

5605

2013-2014 Regular Sessions

I N S E N A T E

May 24, 2013

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law, the family court act and the criminal procedure law, in relation to the scope of orders of protection and temporary orders of protection

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

1 Section 1. Paragraph b of subdivision 3 of section 240 of the domestic
2 relations law, as amended by chapter 597 of the laws of 1998, is amended
3 and a new paragraph i is added to read as follows:
4 b. An order of protection entered pursuant to this subdivision shall
5 bear in a conspicuous manner, on the front page of said order, the
6 language "Order of protection issued pursuant to section two hundred
7 forty of the domestic relations law". THE ORDER OF PROTECTION SHALL
8 ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN
9 IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT
10 OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS
11 ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
12 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
13 VIOLATING THIS ORDER.". The absence of such language shall not affect
14 the validity of such order. The presentation of a copy of such an order
15 to any peace officer acting pursuant to his or her special duties, or
16 police officer, shall constitute authority, for that officer to arrest a
17 person when that person has violated the terms of such an order, and
18 bring such person before the court and, otherwise, so far as lies within
19 the officer's power, to aid in securing the protection such order was
20 intended to afford.
21 I. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
22 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE SUCH
23 AN ORDER NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR VIOLATING SUCH
24 ORDER.

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

LBD10169-07-3

1 S 2. Subdivision 2 of section 252 of the domestic relations law, as
2 added by chapter 349 of the laws of 1995, is amended and a new subdivi-
3 sion 9-a is added to read as follows:

4 2. An order of protection entered pursuant to this subdivision shall
5 bear in a conspicuous manner, on the front page of said order, the
6 language "Order of protection issued pursuant to section two hundred
7 fifty-two of the domestic relations law". THE ORDER OF PROTECTION SHALL
8 ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN
9 IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT
10 OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS
11 ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
12 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
13 VIOLATING THIS ORDER.". The absence of such language shall not affect
14 the validity of such order. The presentation of a copy of such an order
15 to any peace officer acting pursuant to his or her special duties, or
16 police officer, shall constitute authority, for that officer to arrest a
17 person when that person has violated the terms of such an order, and
18 bring such person before the court and, otherwise, so far as lies within
19 the officer's power, to aid in securing the protection such order was
20 intended to afford.

21 9-A. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
22 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
23 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
24 ARRESTED FOR VIOLATING SUCH ORDER.

25 S 3. Section 155 of the family court act is amended by adding a new
26 subdivision 3 to read as follows:

27 3. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
28 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
29 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
30 ARRESTED FOR VIOLATING SUCH ORDER.

31 S 4. Subdivision 3 of section 168 of the family court act, as added by
32 chapter 164 of the laws of 1989, is amended to read as follows:

33 3. Any order of protection or temporary order of protection issued by
34 the family court shall bear, in a conspicuous manner, the language, as
35 the case may be, "this order constitutes an order of protection" or
36 "this order constitutes a temporary order of protection", on the front
37 page of said order. THE ORDER OF PROTECTION OR TEMPORARY ORDER OF
38 PROTECTION SHALL ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF
39 PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR
40 CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM
41 THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR
42 TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE
43 THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.". The absence of
44 such language shall not affect the validity of such order.

45 S 5. Section 446 of the family court act is amended by adding a new
46 closing paragraph to read as follows:

47 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
48 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
49 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
50 VIOLATING SUCH ORDER.

51 S 6. Section 551 of the family court act is amended by adding a new
52 closing paragraph to read as follows:

53 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
54 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
55 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
56 VIOLATING SUCH ORDER.

1 S 7. Section 656 of the family court act is amended by adding a new
2 closing paragraph to read as follows:

3 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
4 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
5 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
6 VIOLATING SUCH ORDER.

7 S 8. Section 759 of the family court act is amended by adding a new
8 closing paragraph to read as follows:

9 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
10 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
11 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
12 VIOLATING SUCH ORDER.

13 S 9. Section 842 of the family court act is amended by adding a new
14 closing paragraph to read as follows:

15 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
16 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
17 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
18 VIOLATING SUCH ORDER.

