that, all parties,
28 their attorneys and the attorney for the child shall have a right to
29 receive a copy of any such forensic report upon receipt of such a report
30 by the court, subject to the provisions of section three thousand one
31 hundred three of the civil practice law and rules. Provided, however, in
32 no event shall a party or such party's counsel be prevented from access
33 to or review of a forensic report in advance of and during trial. Any
34 conditions or limitations imposed by the court pursuant to this subdivi-
35 sion relating to disclosure of the forensic report shall accommodate for
36 language access and disability. Upon application by counsel or a party
37 the court shall permit a copy of the forensic report and a copy of the
38 court ordered evaluator's files as provided for under paragraph three of
39 this subdivision to be provided to any person retained to assist counsel
40 or any party, subject to the provisions of section three thousand one
41 hundred three of the civil practice law and rules; and

42 (3) Pursuant to a demand made under rule three thousand one hundred
43 twenty of the civil practice law and rules, the court ordered evaluator
44 shall provide to a party, such party's attorney or the attorney for the
45 child the entire file related to the proceeding including but not limit-
46 ed to, all underlying notes, test data, raw test materials, underlying
47 materials provided to or relied upon by the court ordered evaluator and
48 any records, photographs or other evidence for inspection and photocopy-
49 ing, subject to section three thousand one hundred three of the civil
50 practice law and rules; and

51 (4) A willful failure to comply with a court order conditioning or
52 limiting access to a forensic report shall be contempt of court and may
53 be punishable as such as provided under section seven hundred fifty-
54 three of the judiciary law. The court shall notify the parties and coun-
55 sel on the record that a willful failure to comply with the court order

1 shall be contempt of court which may include punishment of a fine or
2 imprisonment or both; and

3 (5) Admissibility into evidence of the forensic report or the court
4 ordered evaluator's file shall be subject to objection of any party,
5 such party's attorney or the attorney for the child pursuant to the
6 rules of evidence and subject to the right of cross-examination.

7 § 5. This act shall take effect on the ninetieth day after it shall
8 have become a law. Effective immediately, the chief administrator of the
9 courts, with the approval of the administrative board of the courts, is
10 authorized to promulgate any rules necessary to implement the provisions
11 of this act on or before such effective date.