



- TAKE ACTION
- ISSUES
- ABOUT US
- NOW ON CAMPUS
- DONATE
- JOIN
- PAC
- STORE
- FOUNDATION
- LEGISLATION
- RESOLUTIONS
- FIGHTING DISORDER IN THE COURTS
- PRESS RELEASES
- NEWSLETTER
- CHAPTERS
- START A CHAPTER
- YOUNG FEMINISTS
- LINKS OF INTEREST
- FACES OF FEMINISM
- INTERNSHIPS
- CONTACT US
- HOME

Search Site With



Go

NOW - NEW YORK STATE OPPOSE MEMO Mandatory Joint Custody

A3181 (Benjamin) A6743 (Thiele)

Current New York law was enunciated by Judge Charles Breitel for the NY Court of Appeals in *Braiman v. Braiman*. "Joint custody is encouraged, primarily as a voluntary alternative for relatively stable, amicable parents behaving in a mature, civilized fashion. **As court-ordered arrangements imposed upon...embattled and embittered parents ... [joint custody] can only enhance family chaos.**" Braiman is still good law and should not be overturned.

Each year, the National Organization for Women-New York State fights back against proposed legislation that will hurt mothers and their children.

A case for "Primary Caregiver Presumption." The National Organization for Women-New York State has always favored a primary caregiver (usually the mother) presumption to ensure **stability and continuity of care for children**. If the father has not been involved in a major way in the lives of his children during the marriage, why would that involvement increase after divorce?

Primary caregiver presumption legislation would cut down on a bargaining tool where one parent agrees to forgo a custody battle if the other agrees to a less favorable financial settlement. Richard Neely, a lawyer in West Virginia, has acknowledged that he often advised his male clients to make that threat. When he became Chief Justice of West Virginia Supreme Court of Appeals, he was responsible for the passage of a primary caregiver presumption.

Contrary to the argument of so called father's rights groups, mothers are NOT awarded custody in 95% of the divorce cases. Since only 5% of cases are litigated, mothers get custody by agreement of the parties, whether or not the agreement is coerced as described above.

Father's rights groups are in the forefront of the push for legislation establishing a presumption in favor of joint custody. These groups emphasize that many states already have some form of mandated joint custody. The first of these was California. After seeing the effects on children: convoluted living arrangements between relocated, possibly remarried parents, children being transferred from parent to parent in front of police stations, children being enrolled in two separate schools and other horror stories, the California legislature, in 1989 revoked its presumption and the statute now established "neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan which is in the best interest of the child or children."

A New York Times article dated March 26, 1995, describes a voluntary joint custody arrangement between parents who both wanted their child and had no reason to doubt the prevailing wisdom that it would best for him to continue to be raised by both parents. This child was "ferried" first across town, then across the State (California) and then later across the country. After eight years, the author (the father with whom the child resided during the school year) writes "... you would think he would be used to it by now. He is not. His emotional preparation begins a week or so before he flies to visit with his mother ... He becomes, to varying degrees, anxious, lethargic, somber and withdrawn from his friends. The back and forth seems only to have become tougher on him as he has grown older." He concludes, "Joint custody may work for divorcing parents. But it's a terrible arrangement for the children."

For over 20 years, father's rights groups have been claiming that courts discriminate against fathers in custody decisions. A continuum of studies shows that when fathers sue for custody, in the majority of cases, fathers win sole custody. Unbelievably, this is true even when fathers have been physically and/or sexually abusive.

Children should be seen, heard and believed. There is a pervasive attitude in the courts that allegations of child abuse are not true. Andrew Schepard, founder of PEACE, a statewide parental education program, in the NY Law Journal column of July 29, 1998, discussed an Australian study of child abuse charges. He stated that "many professionals involved in such cases [of child abuse] believe that the allegations are presumptively false, simply a nuclear weapon in the ongoing divorce custody wars." The study found, to his surprise that only 9% of the allegations were unproven. According to the US Department of Health and Human Services, during 2005, an estimated 899,000 children in the 50 States, DC and Puerto Rico were determined to be victims of abuse or neglect. Of the perpetrators who were parents, more than 90% were the biological parents, 4.3 % were the stepparents, and 0.7 % was the adoptive parents of the victim. The parental relationship was unknown for 4.5 % of the victims.