19 S 10. Section 846 of the family court act is amended by adding a new
20 subdivision (a-1) to read as follows:

21 (A-1) THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
22 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
23 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
24 ARRESTED FOR VIOLATING SUCH ORDER.

25 S 11. Section 1056 of the family court act is amended by adding a new
26 subdivision 7 to read as follows:

27 7. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
28 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
29 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
30 ARRESTED FOR VIOLATING SUCH ORDER.

31 S 12. Subdivision 4 of section 140.10 of the criminal procedure law is
32 amended by adding a new second undesignated paragraph to read as
33 follows:

34 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
35 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
36 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
37 VIOLATING SUCH ORDER.

38 S 13. Subdivisions 6 and 8 of section 530.12 of the criminal procedure
39 law, subdivision 6 as amended by chapter 164 of the laws of 1989, the
40 closing paragraph of subdivision 6 as added by chapter 222 of the laws
41 of 1994 and subdivision 8 as amended by section 81 of subpart B of part
42 C of chapter 62 of the laws of 2011, are amended to read as follows:

43 6. An order of protection or a temporary order of protection issued
44 pursuant to subdivision one, two, three, four or five of this section
45 shall bear in a conspicuous manner the term "order of protection" or
46 "temporary order of protection" as the case may be and a copy shall be
47 filed by the clerk of the court with the sheriff's office in the county
48 in which the complainant resides, or, if the complainant resides within
49 a city, with the police department of such city. THE ORDER OF
50 PROTECTION OR TEMPORARY ORDER OF PROTECTION SHALL ALSO CONTAIN THE
51 FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN
52 IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNI-
53 CATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF
54 PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
55 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
56 VIOLATING THIS ORDER.". The absence of such language shall not affect

1 the validity of such order. A copy of such order of protection or
2 temporary order of protection may from time to time be filed by the
3 clerk of the court with any other police department or sheriff's office
4 having jurisdiction of the residence, work place, and school of anyone
5 intended to be protected by such order. A copy of the order may also be
6 filed by the complainant at the appropriate police department or sher-
7 iff's office having jurisdiction. Any subsequent amendment or revocation
8 of such order shall be filed in the same manner as herein provided.

9 Such order of protection shall plainly state the date that such order
10 expires.

11 8. In any proceeding in which an order of protection or temporary
12 order of protection or a warrant has been issued under this section, the
13 clerk of the court shall issue to the complainant and defendant and
14 defense counsel and to any other person affected by the order a copy of
15 the order of protection or temporary order of protection and ensure that
16 a copy of the order of protection or temporary order of protection be
17 transmitted to the local correctional facility where the individual is
18 or will be detained, the state or local correctional facility where the
19 individual is or will be imprisoned, and the supervising probation
20 department or department of corrections and community supervision where
21 the individual is under probation or parole supervision. The presenta-
22 tion of a copy of such order or a warrant to any peace officer acting
23 pursuant to his or her special duties or police officer shall constitute
24 authority for him or her to arrest a person who has violated the terms
25 of such order and bring such person before the court and, otherwise, so
26 far as lies within his or her power, to aid in securing the protection
27 such order was intended to afford. THE PROTECTED PARTY IN WHOSE FAVOR
28 THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IS ISSUED MAY
29 NOT BE HELD TO VIOLATE AN ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH
30 PROTECTED PARTY BE ARRESTED FOR VIOLATING SUCH ORDER.

31 S 14. This act shall take effect immediately and shall apply to all
32 orders of protection regardless of when such orders were issued, except
33 that:

34 (a) the amendments to paragraph b of subdivision 3 of section 240 of
35 the domestic relations law made by section one of this act, the amend-
36 ments to subdivision 2 of section 252 of the domestic relations law made
37 by section two of this act, the amendments to subdivision 3 of section
38 168 of the family court act made by section four of this act, and the
39 amendments to subdivision 6 of section 530.12 of the criminal procedure
40 law made by section thirteen of this act shall take effect on the sixti-
41 eth day after this act shall have become a law, and shall apply to
42 orders of protection issued on or after such effective date; and

43 (b) the amendments to subdivision 4 of section 140.10 of the criminal
44 procedure law, made by section twelve of this act, shall not affect the
45 repeal of such subdivision, and shall be deemed repealed therewith.