

5821

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

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

AN ACT to amend the family court act and the criminal procedure law, in relation to adding identity theft, larceny and coercion as crimes over which family courts and criminal courts have concurrent jurisdiction in certain circumstances; and to amend the family court act, the domestic relations law and the criminal procedure law, in relation to authorizing courts, upon issuance of an order of protection, to order a respondent to return certain documents, and debit and credit devices to the protected party

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

1 Section 1. The opening paragraph of subdivision 1 of section 812 of  
2 the family court act, as separately amended by chapters 341 and 405 of  
3 the laws of 2010, is amended to read as follows:  
4 The family court and the criminal courts shall have concurrent juris-  
5 diction over any proceeding concerning acts which would constitute  
6 disorderly conduct, harassment in the first degree, harassment in the  
7 second degree, aggravated harassment in the second degree, sexual  
8 misconduct, forcible touching, sexual abuse in the third degree, sexual  
9 abuse in the second degree as set forth in subdivision one of section  
10 130.60 of the penal law, stalking in the first degree, stalking in the  
11 second degree, stalking in the third degree, stalking in the fourth  
12 degree, criminal mischief, menacing in the second degree, menacing in  
13 the third degree, reckless endangerment, criminal obstruction of breath-  
14 ing or blood circulation, strangulation in the second degree, strangula-  
15 tion in the first degree, assault in the second degree, assault in the  
16 third degree [or], an attempted assault, [criminal obstruction of  
17 breathing or blood circulation or strangulation] *IDENTITY THEFT IN THE*  
18 *FIRST DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN THE*  
19 *THIRD DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN THE*

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

LBD09958-07-3

1 THIRD DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDIVI-  
2 SIONS ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW between  
3 spouses or former spouses, or between parent and child or between  
4 members of the same family or household except that if the respondent  
5 would not be criminally responsible by reason of age pursuant to section  
6 30.00 of the penal law, then the family court shall have exclusive  
7 jurisdiction over such proceeding. Notwithstanding a complainant's  
8 election to proceed in family court, the criminal court shall not be  
9 divested of jurisdiction to hear a family offense proceeding pursuant to  
10 this section. In any proceeding pursuant to this article, a court shall  
11 not deny an order of protection, or dismiss a petition, solely on the  
12 basis that the acts or events alleged are not relatively contemporaneous  
13 with the date of the petition, the conclusion of the fact-finding or the  
14 conclusion of the dispositional hearing. For purposes of this article,  
15 "disorderly conduct" includes disorderly conduct not in a public place.  
16 For purposes of this article, "members of the same family or household"  
17 shall mean the following:

18 S 2. Paragraph (a) of subdivision 1 of section 821 of the family court  
19 act, as amended by chapter 309 of the laws of 2011, is amended to read  
20 as follows:

21 (a) An allegation that the respondent assaulted or attempted to  
22 assault his or her spouse, or former spouse, parent, child or other  
23 member of the same family or household or engaged in disorderly conduct,  
24 harassment, sexual misconduct, forcible touching, sexual abuse in the  
25 third degree, sexual abuse in the second degree as set forth in subdivi-  
26 sion one of section 130.60 of the penal law, stalking, criminal  
27 mischief, menacing, reckless endangerment, criminal obstruction of  
28 breathing or blood circulation [or], strangulation, IDENTITY THEFT IN  
29 THE FIRST DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN  
30 THE THIRD DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN  
31 THE THIRD DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDI-  
32 VISIONS ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW, toward  
33 any such person;

34 S 3. Section 446 of the family court act, as amended by chapter 948 of  
35 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
36 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
37 subdivision (i) as added by chapter 483 of the laws of 1995, subdivision  
38 (h) as added and subdivision (i) as relettered by chapter 253 of the  
39 laws of 2006, paragraph 1 of subdivision (h) as amended by chapter 532  
40 of the laws of 2008, the second undesignated paragraph as amended by  
41 chapter 326 of the laws of 2008, the third undesignated paragraph as  
42 added by chapter 73 of the laws of 2007 and the closing paragraph as  
43 added by chapter 341 of the laws of 2010, is amended to read as follows:

44 S 446. Order of protection. The court may make an order of protection  
45 in assistance or as a condition of any other order made under this part.  
46 The order of protection may set forth reasonable conditions of behavior  
47 to be observed for a specified time by the petitioner or respondent or  
48 both. No order of protection may direct any party to observe conditions  
49 of behavior unless the party requesting the order of protection has  
50 served and filed a petition or counter-claim in accordance with section  
51 one hundred fifty-four-b of this act. Such an order may require the  
52 petitioner or the respondent:

53 (a) to stay away from the home, school, business or place of employ-  
54 ment of any other party, the other spouse, the other parent or the  
55 child, and to stay away from any other specific location designated by  
56 the court;