The truth about So-Called PAS: The proposed legislation does not acknowledge the devastation wreak by domestic violence and child abuse, although they state that the court must consider the affects of domestic violence upon the best interests of the child. However, because of the widespread acceptance in the courts of PAS (parental alienation syndrome) mothers are afraid to even raise the issue of child abuse for fear of losing custody and possibly even visitation. Often, mothers are advised by their attorneys and domestic violence counselors not to raise that issue in court because of the risk that it will backfire. The "friendly parent" concept intimidates the parent who has experienced an embattled relationship which makes the future of joint custody predictable.

Joint custody over the wishes of one parent facilitates using the children to maintain access and control over the other parent's life. NOW receives dozens of calls asking how a custodial parent can enforce visitation responsibilities. Under current law, there are no penalties for failure to exercise visitation. This bill has been designed to establish rights without responsibilities. There is no way to enforce joint custody obligations or shared parenting schedules.

The father's rights groups and others who are proponents of this bill point to the breakdown of the family throughout the country, the epidemic of single mothers, the increasing of number of children in trouble and rising population of young people in prison. These, indeed, are ills within our society; however the causes are complex. **Joint custody awards won't affect the multitude of families in disarray for various reasons.** This bill certainly does not contribute to a solution for these problems.

We do not know the extent to which this bill will affect child support awards. **Father's rights** groups have been lobbying for years to reduce child support obligations based on the time they are with their children. This bill has the potential to cause the lowering of the child support awards, certainly not in the best interest of the children.

Wrongly formulated legislation apportions child support based on the percentage of time the child spends with each parent. The Honorable Judith M. Reichler, former support magistrate (formerly known as hearing examiner) in NY County, served on the committee to develop the child support guidelines (CSSA). In testimony she presented to the NYS Bar Association in January 2006, she stated the following: **"It is simply more expensive to have joint physical custody because, among other things, of the necessity for duplication of certain household costs in each parent's home."** She went on to say that a proportional offset method for calculating child support has the potential of depriving children of much needed support. The intent of the sponsors of the child support guidelines was to protect children from unfairly bearing the economic burden of parental separation and allowing them to share in the economic status of both their parents.

Proposed legislation that mandates joint custody is in the best interest of fathers; certainly not in the best interests of children.

New York State is in the advantageous position of availing itself of hindsight. Let us review the results of the leap into forced joint custody in other states before taking this misstep.

Marcia A. Pappas
President

[Take Action](#) | [Issues](#) | [About Us](#) | [NOW on Campus](#) | [Donate](#) | [Join](#) | [PAC](#) | [Store](#) | [Foundation Legislation](#) | [Resolutions](#) | [Fighting Disorder in the Courts](#) | [Press Releases](#) | [Newsletter](#) | [Chapters Start a Chapter](#) | [Young Feminists](#) | [Links of Interest](#) | [Faces of Feminism](#) | [Internships](#) | [Contact Us](#) | [Home](#)

Copyright 2005, NOW-NYS Inc.
1500 Central Avenue Albany, New York 12205
518.452.3944 Fax: 518.452.3861
info@nownys.org

Web site created by [Net Results, LLC](#)

Bill Text: NY A03181 | 2009-2010 | General Assembly | Introduced



New York Assembly Bill 3181 (*Prior Session Legislation*)

[NY State Legislature page for A03181](#)

LegiScan Search

State:

New York

Select area of search.

Bill Number:

Find an exact bill number.

Full Text Search:

Search bill text and data. [\[help\]](#)

Search Reset

LegiScan Trends

[View Top 50 National](#)

GA HB473 Insurance; pharmacy benefits manager owes a fiduciary duty to a covered...

MO SB290 Modifies provisions relating to the education of gifted children

TX HB1871 Relating to the duty of the comptroller to report sales and use tax information...

MS SC578 Recognize success of Madison Central Soccer Coach Cecil Hinds.

MS SC589 Mourn the passing of Honorable Casey Pace, longtime Director of the Legislative...

TX SB580 Relating to water intake requirements for the Lower Colorado River Aut...

MS HB490 UN Agenda 21; prohibit state from adopting.

MS SC585 Commend and congratulate Newton County Academy Generals for winning the...

FL S1290 Dental Licensing

MS SC579 Recognize leadership and legacy of longtime Wayne General Hospital Administrator...

