

4302

2011-2012 Regular Sessions

I N   S E N A T E

March 28, 2011

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Introduced by Sen. SAVINO -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to service of orders of protection in family and supreme court proceedings and allegations in family offense petitions

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

1     Section 1. Subdivision (e) of section 153-b of the family court act,  
2     as added by chapter 261 of the laws of 2010, is amended to read as  
3     follows:  
4     (e) Notwithstanding any other provision of law, FOR THE PURPOSES OF  
5     SECTION ONE HUNDRED SIXTY-EIGHT OF THIS ARTICLE AND TO ENSURE EXPEDITED  
6     SERVICE BY PEACE AND POLICE OFFICERS IN ACCORDANCE WITH THE PROVISIONS  
7     OF THIS SECTION, all orders of protection and temporary orders of  
8     protection issued pursuant to this act, along with THE SUMMONS, PETITION  
9     AND any associated papers [that may] TO be served simultaneously, may[,  
10    for the purposes of section one hundred sixty-eight of this article,] be  
11    transmitted by facsimile transmission or electronic means [and may be  
12    transmitted by facsimile transmission or electronic means for expedited  
13    service in accordance with the provisions of this section] TO A PEACE OR  
14    POLICE OFFICER, OR, IN THE CITY OF NEW YORK, TO A DESIGNATED REPRESENTATIVE  
15    OF THE POLICE DEPARTMENT OF THE CITY OF NEW YORK. For purposes of  
16    this section, "facsimile transmission" and "electronic means" shall be  
17    as defined in subdivision (f) of rule twenty-one hundred three of the  
18    civil practice law and rules. NOTHING IN THIS SUBDIVISION SHALL ALTER OR  
19    LIMIT THE REQUIREMENTS FOR SERVICE UNDER THIS SECTION AND THE CIVIL  
20    PRACTICE LAW AND RULES.  
21    S 2. Paragraph (a) of subdivision 1 of section 821 of the family court  
22    act, as amended by chapter 476 of the laws of 2009, is amended to read  
23    as follows:

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

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1 (a) An allegation that the respondent assaulted or attempted to  
2 assault his or her spouse, or former spouse, parent, child or other  
3 member of the same family or household or engaged in disorderly conduct,  
4 harassment, sexual misconduct, forcible touching, sexual abuse in the  
5 third degree, sexual abuse in the second degree as set forth in subdivi-  
6 sion one of section 130.60 of the penal law, stalking, criminal  
7 mischief, menacing [or], reckless endangerment, CRIMINAL OBSTRUCTION OF  
8 BREATHING OR BLOOD CIRCULATION OR STRANGULATION toward any such person;

9 S 3. Subdivision (a) of section 826 of the family court act, as  
10 amended by chapter 222 of the laws of 1994, is amended to read as  
11 follows:

12 (a) Unless the court issues a warrant pursuant to section eight  
13 hundred twenty-seven of this part, service of a summons and petition  
14 shall be made by delivery of a true copy thereof to the person summoned  
15 at least twenty-four hours before the time stated therein for appear-  
16 ance. If so requested by the respondent, the court shall not proceed  
17 with the hearing or proceeding earlier than three days after such  
18 service. WHEN AN ADJOURNMENT IS GRANTED ON REQUEST OF THE RESPONDENT,  
19 THE COURT MAY CONTINUE OR GRANT A TEMPORARY ORDER OF PROTECTION.

20 S 4. Paragraph b of subdivision 3-a of section 240 of the domestic  
21 relations law, as added by chapter 261 of the laws of 2010, is amended  
22 to read as follows:

23 b. Notwithstanding any other provision of law, all orders of  
24 protection and temporary orders of protection filed and entered along  
25 with any associated papers [that may] TO be served simultaneously may be  
26 transmitted by facsimile transmission or electronic means [for] TO A  
27 PEACE OR POLICE OFFICER OR, IN THE CITY OF NEW YORK, TO A DESIGNATED  
28 REPRESENTATIVE OF THE POLICE DEPARTMENT OF THE CITY OF NEW YORK IN ORDER  
29 TO ENSURE expedited service BY PEACE AND POLICE OFFICERS in accordance  
30 with the provisions of this subdivision. For purposes of this subdivi-  
31 sion, "facsimile transmission" and "electronic means" shall be as  
32 defined in subdivision (f) of rule twenty-one hundred three of the civil  
33 practice law and rules. NOTHING IN THIS SUBDIVISION SHALL ALTER OR  
34 LIMIT THE REQUIREMENTS FOR SERVICE UNDER THIS SECTION AND THE CIVIL  
35 PRACTICE LAW AND RULES.

36 S 5. This act shall take effect immediately.