1 (b) to permit a parent, or a person entitled to visitation by a court  
2 order or a separation agreement, to visit the child at stated periods;  
3 (c) to refrain from committing a family offense, as defined in subdi-  
4 vision one of section eight hundred twelve of this act, or any criminal  
5 offense against the child or against the other parent or against any  
6 person to whom custody of the child is awarded, or from harassing,  
7 intimidating or threatening such persons;  
8 (d) to permit a designated party to enter the residence during a spec-  
9 ified period of time in order to remove personal belongings not in issue  
10 in this proceeding or in any other proceeding or action under this act  
11 or the domestic relations law;  
12 (e) to refrain from acts of commission or omission that create an  
13 unreasonable risk to the health, safety or welfare of a child;  
14 (f) to participate in an educational program and to pay the costs  
15 thereof if the person has the means to do so, provided however that  
16 nothing contained herein shall be deemed to require payment of the costs  
17 of any such program by the state or any political subdivision thereof;  
18 (g) to provide, either directly or by means of medical and health  
19 insurance, for expenses incurred for medical care and treatment arising  
20 from the incident or incidents forming the basis for the issuance of the  
21 order[.];  
22 (h) 1. to refrain from intentionally injuring or killing, without  
23 justification, any companion animal the respondent knows to be owned,  
24 possessed, leased, kept or held by the person protected by the order or  
25 a minor child residing in such person's household.  
26 2. "Companion animal", as used in this section, shall have the same  
27 meaning as in subdivision five of section three hundred fifty of the  
28 agriculture and markets law[.];  
29 (i) 1. TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
30 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
31 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
32 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
33 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
34 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
35 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
36 BE ACCOMPLISHED.  
37 2. FOR PURPOSES OF THIS SUBDIVISION, "IDENTIFICATION DOCUMENT" SHALL  
38 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
39 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
40 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
41 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
42 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
43 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
44 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
45 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
46 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
47 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
48 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
49 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND  
50 (J) to observe such other conditions as are necessary to further the  
51 purposes of protection.  
52 The court may also award custody of the child, during the term of the  
53 order of protection to either parent, or to an appropriate relative  
54 within the second degree. Nothing in this section gives the court power  
55 to place or board out any child or to commit a child to an institution  
56 or agency. In making orders of protection, the court shall so act as to

1 insure that in the care, protection, discipline and guardianship of the  
2 child his religious faith shall be preserved and protected.

3 Notwithstanding the foregoing provisions, an order of protection, or  
4 temporary order of protection where applicable, may be entered against a  
5 former spouse and persons who have a child in common, regardless of  
6 whether such persons have been married or have lived together at any  
7 time, or against a member of the same family or household as defined in  
8 subdivision one of section eight hundred twelve of this act.

9 In addition to the foregoing provisions, the court may issue an order,  
10 pursuant to section two hundred twenty-seven-c of the real property law,  
11 authorizing the party for whose benefit any order of protection has been  
12 issued to terminate a lease or rental agreement pursuant to section two  
13 hundred twenty-seven-c of the real property law.

14 In any proceeding pursuant to this article, a court shall not deny an  
15 order of protection, or dismiss an application for such an order, solely  
16 on the basis that the acts or events alleged are not relatively contem-  
17 poraneous with the date of the application or the conclusion of the  
18 action. The duration of any temporary order shall not by itself be a  
19 factor in determining the length or issuance of any final order.

20 S 4. Section 551 of the family court act, as amended by chapter 948 of  
21 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
22 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
23 subdivision (j) as added by chapter 483 of the laws of 1995, subdivision  
24 (i) as added and subdivision (j) as relettered by chapter 253 of the  
25 laws of 2006, paragraph 1 of subdivision (i) as amended by chapter 532  
26 of the laws of 2008, the third undesignated paragraph as amended by  
27 chapter 326 of the laws of 2008 and the closing paragraph as added by  
28 chapter 341 of the laws of 2010, is amended to read as follows:

29 S 551. Order of protection. The court may make an order of protection  
30 in assistance or as a condition of any other order made under this arti-  
31 cle. The order of protection may set forth reasonable conditions of  
32 behavior to be observed for a specified time by the petitioner or  
33 respondent or both. No order of protection may direct any party to  
34 observe conditions of behavior unless the party requesting the order of  
35 protection has served and filed a petition or counter-claim in accord-  
36 ance with section one hundred fifty-four-b of this act. Such an order  
37 may require the petitioner or the respondent:

38 (a) to stay away from the home, school, business or place of employ-  
39 ment of any other party, the other parent, or the child, and to stay  
40 away from any other specific location designated by the court;

41 (b) to permit a parent, or a person entitled to visitation by a court  
42 order or a separation agreement to visit the child at stated periods;

43 (c) to refrain from committing a family offense, as defined in subdi-  
44 vision one of section eight hundred twelve of this act, or any criminal  
45 offense against the child or against the other parent or against any  
46 person to whom custody of the child is awarded, or from harassing,  
47 intimidating or threatening such persons;

48 (d) to permit a designated party to enter the residence during a spec-  
49 ified period of time in order to remove personal belongings not in issue  
50 in this proceeding or in any other proceeding or action under this act  
51 or the domestic relations law;

52 (e) to refrain from acts of commission or omission that create an  
53 unreasonable risk to the health, safety or welfare of a child;

54 (f) to participate in an educational program and to pay the costs  
55 thereof if the person has the means to do so, provided, however, that

1 nothing contained herein shall be deemed to require payment of the costs  
2 of any such program by the state or any political subdivision thereof;

3 (g) to provide, either directly or by means of medical and health  
4 insurance, for expenses incurred for medical care and treatment arising  
5 from the incident or incidents forming the basis for the issuance of the  
6 order;

7 (h) to pay the reasonable counsel fees and disbursements involved in  
8 obtaining or enforcing the order of the person who is protected by such  
9 order if such order is issued or enforced, whether or not an order of  
10 filiation is made[.];

11 (i) 1. to refrain from intentionally injuring or killing, without  
12 justification, any companion animal the respondent knows to be owned,  
13 possessed, leased, kept or held by the person protected by the order or  
14 a minor child residing in such person's household.

