§ 373. Religious faith. 1. Whenever a child is committed to any agency, association, corporation, institution or society, other than an institution supported and controlled by the state or a subdivision thereof, such commitment shall be made, when practicable, to an authorized agency under the control of persons of the same religious faith as that of the child.

2. Whenever any child is surrendered, released, placed out, or boarded out, in a family, a home or an institution, or in an agency boarding home, or in a group home, or to an authorized agency, or in the custody of any person other than that of a relative within the second degree, such surrender, release, placement or boarding out shall when practicable, be to, with or in the custody of a person or persons of the same religious faith as that of the child or to an authorized agency under the control of persons of the same religious faith as that of the child.

3. In appointing guardians of children, and in granting orders of adoption of children, the court shall, when practicable, appoint as such guardians, and give custody through adoption, only to a person or persons of the same religious faith as that of the child.

4. The provisions of subdivision one, two and three of this section shall be so interpreted as to assure that in the care, protection, adoption, guardianship, discipline and control of any child, its religious faith shall be preserved and protected.

5. Whenever a child is placed out or boarded out in the custody, or under the supervision or control, of a person or of persons of a religious faith different from that of the child, or if a guardian of a child is appointed whose religious faith is different from that of the child, or if letters of adoption of a child are granted to a person or persons whose religious faith is different from that of the child or if a child is committed to an agency, association, corporation, society or institution, which is under the control of persons of a religious faith different from that of the child, the court, public board, commission or official shall state or recite the facts which impelled such disposition

to be made contrary to the religious faith of the child or to any person whose religious faith is different from that of the child and such statement shall be a part of the minutes of the proceeding, and subject to inspection by the department or an authorized agency. This subdivision shall not apply to institutions supported and controlled by the state or a subdivision thereof.

6. The provisions of this section in relation to the protection of the religious faith of children shall also apply to minors between sixteen and eighteen years of age.

7. The provisions of subdivisions one, two, three, four, five and six 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, and of the birth father whose consent would be required for the child's adoption pursuant to section one hundred eleven of the domestic relations law, 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 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.