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

10410

I N A S S E M B L Y

March 25, 2010

Introduced by M. of A. ROSENTHAL, WEINSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to the facsimile and electronic transmission of orders of protection

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

Section 1. Section 153-b of the family court act is amended by adding a new subdivision (e) to read as follows:

(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL ORDERS OF PROTECTION AND TEMPORARY ORDERS OF PROTECTION ISSUED PURSUANT TO THIS ACT ALONG WITH ANY ASSOCIATED PAPERS THAT MAY BE SERVED SIMULTANEOUSLY MAY, FOR THE PURPOSES OF SECTION ONE HUNDRED SIXTY-EIGHT OF THIS ARTICLE, BE TRANSMITTED BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS AND MAY BE TRANSMITTED BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS FOR EXPEDITED SERVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. FOR PURPOSES OF THIS SECTION, "FACSIMILE TRANSMISSION" AND "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES.

S 2. Subdivision 3-a of section 240 of the domestic relations law, as added by chapter 429 of the laws of 1995, is amended to read as follows:

3-a. Service of order of protection. A. If a temporary order of protection has been issued OR AN ORDER OF PROTECTION HAS BEEN ISSUED upon a default, unless the party requesting the order states on the record that she or he will arrange for other means for service or deliver the order to a peace or police officer directly for service, the court shall immediately deliver a copy of the temporary order of protection or order of protection to a peace officer, acting pursuant to his or her special duties and designated by the court, or to a police officer as defined in paragraph (b) or (d) of subdivision thirty-four of section 1.20 of the criminal procedure law, or, in the city of New York, to a designated representative of the police department of the city of New York. Any peace or police officer or designated person receiving a temporary order of protection or an order of protection as provided

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

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hereunder shall serve or provide for the service thereof together with any associated papers that may be served simultaneously, at any address designated therewith, including the summons and petition or complaint if not previously served. Service of such temporary order of protection or order of protection and associated papers shall, insofar as practicable, be achieved promptly. An officer or designated person obliged to perform service pursuant to this subdivision, and his or her employer, shall not be liable for damages resulting from failure to achieve service where, having made a reasonable effort, such officer or designated person is unable to locate and serve the temporary order of protection or order of protection at any address provided by the party requesting the order. A statement subscribed by the officer or designated person, and affirmed by him or her to be true under the penalties of perjury, stating the papers served, the date, time, address or in the event there is no address, place, and manner of service, the name and a brief physical description of the party served, shall be proof of service of the summons, petition and temporary order of protection or order of protection. When the temporary order of protection or order of protection and other papers, if any, have been served, such officer or designated person shall provide the court with an affirmation, certificate or affidavit of service and shall provide notification of the date and time of such service to the statewide computer registry established pursuant to section two hundred twenty-one-a of the executive law.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL ORDERS OF PROTECTION AND TEMPORARY ORDERS OF PROTECTION FILED AND ENTERED ALONG WITH ANY ASSOCIATED PAPERS THAT MAY BE SERVED SIMULTANEOUSLY MAY BE TRANSMITTED BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS FOR EXPEDITED SERVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, "FACSIMILE TRANSMISSION" AND "ELECTRONIC MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES.

S 3. Section 252 of the domestic relations law is amended by adding a new subdivision 10 to read as follows:

10. ALL ORDERS OF PROTECTION AND TEMPORARY ORDERS OF PROTECTION ISSUED PURSUANT TO THIS SECTION ALONG WITH ANY ASSOCIATED PAPERS THAT MAY BE SERVED SIMULTANEOUSLY SHALL BE SERVED IN ACCORDANCE WITH SUBDIVISION THREE-A OF SECTION TWO HUNDRED FORTY OF THIS ARTICLE.

S 4. The office of court administration is authorized to promulgate any rules and regulations necessary to implement the provisions of this act.

S 5. This act shall take effect immediately.