15 2. "Companion animal", as used in this section, shall have the same  
16 meaning as in subdivision five of section three hundred fifty of the  
17 agriculture and markets law[.];

18 (j) 1. TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
19 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
20 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
21 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
22 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
23 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
24 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
25 BE ACCOMPLISHED.

26 2. FOR PURPOSES OF THIS SUBDIVISION, "IDENTIFICATION DOCUMENT" SHALL  
27 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
28 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
29 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
30 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
31 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
32 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
33 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
34 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
35 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
36 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
37 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
38 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

39 (K) to observe such other conditions as are necessary to further the  
40 purposes of protection.

41 The court may also award custody of the child, during the term of the  
42 order of protection to either parent, or to an appropriate relative  
43 within the second degree. Nothing in this section gives the court power  
44 to place or board out any child or to commit a child to an institution  
45 or agency. In making orders of protection, the court shall so act as to  
46 insure that in the care, protection, discipline and guardianship of the  
47 child his religious faith shall be preserved and protected.

48 Notwithstanding the foregoing provisions, an order of protection, or  
49 temporary order of protection where applicable, may be entered against a  
50 former spouse and persons who have a child in common, regardless of  
51 whether such persons have been married or have lived together at any  
52 time, or against a member of the same family or household as defined in  
53 subdivision one of section eight hundred twelve of this act.

54 In any proceeding pursuant to this article, a court shall not deny an  
55 order of protection, or dismiss an application for such an order, solely  
56 on the basis that the acts or events alleged are not relatively contem-

1 poraneous with the date of the application or the conclusion of the  
2 action. The duration of any temporary order shall not by itself be a  
3 factor in determining the length or issuance of any final order.

4 S 5. Section 656 of the family court act, as amended by chapter 948 of  
5 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
6 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
7 subdivision (j) as added by chapter 483 of the laws of 1995, subdivision  
8 (i) as added and subdivision (j) as relettered by chapter 253 of the  
9 laws of 2006, the second undesignated paragraph as amended by chapter  
10 326 of the laws of 2008, the third undesignated paragraph as added by  
11 chapter 73 of the laws of 2007 and the closing paragraph as added by  
12 chapter 341 of the laws of 2010, is amended to read as follows:

13 S 656. Order of protection. The court may make an order of protection  
14 and an order of probation in assistance or as a condition of any other  
15 order made under this part. The order of protection may set forth  
16 reasonable conditions of behavior to be observed for a specific time by  
17 any petitioner or any respondent, and shall specify if an order of  
18 probation is in effect. No order of protection may direct any party to  
19 observe conditions of behavior unless the party requesting the order of  
20 protection has served and filed a petition or counter-claim in accord-  
21 ance with section one hundred fifty-four-b of this act. Such an order  
22 may require the petitioner or the respondent:

23 (a) to stay away from the home, school, business or place of employ-  
24 ment of any other party, the other spouse or parent, or the child, and  
25 to stay away from any other specific location designated by the court;

26 (b) to permit a parent, or a person entitled to visitation by a court  
27 order or a separation agreement, to visit the child at stated periods;

28 (c) to refrain from committing a family offense, as defined in subdi-  
29 vision one of section eight hundred twelve of this act, or any criminal  
30 offense against the child or against the other parent or against any  
31 person to whom custody of the child is awarded, or from harassing,  
32 intimidating or threatening such persons;

33 (d) to permit a designated party to enter the residence during a spec-  
34 ified period of time in order to remove personal belongings not in issue  
35 in this proceeding or in any other proceeding or action under this act  
36 or the domestic relations law;

37 (e) to refrain from acts of commission or omission that create an  
38 unreasonable risk to the health, safety or welfare of a child;

39 (f) to participate in an educational program and to pay the costs  
40 thereof if the person has the means to do so, provided however that  
41 nothing contained herein shall be deemed to require payment of the costs  
42 of any such program by the state or any political subdivision thereof;

43 (g) to provide, either directly or by means of medical and health  
44 insurance, for expenses incurred for medical care and treatment arising  
45 from the incident or incidents forming the basis for the issuance of the  
46 order;

47 (h) to pay the reasonable counsel fees and disbursements involved in  
48 obtaining or enforcing the order of the person who is protected by such  
49 order if such order is issued or enforced[.];

50 (i) 1. to refrain from intentionally injuring or killing, without  
51 justification, any companion animal the respondent knows to be owned,  
52 possessed, leased, kept or held by the petitioner or a minor child  
53 residing in the household.

