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6194

2025-2026 Regular Sessions

IN ASSEMBLY

February 27, 2025

Introduced by M. of A. HEVESI, CLARK, HUNTER, LAVINE, SIMON, JACKSON, K. BROWN, STIRPE, GONZALEZ-ROJAS, DURSO, OTIS, BRABENEC, MANKTELOW, ANGELINO, COOK, STERN, BLANKENBUSH, RA, PHEFFER AMATO, ROSENTHAL, LUPARDO, SIMPSON, EPSTEIN, KELLES, JENSEN, STECK, CRUZ, CUNNINGHAM, HAWLEY, PAULIN, BARRETT, GIBBS, DINOWITZ, GIGLIO, BORES, GANDOLFO, SHIMSKY, BRONSON, DE LOS SANTOS, WOERNER, WILLIAMS, ALVAREZ, MEEKS, SIMONE, TAPIA, LEVENBERG, RAGA, COLTON, LEE, GALLAHAN, WEPRIN, SAYEGH, BICHOTTE HERMELYN, TAYLOR, SLATER, NOVAKHOV -- read once and referred 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

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

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

49 An order directing the payment of child support shall contain the
50 social security numbers of the named parties. In all cases there shall
51 be no prima facie right to the custody of the child in either parent.
52 Such direction shall make provision for child support out of the proper-
53 ty of either or both parents. The court shall make its award for child
54 support pursuant to subdivision one-b of this section. Such direction
55 may provide for reasonable visitation rights to the ~~[maternal and/or~~
56 ~~paternal]~~ grandparents of any child of the parties. Such direction as it

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

50 (a-1)(1) ~~[Permanent and initial temporary orders of custody or visita-~~
51 ~~tion. Prior to the issuance of any permanent or initial temporary order~~
52 ~~of custody or visitation, the court shall conduct a review of the deci-~~
53 ~~sions and reports listed in subparagraph three of this paragraph.~~

54 ~~(2) Successive temporary orders of custody or visitation. Prior to the~~
55 ~~issuance of any successive temporary order of custody or visitation, the~~
56 ~~court shall conduct a review of the decisions and reports listed in~~

~~subparagraph three of this paragraph, unless such a review has been conducted within ninety days prior to the issuance of such order.~~

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

Prompt evidentiary hearing. Upon the application of any party to an action concerning custody of or visitation with a child, or of an attorney for the child, asserting facially credible allegations, including, but not limited to, allegations of domestic violence that, if true, would pose a substantial risk to the safety of the child, the court shall hold a prompt evidentiary hearing to determine whether temporary limitations or conditions on the custody or visitation rights of the party against whom such allegations have been made are necessary to avoid a substantial risk to the child's safety. Except for good cause shown, the hearing for such determination shall commence within twenty court days of the application for such hearing with an adjournment of up to thirty days, if needed, for the appearance by counsel for the parties and attorney for the child. The court shall remind the parties of their right to the assistance of counsel for the prompt evidentiary hearing. During such hearing, only competent, material and relevant evidence shall be admitted; provided, however, that certification or authentication of a law enforcement record or medical record shall not be required for the record, or a portion thereof, to be admitted. If a party waives their right to a hearing under this section, the court shall advise such party at that time that, notwithstanding such waiver, an application under this section may be made at any time during the pendency of the proceedings. After a hearing has been held pursuant to this provision, a party may request a subsequent prompt evidentiary hearing during the pendency of litigation for good cause shown.

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

(i) related decisions in court proceedings initiated pursuant to article ten of the family court act, and all warrants issued under the family court act; and

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

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

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

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

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

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

(B) use or threats to use a weapon or dangerous instrument, or unlawful possession of firearms;

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

1 (D) sexual abuse or other sexual offenses against the child or the
2 other party;

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

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

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

8 (H) incidents of violence during pregnancy;

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

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

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

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

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

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

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

53 Pending the determination of such appeal, the appellate division in
54 which the appeal is pending may stay the order on appeal pursuant to
55 subdivision (c) of section five thousand five hundred nineteen of the
56 civil practice law and rules where such court determines that the effect

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) compelling the other party by force, threat of force or intimidation, including but not limited to threats based on actual or suspected immigration status, to engage in conduct from which the other party has a right to abstain or to abstain from conduct in which the other party has a right to engage;

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

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

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

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

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

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

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

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

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

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

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

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

5 (iv) sexual abuse or other sexual offenses against the child or other
6 party;

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

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

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

12 (viii) incidents of violence during pregnancy;

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

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

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

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

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

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

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

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

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

proceedings. Such training shall address current knowledge and law relating to domestic violence, child abuse and child neglect, with the goal of making appropriate custody and visitation decisions that prioritize children's safety and are culturally sensitive and appropriate for diverse communities. Such training shall include, but not be limited to, trauma-informed judicial practices, the dynamics and effects of domestic violence and child abuse, including, but not limited to, emotional, financial, physical, technological and sexual abuse; assessment of domestic violence, coercive control, child abuse, lethality risk factors and heightened danger to a child's safety; tactics used by abuse partners, including, but not limited to allegations of parental alienation and parental gatekeeping, litigation abuse, and cyber abuse; and the distinction between inappropriate interference with the child-parent relationship and protective parenting in the context of domestic violence or child abuse. The office of court administration, in consultation with the office for the prevention of domestic violence, shall develop and conduct such training, which shall be reviewed and updated at least once every two years.

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

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

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

(iii) Notwithstanding any other provision of law to the contrary, a court making a final determination of custody or visitation based on the best interests of a child pursuant to the provisions of this chapter shall prioritize and promote the safety of such child when making such determinations. Only competent, material and relevant evidence shall be admitted. Promoting the safety of a child shall include efforts to

1 prevent physical or emotional harm to such child and shall be assessed
2 by considering any evidence adduced of a substantial risk to the child's
3 safety, including decisions and reports identified in subparagraph two
4 of paragraph (a-1) of subdivision one of section two hundred forty of
5 this chapter.

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

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

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

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

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

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

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

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

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

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

20 ~~3-]~~ Decisions and reports for review. The court shall conduct a review
21 of the following:

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

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

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

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

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

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

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

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

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

47 (D) sexual abuse or other sexual offenses against the child or other
48 party;

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

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

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

54 (H) incidents of violence during pregnancy;

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

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

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

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

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

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

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

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

1 required reviews shall take place the next day the court is in session.
2 Upon reviewing decisions and reports the court shall notify associated
3 counsel, self-represented parties and attorneys for children pursuant to
4 paragraph four of this subdivision and may issue temporary or permanent
5 custody or visitation orders.

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

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

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

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

1 eighty-four, and three hundred eighty-four-b of the social services law
2 and appeals from orders issued under part three of article six of this
3 act or section seventy or two hundred forty of the domestic relations
4 law upon a prompt evidentiary hearing regarding a facially credible
5 allegation of a substantial risk to the child's safety.

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

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

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

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

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

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

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

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

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

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

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

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