LegiScan Info

- [Documentation](#)
- [LegiScan API](#)

- [Legislation 101](#)
- [On Bill Numbers](#)
- [OneVote Zips](#)
- [Search Help](#)
- [State Support](#)

Summary Sponsors **Texts** Votes Research Comments **Track**

Introduced

Bill Title: An act to amend the domestic relations law, in relation to establishing a presumption of shared parenting of minor children in matrimonial proceedings

Spectrum: Bipartisan Bill

Status: (*Introduced - Dead*) 2010-01-06 - referred to judiciary [\[A03181 Detail\]](#)

Download: [New_York-2009-A03181-Introduced.html](#)

S T A T E O F N E W Y O R K

3181
2009-2010 Regular Sessions
I N A S S E M B L Y
January 23, 2009

Introduced by M. of A. BENJAMIN, FINCH, GALEF, McDONOUGH, KOLB, SCOZZA-FAVA, ALESSI, BOYLE -- Multi-Sponsored by -- M. of A. BURLING, CALHOUN, ENGLEBRIGHT, FITZPATRICK, GIANARIS, KOON, MAGEE, McENENY, ORTIZ, PERRY, QUINN, REILLY, THIELE, TOWNS, TOWNSEND, WEISENBERG -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to establishing a presumption of shared parenting of minor children in matrimonial proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that it is the public policy of the state to assure minor chil-
3 dren have frequent and continuing contact with both parents after the
4 parents have separated or dissolved their marriage and that it is in the
5 public interest to encourage parents to share the rights and responsi-
6 bilities of child-rearing in order to effectuate this policy. At the
7 outset and thereafter, in any proceeding where there is at issue the
8 custody of a minor child, the court may, during the pendency of the
9 proceeding or at any time thereafter, make such order for the custody of
10 minor children as may seem necessary or proper. **The provisions of this**
11 **act establish a presumption, affecting the burden of proof, that shared**
12 **parenting is in the best interests of minor children.**

13 S 2. Subdivision (a) of section 70 of the domestic relations law, as
14 amended by chapter 457 of the laws of 1988, is amended to read as
15 follows:

16 (a) Where a minor child is residing within this state, either parent
17 may apply to the supreme court for a writ of habeas corpus to have such
18 minor child brought before such court; and on the return thereof, **the**
19 **court, on due consideration, [may] SHALL award the natural guardianship,**
20 **charge and custody of such child to [either parent] BOTH PARENTS, IN THE**
21 **ABSENCE OF AN ALLEGATION THAT SUCH SHARED PARENTING WOULD BE DETRIMENTAL**

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

A. 3181

2

LBD05762-01-9

1 TO SUCH CHILD, for such time, under such regulations and restrictions,
2 and with such provisions and directions, as the case may require, and
3 may at any time thereafter vacate or modify such order. [In all cases
4 there shall be no prima facie right to the custody of the child in
5 either parent, but the] THE BURDEN OF PROOF THAT SUCH SHARED PARENTING
6 WOULD BE DETRIMENTAL TO SUCH CHILD SHALL BE UPON THE PARENT REQUESTING
7 SOLE CUSTODY. THE court shall determine solely what is for the best
8 interest of the child, and what will best promote [its] THE CHILD'S
9 welfare and happiness, and make award accordingly.

10 S 3. Paragraph (a) of subdivision 1 of section 240 of the domestic
11 relations law, as amended by chapter 538 of the laws of 2008, is amended
12 to read as follows:

13 (a) (I) In any action or proceeding brought (1) to annul a marriage or
14 to declare the nullity of a void marriage, or (2) for a separation, or
15 (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by
16 petition and order to show cause, the custody of or right to visitation
17 with any child of a marriage, the court shall require verification of
18 the status of any child of the marriage with respect to such child's
19 custody and support, including any prior orders, and shall enter orders
20 for custody and support as, in the court's discretion, justice requires,
21 having regard to the circumstances of the case and of the respective
22 parties and to the best interests of the child and subject to the
23 provisions of subdivision one-c of this section. Where either party to
24 an action concerning custody of or a right to visitation with a child
25 alleges in a sworn petition or complaint or sworn answer, cross-peti-
26 tion, counterclaim or other sworn responsive pleading that the other
27 party has committed an act of domestic violence against the party making
28 the allegation or a family or household member of either party, as such
29 family or household member is defined in article eight of the family
30 court act, and such allegations are proven by a preponderance of the
31 evidence, the court must consider the effect of such domestic violence
32 upon the best interests of the child, together with such other facts and
33 circumstances as the court deems relevant in making a direction pursuant
34 to this section. If a parent makes a good faith allegation based on a
35 reasonable belief supported by facts that the child is the victim of
36 child abuse, child neglect, or the effects of domestic violence, and if
37 that parent acts lawfully and in good faith in response to that reason-
38 able belief to protect the child or seek treatment for the child, then
39 that parent shall not be deprived of custody, visitation or contact with
40 the child, or restricted in custody, visitation or contact, based solely
41 on that belief or the reasonable actions taken based on that belief. If
42 an allegation that a child is abused is supported by a preponderance of
43 the evidence, then the court shall consider such evidence of abuse in
44 determining the visitation arrangement that is in the best interest of
45 the child, and the court shall not place a child in the custody of a
46 parent who presents a substantial risk of harm to that child. An order
47 directing the payment of child support shall contain the social security
48 numbers of the named parties. [In all cases there shall be no prima
49 facie right to the custody of the child in either parent. Such]

50 (II) CUSTODY SHALL BE AWARDED IN THE FOLLOWING ORDER OF PREFERENCE,
51 ACCORDING TO THE BEST INTERESTS OF THE CHILD:

52 (1) TO BOTH PARENTS JOINTLY PURSUANT TO SECTION TWO HUNDRED FORTY-D OF
53 THIS ARTICLE. IN SUCH CASES THE COURT MUST REQUIRE THE PARENTS TO
54 SUBMIT A PARENTING PLAN AS DEFINED IN SUBDIVISION TWO OF SECTION TWO
55 HUNDRED FORTY-D OF THIS ARTICLE FOR IMPLEMENTATION OF THE CUSTODY ORDER
56 OR THE PARENTS ACTING INDIVIDUALLY OR IN CONCERT MAY SUBMIT A CUSTODY
A. 3181 3

1 IMPLEMENTATION PLAN TO THE COURT PRIOR TO ISSUANCE OF A CUSTODY DECREE.
2 THERE SHALL BE A PRESUMPTION, AFFECTING THE BURDEN OF PROOF, THAT SHARED
3 PARENTING IS IN THE BEST INTERESTS OF A MINOR CHILD UNLESS THE PARENTS
4 HAVE AGREED TO AN AWARD OF CUSTODY TO ONE PARENT OR SO AGREE IN OPEN
5 COURT AT A HEARING FOR THE PURPOSE OF DETERMINING CUSTODY OF A MINOR
6 CHILD OF THE MARRIAGE OR THE COURT FINDS THAT SHARED PARENTING WOULD BE
7 DETRIMENTAL TO A PARTICULAR CHILD OF A SPECIFIC MARRIAGE. FOR THE
8 PURPOSE OF ASSISTING THE COURT IN MAKING A DETERMINATION WHETHER AN
9 AWARD OF SHARED PARENTING IS APPROPRIATE, THE COURT MAY DIRECT THAT AN
10 INVESTIGATION BE CONDUCTED. IF THE COURT DECLINES TO ENTER AN ORDER
11 AWARDED SHARED PARENTING PURSUANT TO THIS PARAGRAPH, THE COURT SHALL
12 STATE IN ITS DECISION THE REASONS FOR DENIAL OF AN AWARD OF SHARED
13 PARENTING. IN JURISDICTIONS HAVING A PRIVATE OR PUBLICLY-SUPPORTED
14 CONCILIATION SERVICE, THE COURT OR THE PARTIES MAY, AT ANY TIME, PURSU-
15 ANT TO LOCAL RULES OF COURT, CONSULT WITH THE CONCILIATION SERVICE FOR
16 THE PURPOSE OF ASSISTING THE PARTIES TO FORMULATE A PLAN FOR IMPLEMENTA-
17 TION OF THE CUSTODY ORDER OR TO RESOLVE ANY CONTROVERSY WHICH HAS ARISEN
18 IN THE IMPLEMENTATION OF A PLAN FOR CUSTODY. ANY ORDER FOR SHARED
19 PARENTING MAY BE MODIFIED OR TERMINATED UPON THE PETITION OF ONE OR BOTH
20 PARENTS OR ON THE COURT'S OWN MOTION IF IT IS SHOWN THAT THE BEST INTER-