54 2. "Companion animal", as used in this section, shall have the same  
55 meaning as in subdivision five of section three hundred fifty of the  
56 agriculture and markets law[.];

1 (j) 1. TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
2 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
3 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
4 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
5 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
6 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
7 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
8 BE ACCOMPLISHED.

9 2. FOR PURPOSES OF THIS SUBDIVISION, "IDENTIFICATION DOCUMENT" SHALL  
10 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
11 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
12 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
13 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
14 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
15 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
16 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
17 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
18 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
19 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
20 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
21 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

22 (K) to observe such other conditions as are necessary to further the  
23 purposes of protection.

24 The court shall not require anyone seeking an order of protection  
25 under this section to first request that child protective services  
26 investigate the allegations or to first request permission to file a  
27 petition under article ten of this act.

28 Notwithstanding the foregoing provisions, an order of protection, or  
29 temporary order of protection where applicable, may be entered against a  
30 former spouse and persons who have a child in common, regardless of  
31 whether such persons have been married or have lived together at any  
32 time, or against a member of the same family or household as defined in  
33 subdivision one of section eight hundred twelve of this act.

34 In addition to the foregoing provisions, the court may issue an order,  
35 pursuant to section two hundred twenty-seven-c of the real property law,  
36 authorizing the party for whose benefit any order of protection has been  
37 issued to terminate a lease or rental agreement pursuant to section two  
38 hundred twenty-seven-c of the real property law.

39 In any proceeding pursuant to this article, a court shall not deny an  
40 order of protection, or dismiss an application for such an order, solely  
41 on the basis that the acts or events alleged are not relatively contem-  
42 poraneous with the date of the application or the conclusion of the  
43 action. The duration of any temporary order shall not by itself be a  
44 factor in determining the length or issuance of any final order.

45 S 6. Section 842 of the family court act, as amended by chapter 222 of  
46 the laws of 1994, the opening paragraph as separately amended by chap-  
47 ters 325 and 341 of the laws of 2010, subdivisions (a), (b), (c), (d)  
48 and (e) as amended and subdivision (j) as added by chapter 483 of the  
49 laws of 1995, subdivision (i) as added and subdivision (j) as relettered  
50 by chapter 253 of the laws of 2006, the second undesignated paragraph as  
51 amended by chapter 325 of the laws of 2010, the third undesignated para-  
52 graph as amended by chapter 224 of the laws of 1994, the sixth undesign-  
53 ated paragraph as amended by section 114 of subpart B of part C of  
54 chapter 62 of the laws of 2011, the seventh undesignated paragraph as  
55 amended by chapter 326 of the laws of 2008 and the closing paragraph as  
56 added by chapter 73 of the laws of 2007, is amended to read as follows:

1 S 842. Order of protection. An order of protection under section eight  
2 hundred forty-one of this part shall set forth reasonable conditions of  
3 behavior to be observed for a period not in excess of two years by the  
4 petitioner or respondent or for a period not in excess of five years  
5 upon (i) a finding by the court on the record of the existence of aggra-  
6 vating circumstances as defined in paragraph (vii) of subdivision (a) of  
7 section eight hundred twenty-seven of this article; or (ii) a finding by  
8 the court on the record that the conduct alleged in the petition is in  
9 violation of a valid order of protection. Any finding of aggravating  
10 circumstances pursuant to this section shall be stated on the record and  
11 upon the order of protection. The court may also, upon motion, extend  
12 the order of protection for a reasonable period of time upon a showing  
13 of good cause or consent of the parties. The fact that abuse has not  
14 occurred during the pendency of an order shall not, in itself, consti-  
15 tute sufficient ground for denying or failing to extend the order. The  
16 court must articulate a basis for its decision on the record. The dura-  
17 tion of any temporary order shall not by itself be a factor in determin-  
18 ing the length or issuance of any final order. Any order of protection  
19 issued pursuant to this section shall specify if an order of probation  
20 is in effect. Any order of protection issued pursuant to this section  
21 may require the petitioner or the respondent:

22 (a) to stay away from the home, school, business or place of employ-  
23 ment of any other party, the other spouse, the other parent, or the  
24 child, and to stay away from any other specific location designated by  
25 the court, provided that the court shall make a determination, and shall  
26 state such determination in a written decision or on the record, whether  
27 to impose a condition pursuant to this subdivision, provided further,  
28 however, that failure to make such a determination shall not affect the  
29 validity of such order of protection. In making such determination, the  
30 court shall consider, but shall not be limited to consideration of,  
31 whether the order of protection is likely to achieve its purpose in the  
32 absence of such a condition, conduct subject to prior orders of  
33 protection, prior incidents of abuse, extent of past or present injury,  
34 threats, drug or alcohol abuse, and access to weapons;

35 (b) to permit a parent, or a person entitled to visitation by a court  
36 order or a separation agreement, to visit the child at stated periods;

37 (c) to refrain from committing a family offense, as defined in subdi-  
38 vision one of section eight hundred twelve of this act, or any criminal  
39 offense against the child or against the other parent or against any  
40 person to whom custody of the child is awarded, or from harassing,  
41 intimidating or threatening such persons;

