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I N S E N A T E

March 9, 2016

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

AN ACT to amend the family court act and the criminal procedure law, in relation to notification of rights of victims of domestic violence in criminal and family court proceedings

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

1 Section 1. Subdivision 5 of section 812 of the family court act, as
2 amended by chapter 224 of the laws of 1994, is amended to read as
3 follows:
4 5. Notice. Every police officer, peace officer or district attorney
5 investigating a family offense under this article shall advise the
6 victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal
7 rights and remedies available to a victim of a family offense under the
8 relevant provisions of THIS ACT, the criminal procedure law[, the family
9 court act] and the domestic relations law. Such notice shall be available, AT MINIMUM, in PLAIN English and Spanish and, if necessary, shall
10 be delivered orally and shall include but not be limited to SUBSTANTIAL-
11 LY the following statement:
12 ["If you are the victim of domestic violence, you may request that the
13 officer assist in providing for your safety and that of your children,
14 including providing information on how to obtain a temporary order of
15 protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or
16 assist in making arrangement to take you, and your children to a safe
17 place within such officer's jurisdiction, including but not limited to a
18 domestic violence program, a family member's or a friend's residence, or
19 a similar place of safety. When the officer's jurisdiction is more than
20 a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county
21 where the incident occurred. If you or your children are in need of
22 medical treatment, you have the right to request that the officer assist
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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 you in obtaining such medical treatment. You may request a copy of any
2 incident reports at no cost from the law enforcement agency. You have
3 the right to seek legal counsel of your own choosing and if you proceed
4 in family court and if it is determined that you cannot afford an attorney,
5 one must be appointed to represent you without cost to you.

6 You may ask the district attorney or a law enforcement officer to file
7 a criminal complaint. You also have the right to file a petition in the
8 family court when a family offense has been committed against you. You
9 have the right to have your petition and request for an order of
10 protection filed on the same day you appear in court, and such request
11 must be heard that same day or the next day court is in session. Either
12 court may issue an order of protection from conduct constituting a family
13 offense which could include, among other provisions, an order for the
14 respondent or defendant to stay away from you and your children. The
15 family court may also order the payment of temporary child support and
16 award temporary custody of your children. If the family court is not in
17 session, you may seek immediate assistance from the criminal court in
18 obtaining an order of protection.

19 The forms you need to obtain an order of protection are available from
20 the family court and the local criminal court (the addresses and telephone
21 numbers shall be listed). The resources available in this community for
22 information relating to domestic violence, treatment of injuries, and
23 places of safety and shelters can be accessed by calling the following
24 800 numbers (the statewide English and Spanish language 800 numbers
25 shall be listed and space shall be provided for local domestic violence
26 hotline telephone numbers).

27 Filing a criminal complaint or a family court petition containing
28 allegations that are knowingly false is a crime."] "ARE YOU THE VICTIM
29 OF DOMESTIC VIOLENCE? IF YOU NEED HELP NOW, CALL 911. THE POLICE WILL
30 COME RIGHT AWAY. THIS IS WHAT THE POLICE CAN DO:

31 THEY CAN PROTECT YOU AND YOUR CHILDREN.

32 THEY CAN GET YOU AND YOUR CHILDREN TO A SAFE PLACE SUCH AS A FAMILY OR
33 FRIEND'S HOUSE OR A SHELTER IN YOUR COMMUNITY.

34 THEY CAN HELP YOU GET TO A HOSPITAL OR CLINIC FOR MEDICAL CARE.

35 THEY CAN HELP YOU GET YOUR PERSONAL BELONGINGS.

36 THEY CAN GET YOU A COPY OF THE POLICE REPORT FOR FREE.

37 THEY MAY AND SOMETIMES MUST ARREST THE PERSON WHO HARMED YOU IF YOU
38 ARE THE VICTIM OF A CRIME.

39 IF YOU HAVE BEEN ABUSED OR THREATENED, THIS IS WHAT YOU CAN ASK FOR:

40 YOU CAN ASK THE COURT FOR AN ORDER OF PROTECTION.

41 YOU CAN ASK THE DISTRICT ATTORNEY OR THE POLICE OFFICER TO FILE A
42 CRIMINAL COMPLAINT.

43 YOU CAN FILE A PETITION IN FAMILY COURT AND ASK FOR AN ORDER OF
44 PROTECTION THERE.

45 IF YOU GO TO FAMILY COURT, YOU HAVE THESE RIGHTS:

46 TO HAVE YOUR FAMILY COURT PETITION FILED THE SAME DAY YOU GO TO COURT.

47 TO HAVE YOUR REQUEST HEARD IN COURT THE SAME DAY YOU FILE OR THE NEXT
48 DAY COURT IS OPEN.

49 YOU CAN ASK FOR AN ORDER OF PROTECTION IN CRIMINAL COURT OR FAMILY
50 COURT. (INSERT ADDRESSES AND CONTACT INFORMATION FOR COURTS). THAT ORDER
51 MAY INCLUDE THESE THINGS:

52 THAT THE OTHER PERSON STAY AWAY FROM YOU AND YOUR CHILDREN.

53 THAT YOU HAVE CUSTODY OF YOUR CHILDREN.

54 THAT THE OTHER PERSON PAY CHILD SUPPORT FOR NOW.

1 YOU CAN GO RIGHT NOW TO A CRIMINAL COURT TO ASK FOR AN ORDER OF
2 PROTECTION IF THE FAMILY COURT IS CLOSED BECAUSE IT IS NIGHTTIME, A
3 WEEKEND, OR A HOLIDAY.
4 YOU DO NOT NEED A LAWYER TO ASK FOR AN ORDER OF PROTECTION. BUT IT IS A
5 GOOD IDEA, ESPECIALLY IF YOU HAVE CHILDREN. IF YOU CANNOT PAY FOR A
6 LAWYER, THE FAMILY COURT MAY APPOINT ONE FOR YOU.
7 YOU CAN GET THE FORMS YOU NEED TO ASK FOR AN ORDER OF PROTECTION AT
8 FAMILY COURT AND AT YOUR LOCAL CRIMINAL COURT. YOU CAN ALSO GET THEM
9 ONLINE: WWW.NYCOURTS.GOV/FORMS.
10 YOU CAN CALL A HOT-LINE FOR HELP (INSERT HOT-LINE NUMBERS).
11 IT IS A CRIME TO FILE A CRIMINAL COMPLAINT OR A FAMILY COURT PETITION
12 WHICH SAYS THINGS THAT YOU KNOW ARE FALSE."

13 The division of criminal justice services in consultation with the
14 state office for the prevention of domestic violence shall prepare the
15 form of such written notice consistent with the provisions of this
16 section and distribute copies thereof to the appropriate law enforcement
17 officials pursuant to subdivision nine of section eight hundred forty-
18 one of the executive law. Additionally, copies of such notice shall be
19 provided to the chief administrator of the courts to be distributed to
20 victims of family offenses through the family court at such time as such
21 persons first come before the court and to the state department of
22 health for distribution to all hospitals defined under article twenty-
23 eight of the public health law. No cause of action for damages shall
24 arise in favor of any person by reason of any failure to comply with the
25 provisions of this subdivision except upon a showing of gross negligence
26 or willful misconduct.

27 S 2. Subdivision 6 of section 530.11 of the criminal procedure law, as
28 amended by chapter 224 of the laws of 1994, is amended to read as
29 follows:

30 6. Notice. Every police officer, peace officer or district attorney
31 investigating a family offense under this article shall advise the
32 victim of the availability of a shelter or other services in the commu-
33 nity, and shall immediately give the victim written notice of the legal
34 rights and remedies available to a victim of a family offense under the
35 relevant provisions of [the criminal procedure law] THIS CHAPTER, the
36 family court act and the domestic relations law. Such notice shall be
37 prepared, AT MINIMUM, in PLAIN ENGLISH AND Spanish [and English] and if
38 necessary, shall be delivered orally, and shall include but not be
39 limited to SUBSTANTIALLY the following statement:

40 ["If you are the victim of domestic violence, you may request that the
41 officer assist in providing for your safety and that of your children,
42 including providing information on how to obtain a temporary order of
43 protection. You may also request that the officer assist you in obtain-
44 ing your essential personal effects and locating and taking you, or
45 assist in making arrangements to take you, and your children to a safe
46 place within such officer's jurisdiction, including but not limited to a
47 domestic violence program, a family member's or a friend's residence, or
48 a similar place of safety. When the officer's jurisdiction is more than
49 a single county, you may ask the officer to take you or make arrange-
50 ments to take you and your children to a place of safety in the county
51 where the incident occurred. If you or your children are in need of
52 medical treatment, you have the right to request that the officer assist
53 you in obtaining such medical treatment. You may request a copy of any
54 incident reports at no cost from the law enforcement agency. You have
55 the right to seek legal counsel of your own choosing and if you proceed

1 in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

3 You may ask the district attorney or a law enforcement officer to file
4 a criminal complaint. You also have the right to file a petition in the
5 family court when a family offense has been committed against you. You
6 have the right to have your petition and request for an order of
7 protection filed on the same day you appear in court, and such request
8 must be heard that same day or the next day court is in session. Either
9 court may issue an order of protection from conduct constituting a family
10 offense which could include, among other provisions, an order for the
11 respondent or defendant to stay away from you and your children. The
12 family court may also order the payment of temporary child support and
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25 allegations that are knowingly false is a crime."] "ARE YOU THE VICTIM
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41 PROTECTION THERE.

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45 DAY COURT IS OPEN.

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47 COURT. (INSERT ADDRESSES AND CONTACT INFORMATION FOR COURTS). THAT ORDER
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50 THAT YOU HAVE CUSTODY OF YOUR CHILDREN.

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53 PROTECTION IF THE FAMILY COURT IS CLOSED BECAUSE IT IS NIGHTTIME, A
54 WEEKEND, OR A HOLIDAY.

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5 FAMILY COURT AND AT YOUR LOCAL CRIMINAL COURT. YOU CAN ALSO GET THEM
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10 The division of criminal justice services in consultation with the
11 state office for the prevention of domestic violence shall prepare the
12 form of such written notice consistent with provisions of this section
13 and distribute copies thereof to the appropriate law enforcement offi-
14 cials pursuant to subdivision nine of section eight hundred forty-one of
15 the executive law.

16 Additionally, copies of such notice shall be provided to the chief
17 administrator of the courts to be distributed to victims of family
18 offenses through the criminal court at such time as such persons first
19 come before the court and to the state department of health for distrib-
20 ution to all hospitals defined under article twenty-eight of the public
21 health law. No cause of action for damages shall arise in favor of any
22 person by reason of any failure to comply with the provisions of this
23 subdivision except upon a showing of gross negligence or willful miscon-
24 duct.

25 S 3. This act shall take effect on the ninetieth day after it shall
26 have become a law.