21 ESTS OF THE CHILD REQUIRE MODIFICATION OR TERMINATION OF THE SHARED
22 PARENTING ORDER. ANY ORDER FOR THE CUSTODY OF A MINOR CHILD OF A
23 MARRIAGE ENTERED BY A COURT IN THIS STATE OR IN ANY OTHER STATE, SUBJECT
24 TO JURISDICTIONAL REQUIREMENTS, MAY BE MODIFIED AT ANY TIME TO AN ORDER
25 OF SHARED PARENTING IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

26 (2) TO EITHER PARENT, IN WHICH CASE, THE COURT, IN MAKING AN ORDER FOR
27 CUSTODY TO EITHER PARENT SHALL CONSIDER, AMONG OTHER FACTORS, WHICH
28 PARENT IS MORE LIKELY TO ALLOW THE CHILD OR CHILDREN FREQUENT AND
29 CONTINUING CONTACT WITH THE NONCUSTODIAL PARENT, AND SHALL NOT PREFER A
30 PARENT AS CUSTODIAN BECAUSE OF THAT PARENT'S GENDER. THE BURDEN OF PROOF
31 THAT SHARED PARENTING WOULD NOT BE IN THE CHILD'S BEST INTEREST SHALL BE
32 UPON THE PARENT REQUESTING SOLE CUSTODY. NOTWITHSTANDING ANY OTHER
33 PROVISION OF LAW, ACCESS TO RECORDS AND INFORMATION PERTAINING TO A
34 MINOR CHILD, INCLUDING BUT NOT LIMITED TO MEDICAL, DENTAL AND SCHOOL
35 RECORDS, SHALL NOT BE DENIED TO A PARENT BECAUSE THE PARENT IS NOT THE
36 CHILD'S CUSTODIAL PARENT.

37 (3) IF TO NEITHER PARENT, TO THE PERSON OR PERSONS IN WHOSE HOME THE
38 CHILD HAS BEEN LIVING IN A NURTURING AND STABLE ENVIRONMENT.

39 (4) TO ANY OTHER PERSON OR PERSONS DEEMED BY THE COURT TO BE SUITABLE
40 AND ABLE TO PROVIDE A NURTURING AND STABLE ENVIRONMENT.

41 BEFORE THE COURT MAKES ANY ORDER AWARDING CUSTODY TO A PERSON OR
42 PERSONS OTHER THAN A PARENT WITHOUT THE CONSENT OF THE PARENTS, IT SHALL
43 MAKE A FINDING THAT AN AWARD OF CUSTODY TO A PARENT WOULD BE DETRIMENTAL
44 TO THE CHILD AND THE AWARD TO A NON-PARENT IS REQUIRED TO SERVE THE BEST
45 INTERESTS OF THE CHILD. ALLEGATIONS THAT PARENTAL CUSTODY WOULD BE
46 DETRIMENTAL TO THE CHILD, OTHER THAN A STATEMENT OF THAT ULTIMATE FACT,
47 SHALL NOT APPEAR IN THE PLEADINGS. THE COURT MAY, IN ITS DISCRETION,
48 EXCLUDE THE PUBLIC FROM THE HEARING ON THIS ISSUE. THE COURT SHALL STATE
49 IN WRITING THE REASON FOR ITS DECISION AND WHY THE AWARD MADE WAS FOUND
50 TO BE IN THE BEST INTERESTS OF THE CHILD. ANY DIRECTION MADE PURSUANT TO
51 THIS SUBDIVISION SHALL MAKE PROVISION FOR CHILD SUPPORT OUT OF THE PROP-
52 erty of [either or] both parents. The court shall make its award for
53 child support pursuant to subdivision one-b of this section. Such direc-
54 tion may provide for reasonable visitation rights to the maternal and/or
55 paternal grandparents of any child of the parties. Such direction as it
56 applies to rights of visitation with a child remanded or placed in the
A. 3181 4

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

41 eleven-h of the social services law. Every order directing the payment
42 of support shall require that if either parent currently, or at any time
43 in the future, has health insurance benefits available that may be
44 extended or obtained to cover the child, such parent is required to
45 exercise the option of additional coverage in favor of such child and
46 execute and deliver to such person any forms, notices, documents or
47 instruments necessary to assure timely payment of any health insurance
48 claims for such child.