42 (d) to permit a designated party to enter the residence during a spec-  
43 ified period of time in order to remove personal belongings not in issue  
44 in this proceeding or in any other proceeding or action under this act  
45 or the domestic relations law;

46 (e) to refrain from acts of commission or omission that create an  
47 unreasonable risk to the health, safety or welfare of a child;

48 (f) to pay the reasonable counsel fees and disbursements involved in  
49 obtaining or enforcing the order of the person who is protected by such  
50 order if such order is issued or enforced;

51 (g) to require the respondent to participate in a batterer's education  
52 program designed to help end violent behavior, which may include refer-  
53 ral to drug and alcohol counselling, and to pay the costs thereof if the  
54 person has the means to do so, provided however that nothing contained  
55 herein shall be deemed to require payment of the costs of any such

1 program by the petitioner, the state or any political subdivision there-  
2 of; [and]

3 (h) to provide, either directly or by means of medical and health  
4 insurance, for expenses incurred for medical care and treatment arising  
5 from the incident or incidents forming the basis for the issuance of the  
6 order[.];

7 (i) 1. to refrain from intentionally injuring or killing, without  
8 justification, any companion animal the respondent knows to be owned,  
9 possessed, leased, kept or held by the petitioner or a minor child  
10 residing in the household.

11 2. "Companion animal", as used in this section, shall have the same  
12 meaning as in subdivision five of section three hundred fifty of the  
13 agriculture and markets law[.];

14 (j) 1. TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
15 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
16 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
17 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
18 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
19 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
20 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
21 BE ACCOMPLISHED.

22 2. FOR PURPOSES OF THIS SUBDIVISION, "IDENTIFICATION DOCUMENT" SHALL  
23 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
24 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
25 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
26 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
27 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
28 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
29 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
30 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
31 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
32 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
33 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
34 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

35 (K) to observe such other conditions as are necessary to further the  
36 purposes of protection.

37 The court may also award custody of the child, during the term of the  
38 order of protection to either parent, or to an appropriate relative  
39 within the second degree. Nothing in this section gives the court power  
40 to place or board out any child or to commit a child to an institution  
41 or agency.

42 Notwithstanding the provisions of section eight hundred seventeen of  
43 this article, where a temporary order of child support has not already  
44 been issued, the court may in addition to the issuance of an order of  
45 protection pursuant to this section, issue an order for temporary child  
46 support in an amount sufficient to meet the needs of the child, without  
47 a showing of immediate or emergency need. The court shall make an order  
48 for temporary child support notwithstanding that information with  
49 respect to income and assets of the respondent may be unavailable. Where  
50 such information is available, the court may make an award for temporary  
51 child support pursuant to the formula set forth in subdivision one of  
52 section four hundred thirteen of this act. Temporary orders of support  
53 issued pursuant to this article shall be deemed to have been issued  
54 pursuant to section four hundred thirteen of this act.

55 Upon making an order for temporary child support pursuant to this  
56 subdivision, the court shall advise the petitioner of the availability

1 of child support enforcement services by the support collection unit of  
2 the local department of social services, to enforce the temporary order  
3 and to assist in securing continued child support, and shall set the  
4 support matter down for further proceedings in accordance with article  
5 four of this act.

6 Where the court determines that the respondent has employer-provided  
7 medical insurance, the court may further direct, as part of an order of  
8 temporary support under this subdivision, that a medical support  
9 execution be issued and served upon the respondent's employer as  
10 provided for in section fifty-two hundred forty-one of the civil prac-  
11 tice law and rules.

12 In any proceeding in which an order of protection or temporary order  
13 of protection or a warrant has been issued under this section, the clerk  
14 of the court shall issue to the petitioner and respondent and his coun-  
15 sel and to any other person affected by the order a copy of the order of  
16 protection or temporary order of protection and ensure that a copy of  
17 the order of protection or temporary order of protection be transmitted  
18 to the local correctional facility where the individual is or will be  
19 detained, the state or local correctional facility where the individual  
20 is or will be imprisoned, and the supervising probation department or  
21 the department of corrections and community supervision where the indi-  
22 vidual is under probation or parole supervision.

23 Notwithstanding the foregoing provisions, an order of protection, or  
24 temporary order of protection where applicable, may be entered against a  
25 former spouse and persons who have a child in common, regardless of  
26 whether such persons have been married or have lived together at any  
27 time, or against a member of the same family or household as defined in  
28 subdivision one of section eight hundred twelve of this article.

29 In addition to the foregoing provisions, the court may issue an order,  
30 pursuant to section two hundred twenty-seven-c of the real property law,  
31 authorizing the party for whose benefit any order of protection has been  
32 issued to terminate a lease or rental agreement pursuant to section two  
33 hundred twenty-seven-c of the real property law.

