§ 116. Religion of custodial persons and agencies. (a) Whenever a child is remanded or committed by the court to any duly authorized association, agency, society or institution, other than an institution supported and controlled by the state or a subdivision thereof, such commitment must be made, when practicable, to a duly authorized association, agency, society or institution under the control of persons of the same religious faith or persuasion as that of the child.

(b) Whenever any child thus committed is placed by any such association, agency, society or institution in a family, or in the home, or in the custody, of any person other than that of its birth or adopted parent or parents, or when so placed or paroled directly by the court, such placement or parole must, when practicable, be with or in the custody of a person or persons of the same religious faith or persuasion as that of the child.

(c) In appointing guardians of children, except guardians ad litem, and in granting orders of adoption of children, the court must, when practicable, appoint only as such guardians, and only give custody through adoption to, persons of the same religious faith or persuasion as that of the child.

(d) The provisions of paragraphs (a), (b) and (c) of this section shall be interpreted literally, so as to assure that in the care, protection, guardianship, discipline or control of any child his religious faith shall be preserved and protected by the court. But this section shall not be construed so as to prevent the remanding of a child, during the pendency of a proceeding, to a place of detention designated by rules of court nor to the placing of a child in a hospital or similar institution for necessary treatment.

(e) The words "when practicable" as used in this section shall be interpreted as being without force or effect if there is a proper or suitable person of the same religous faith or persuasion as that of the child available for appointment as guardian, or to be designated as custodian, or to whom control may be given, or to whom orders of adoption may be granted; or if there is a duly authorized association, agency, society or institution under the control of persons of the same religious faith or persuasion as that of the child, at the time available and willing to assume the responsibility for the custody of or control over any such child.

(f) If a child is placed in the custody, or under the supervision or control, of a person or of persons of a religious faith or persuasion different from that of the child, or if a guardian of a child is appointed whose religious faith or persuasion is different from that of the child, or if orders of adoption are granted to a person or persons whose religious faith is different from that of the child adopted, or if a child is remanded or committed to a duly authorized association, agency, society or institution, or to any other place, which is under the control of persons of a religious faith or persuasion different from that of the child, the court shall state or recite the facts which impel it to make such disposition and such statement shall be made a part of the minutes of the proceeding.

(g) The provisions of subdivisions (a), (b), (c), (d), (e) and (f) of this section shall, so far as consistent with the best interests of the child, and where practicable, be applied so as to give effect to the religious wishes of the birth mother, if the child is born out-of-wedlock, or if born in-wedlock, the religious wishes of the birth parents of the child, or if only one of the birth parents of an in-wedlock child is then living, the religious wishes of the birth parent then living. Religious wishes of a birth parent shall include wishes that the child be placed in the same religion as the birth parent or in a different religion from the birth parent or with indifference to religion or with religion a subordinate consideration. Expressed religious wishes of a birth parent shall mean those which have been set forth in a writing signed by the birth parent, except that, in a non-agency adoption, such writing shall be an affidavit of the birth parent. In the absence of expressed religious wishes, as defined in this subdivision, determination of the religious wishes, if any, of the birth parent, shall be made upon the other facts of the particular case, and, if there is no evidence to the contrary, it shall be presumed that the birth parent wishes the child to be reared in the religion of the birth parent.