49 S 4. The domestic relations law is amended by adding a new section
50 240-d to read as follows:

51 S 240-D. CUSTODY OF CHILDREN. 1. WHERE THE COURT CONSIDERS AWARDING
52 SHARED PARENTING PURSUANT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVI-
53 SION ONE OF SECTION TWO HUNDRED FORTY OF THIS ARTICLE, "SHARED PARENT-
54 ING", SHALL MEAN AN ORDER AWARDING CUSTODY OF THE CHILD TO BOTH PARTIES
55 SO THAT BOTH PARTIES SHARE EQUALLY THE LEGAL RESPONSIBILITY AND CONTROL
56 OF SUCH CHILD AND SHARE EQUALLY THE LIVING EXPERIENCE IN TIME AND PHYS-

5

1 ICAL CARE TO ASSURE FREQUENT AND CONTINUING CONTACT WITH BOTH PARTIES,
2 AS THE COURT DEEMS TO BE IN THE BEST INTERESTS OF THE CHILD, TAKING INTO
3 CONSIDERATION THE LOCATION AND CIRCUMSTANCES OF EACH PARTY. THE TERM
4 "SHARED PARENTING", SHALL BE CONSIDERED INTERCHANGEABLE WITH "NEARLY
5 EQUAL SHARED PARENTING". AN AWARD OF JOINT PHYSICAL AND LEGAL CUSTODY
6 OBLIGATES THE PARTIES TO EXCHANGE INFORMATION CONCERNING THE HEALTH,
7 EDUCATION AND WELFARE OF THE MINOR CHILD, AND UNLESS ALLOCATED, APPOR-
8 TIONED OR DECREED, THE PARENTS OR PARTIES SHALL CONFER WITH ONE ANOTHER
9 IN THE EXERCISE OF DECISION-MAKING RIGHTS, RESPONSIBILITIES AND AUTHORI-
10 TY.

11 2. FOR THE PURPOSES OF THIS ARTICLE A "PARENTING PLAN", REQUIRED TO BE
12 SUBMITTED TO THE COURT PURSUANT TO CLAUSE ONE OF SUBPARAGRAPH (II) OF
13 PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY OF THIS
14 ARTICLE, SHALL INCLUDE BUT NOT BE LIMITED TO:

- 15 (A) THE LEGAL RESPONSIBILITIES OF EACH PARENT;
- 16 (B) A WEEKLY PARENTING SCHEDULE;
- 17 (C) A HOLIDAY AND VACATION PARENTING SCHEDULE;
- 18 (D) A SCHEDULE FOR SPECIAL OCCASIONS, INCLUDING BIRTHDAYS;
- 19 (E) A DESCRIPTION OF ANY SPECIFIC DECISION MAKING AREAS FOR EACH
20 PARENT PROVIDED, HOWEVER, THAT BOTH PARENTS SHALL CONFER AND JOINTLY
21 DETERMINE MAJOR ISSUES AFFECTING THE WELFARE OF THE CHILD INCLUDING
22 HEALTH, EDUCATION, DISCIPLINE AND RELIGION;
- 23 (F) IF APPLICABLE, THE NEED FOR ANY AND ALL OF THE PARTIES TO PARTIC-
24 IPATE IN COUNSELING;
- 25 (G) ANY RESTRICTIONS ON EITHER PARENT WHEN IN PHYSICAL CONTROL OF THE
26 CHILD OR CHILDREN; AND
- 27 (H) PROVISIONS FOR MEDIATION OF DISPUTES.

28 3. ONE PARENT MAY BE DESIGNATED AS A PUBLIC WELFARE RECIPIENT IN SITU-
29 ATIONS WHERE PUBLIC WELFARE AID IS DEEMED NECESSARY AND APPROPRIATE. IN
30 MAKING AN ORDER OF SHARED PARENTING, THE COURT SHALL SPECIFY THE RIGHT
31 OF EACH PARENT TO THE PHYSICAL CONTROL OF THE CHILD IN SUFFICIENT DETAIL
32 TO ENABLE A PARENT DEPRIVED OF THAT CONTROL TO ENFORCE THE COURT ORDER
33 AND TO ENABLE LAW ENFORCEMENT AUTHORITIES TO IMPLEMENT LAWS FOR RELIEF
34 OF PARENTAL KIDNAPPING AND CUSTODIAL INTERFERENCE.

35 S 5. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law and shall apply to
37 actions and proceedings commenced on and after such date.