34 S 7. Subdivision 1 of section 1056 of the family court act, as amended  
35 by chapter 622 of the laws of 1990, paragraphs (a), (b), (c), (d) and  
36 (e) as amended and paragraph (h) as added by chapter 483 of the laws of  
37 1995, paragraph (g) as added and paragraph (h) as relettered by chapter  
38 253 of the laws of 2006 and subparagraph 1 of paragraph (g) as amended  
39 by chapter 532 of the laws of 2008, is amended to read as follows:

40 1. The court may make an order of protection in assistance or as a  
41 condition of any other order made under this part. Such order of  
42 protection shall remain in effect concurrently with, shall expire no  
43 later than the expiration date of, and may be extended concurrently  
44 with, such other order made under this part, except as provided in  
45 subdivision four of this section. The order of protection may set forth  
46 reasonable conditions of behavior to be observed for a specified time by  
47 a person who is before the court and is a parent or a person legally  
48 responsible for the child's care or the spouse of the parent or other  
49 person legally responsible for the child's care, or both. Such an order  
50 may require any such person

51 (a) to stay away from the home, school, business or place of employ-  
52 ment of the other spouse, parent or person legally responsible for the  
53 child's care or the child, and to stay away from any other specific  
54 location designated by the court;

55 (b) to permit a parent, or a person entitled to visitation by a court  
56 order or a separation agreement, to visit the child at stated periods;

1 (c) to refrain from committing a family offense, as defined in subdi-  
2 vision one of section eight hundred twelve of this act, or any criminal  
3 offense against the child or against the other parent or against any  
4 person to whom custody of the child is awarded, or from harassing,  
5 intimidating or threatening such persons;

6 (d) to permit a designated party to enter the residence during a spec-  
7 ified period of time in order to remove personal belongings not in issue  
8 in this proceeding or in any other proceeding or action under this act  
9 or the domestic relations law;

10 (e) to refrain from acts of commission or omission that create an  
11 unreasonable risk to the health, safety and welfare of a child;

12 (f) to provide, either directly or by means of medical and health  
13 insurance, for expenses incurred for medical care and treatment arising  
14 from the incident or incidents forming the basis for the issuance of the  
15 order[.];

16 (g) 1. to refrain from intentionally injuring or killing, without  
17 justification, any companion animal the respondent knows to be owned,  
18 possessed, leased, kept or held by the person protected by the order or  
19 a minor child residing in such person's household.

20 2. "Companion animal", as used in this section, shall have the same  
21 meaning as in subdivision five of section three hundred fifty of the  
22 agriculture and markets law[.];

23 (h) 1. TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
24 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
25 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:

26 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
27 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
28 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
29 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
30 BE ACCOMPLISHED.

31 2. FOR PURPOSES OF THIS PARAGRAPH, "IDENTIFICATION DOCUMENT" SHALL  
32 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
33 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
34 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
35 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
36 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
37 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
38 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
39 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
40 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
41 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
42 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
43 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

44 (I) to observe such other conditions as are necessary to further the  
45 purposes of protection.

46 S 8. Paragraph a of subdivision 3 of section 240 of the domestic  
47 relations law, as amended by chapter 597 of the laws of 1998, subpara-  
48 graph 7 as added and subparagraph 8 as renumbered by chapter 532 of the  
49 laws of 2008, is amended to read as follows:

50 a. The court may make an order of protection in assistance or as a  
51 condition of any other order made under this section. The order of  
52 protection may set forth reasonable conditions of behavior to be  
53 observed for a specified time by any party. Such an order may require  
54 any party:

1 (1) to stay away from the home, school, business or place of employ-  
2 ment of the child, other parent or any other party, and to stay away  
3 from any other specific location designated by the court;

4 (2) to permit a parent, or a person entitled to visitation by a court  
5 order or a separation agreement, to visit the child at stated periods;

6 (3) to refrain from committing a family offense, as defined in subdivi-  
7 sion one of section 530.11 of the criminal procedure law, or any crim-  
8 inal offense against the child or against the other parent or against  
9 any person to whom custody of the child is awarded or from harassing,  
10 intimidating or threatening such persons;

11 (4) to permit a designated party to enter the residence during a spec-  
12 ified period of time in order to remove personal belongings not in issue  
13 in a proceeding or action under this chapter or the family court act;  
14 [or]

15 (5) to refrain from acts of commission or omission that create an  
16 unreasonable risk to the health, safety or welfare of a child[.];

17 (6) to pay the reasonable counsel fees and disbursements involved in  
18 obtaining or enforcing the order of the person who is protected by such  
19 order if such order is issued or enforced[.];

20 (7) to refrain from intentionally injuring or killing, without justi-  
21 fication, any companion animal the respondent knows to be owned,  
22 possessed, leased, kept or held by the person protected by the order or  
23 a minor child residing in such person's household. "Companion animal,"  
24 as used in this section, shall have the same meaning as in subdivision  
25 five of section three hundred fifty of the agriculture and markets  
26 law[.];

27 (8) (I) TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
28 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
29 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
30 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
31 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
32 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
33 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
34 BE ACCOMPLISHED.

35 (II) FOR PURPOSES OF THIS SUBPARAGRAPH, "IDENTIFICATION DOCUMENT"  
36 SHALL MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE  
37 PROTECTED PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD,  
38 HEALTH INSURANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO  
39 ACCESS BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS,  
40 ANY DRIVER'S LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMIT-  
41 ED TO A UNITED STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORI-  
42 ZATION DOCUMENT; AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY  
43 TO BE HEARD, ANY OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT  
44 JOINT USE OR OWNERSHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE  
45 APPROPRIATELY TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT  
46 USED TO ACCESS BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX  
47 RETURNS, AND ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

48 (9) to observe such other conditions as are necessary to further the  
49 purposes of protection.

50 S 9. Subdivision 1 of section 252 of the domestic relations law, as  
51 amended by chapter 349 of the laws of 1995, paragraph (g) as added and  
52 paragraph (h) as relettered by chapter 532 of the laws of 2008, is  
53 amended to read as follows:

54 1. In an action for divorce, separation or annulment or in an action  
55 to declare the nullity of a void marriage in the supreme court, the  
56 supreme court or the family court shall entertain an application for an

1 order of protection or temporary order of protection by either party.  
2 Such an order may require any party:

3 (a) to stay away from the home, school, business or place of employ-  
4 ment of the child, other parent or any other party, and to stay away  
5 from any other specific location designated by the court;

6 (b) to permit a parent, or a person entitled to visitation by a court  
7 order or a separation agreement, to visit the child at stated periods;

8 (c) to refrain from committing a family offense, as defined in subdi-  
9 vision one of section 530.11 of the criminal procedure law, or any crim-  
10 inal offense against such child or against the other parent or against  
11 any person to whom custody of the child is awarded or from harassing,  
12 intimidating or threatening such persons;

13 (d) to permit a designated party to enter the residence during a spec-  
14 ified period of time in order to remove personal belongings not in issue  
15 in a proceeding or action under this chapter or the family court act;

16 (e) to refrain from acts of commission or omission that create an  
17 unreasonable risk to the health, safety or welfare of a child;

18 (f) to pay the reasonable counsel fees and disbursements involved in  
19 obtaining or enforcing the order of the person who is protected by such  
20 order if such order is issued or enforced; [or]

21 (g) to refrain from intentionally injuring or killing, without justi-  
22 fication, any companion animal the respondent knows to be owned,  
23 possessed, leased, kept or held by the person protected by the order or  
24 a minor child residing in such person's household. "Companion animal,"  
25 as used in this section, shall have the same meaning as in subdivision  
26 five of section three hundred fifty of the agriculture and markets  
27 law[.];

28 (h) (1) TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
29 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
30 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:

31 (A) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
32 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
33 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
34 ORDER IS ISSUED; AND (B) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
35 BE ACCOMPLISHED.

36 (2) FOR PURPOSES OF THIS PARAGRAPH, "IDENTIFICATION DOCUMENT" SHALL  
37 MEAN ANY OF THE FOLLOWING: (A) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
38 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
39 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
40 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
41 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
42 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
43 AND (B) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, ANY  
44 OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR OWNER-  
45 SHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
46 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
47 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
48 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS; AND

49 (I) to observe such other conditions as are necessary to further the  
50 purposes of protection.

51 S 10. The opening paragraph of subdivision 1 of section 530.11 of the  
52 criminal procedure law, as amended by chapter 405 of the laws of 2010,  
53 is amended to read as follows:

54 The family court and the criminal courts shall have concurrent juris-  
55 diction over any proceeding concerning acts which would constitute  
56 disorderly conduct, harassment in the first degree, harassment in the

1 second degree, aggravated harassment in the second degree, sexual  
2 misconduct, forcible touching, sexual abuse in the third degree, sexual  
3 abuse in the second degree as set forth in subdivision one of section  
4 130.60 of the penal law, stalking in the first degree, stalking in the  
5 second degree, stalking in the third degree, stalking in the fourth  
6 degree, criminal mischief, menacing in the second degree, menacing in  
7 the third degree, reckless endangerment, strangulation in the first  
8 degree, strangulation in the second degree, criminal obstruction of  
9 breathing or blood circulation, assault in the second degree, assault in  
10 the third degree [or], an attempted assault, IDENTITY THEFT IN THE FIRST  
11 DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN THE THIRD  
12 DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN THE THIRD  
13 DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISIONS  
14 ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW between spouses or  
15 former spouses, or between parent and child or between members of the  
16 same family or household except that if the respondent would not be  
17 criminally responsible by reason of age pursuant to section 30.00 of the  
18 penal law, then the family court shall have exclusive jurisdiction over  
19 such proceeding. Notwithstanding a complainant's election to proceed in  
20 family court, the criminal court shall not be divested of jurisdiction  
21 to hear a family offense proceeding pursuant to this section. For  
22 purposes of this section, "disorderly conduct" includes disorderly  
23 conduct not in a public place. For purposes of this section, "members of  
24 the same family or household" with respect to a proceeding in the crimi-  
25 nal courts shall mean the following:

26 S 11. Subdivision 1 of section 530.12 of the criminal procedure law,  
27 as amended by chapter 416 of the laws of 1981, the opening paragraph as  
28 amended by chapter 137 of the laws of 2007, paragraph (a) as amended by  
29 chapter 702 of the laws of 1988, paragraphs (b), (c) and (d) as amended  
30 by chapter 483 of the laws of 1995, paragraph (e) as amended and para-  
31 graph (f) as added by chapter 253 of the laws of 2006 and paragraph (g)  
32 as added by chapter 73 of the laws of 2007, is amended to read as  
33 follows:

34 1. When a criminal action is pending involving a complaint charging  
35 any crime or violation between spouses, former spouses, parent and  
36 child, or between members of the same family or household, as members of  
37 the same family or household are defined in subdivision one of section  
38 530.11 of this article, the court, in addition to any other powers  
39 conferred upon it by this chapter may issue a temporary order of  
40 protection in conjunction with any securing order committing the defend-  
41 ant to the custody of the sheriff or as a condition of any order of  
42 recognizance or bail or an adjournment in contemplation of dismissal.

43 (A) In addition to any other conditions, such an order may require the  
44 defendant: [(a)] (1) to stay away from the home, school, business or  
45 place of employment of the family or household member or of any desig-  
46 nated witness, provided that the court shall make a determination, and  
47 shall state such determination in a written decision or on the record,  
48 whether to impose a condition pursuant to this paragraph, provided  
49 further, however, that failure to make such a determination shall not  
50 affect the validity of such temporary order of protection. In making  
51 such determination, the court shall consider, but shall not be limited  
52 to consideration of, whether the temporary order of protection is likely  
53 to achieve its purpose in the absence of such a condition, conduct  
54 subject to prior orders of protection, prior incidents of abuse, past or  
55 present injury, threats, drug or alcohol abuse, and access to weapons;

1 [(b)] (2) to permit a parent, or a person entitled to visitation by a  
2 court order or a separation agreement, to visit the child at stated  
3 periods;

4 [(c)] (3) to refrain from committing a family offense, as defined in  
5 subdivision one of section 530.11 of this article, or any criminal  
6 offense against the child or against the family or household member or  
7 against any person to whom custody of the child is awarded, or from  
8 harassing, intimidating or threatening such persons;

9 [(d)] (4) to refrain from acts of commission or omission that create  
10 an unreasonable risk to the health, safety and welfare of a child, fami-  
11 ly or household member's life or health;

12 [(e)] (5) to permit a designated party to enter the residence during a  
13 specified period of time in order to remove personal belongings not in  
14 issue in this proceeding or in any other proceeding or action under this  
15 chapter, the family court act or the domestic relations law;

16 [(f) 1.] (6) (A) to refrain from intentionally injuring or killing,  
17 without justification, any companion animal the defendant knows to be  
18 owned, possessed, leased, kept or held by the victim or a minor child  
19 residing in the household.

20 [2.] (B) "Companion animal", as used in this section, shall have the  
21 same meaning as in subdivision five of section three hundred fifty of  
22 the agriculture and markets law[.

23 (g)];

24 (7) (A) TO PROMPTLY RETURN SPECIFIED IDENTIFICATION DOCUMENTS TO THE  
25 PROTECTED PARTY, IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPORARY  
26 ORDER OF PROTECTION IS ISSUED; PROVIDED, HOWEVER, THAT SUCH ORDER MAY:  
27 (I) INCLUDE ANY APPROPRIATE PROVISION DESIGNED TO ENSURE THAT ANY SUCH  
28 DOCUMENT IS AVAILABLE FOR USE AS EVIDENCE IN THIS PROCEEDING, AND AVAIL-  
29 ABLE IF NECESSARY FOR LEGITIMATE USE BY THE PARTY AGAINST WHOM SUCH  
30 ORDER IS ISSUED; AND (II) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL  
31 BE ACCOMPLISHED.

32 (B) FOR PURPOSES OF THIS SUBPARAGRAPH, "IDENTIFICATION DOCUMENT" SHALL  
33 MEAN ANY OF THE FOLLOWING: (I) EXCLUSIVELY IN THE NAME OF THE PROTECTED  
34 PARTY: BIRTH CERTIFICATE, PASSPORT, SOCIAL SECURITY CARD, HEALTH INSUR-  
35 ANCE OR OTHER BENEFITS CARD, A CARD OR DOCUMENT USED TO ACCESS BANK,  
36 CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, ANY DRIVER'S  
37 LICENSE, AND IMMIGRATION DOCUMENTS INCLUDING BUT NOT LIMITED TO A UNITED  
38 STATES PERMANENT RESIDENT CARD AND EMPLOYMENT AUTHORIZATION DOCUMENT;  
39 AND (II) UPON MOTION AND AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD,  
40 ANY OF THE FOLLOWING, INCLUDING THOSE THAT MAY REFLECT JOINT USE OR  
41 OWNERSHIP, THAT THE COURT DETERMINES ARE NECESSARY AND ARE APPROPRIATELY  
42 TRANSFERRED TO THE PROTECTED PARTY: ANY CARD OR DOCUMENT USED TO ACCESS  
43 BANK, CREDIT OR OTHER FINANCIAL ACCOUNTS OR RECORDS, TAX RETURNS, AND  
44 ANY OTHER IDENTIFYING CARDS AND DOCUMENTS.

45 (B) The court may issue an order, pursuant to section two hundred  
46 twenty-seven-c of the real property law, authorizing the party for whose  
47 benefit any order of protection has been issued to terminate a lease or  
48 rental agreement pursuant to section two hundred twenty-seven-c of the  
49 real property law.

50 S 12. This act shall take effect immediately.