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I N   A S S E M B L Y

March 25, 2010

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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:

1     Section 1. Section 153-b of the family court act is amended by adding  
2 a new subdivision (e) to read as follows:  
3     (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL ORDERS OF  
4 PROTECTION AND TEMPORARY ORDERS OF PROTECTION ISSUED PURSUANT TO THIS  
5 ACT ALONG WITH ANY ASSOCIATED PAPERS THAT MAY BE SERVED SIMULTANEOUSLY  
6 MAY, FOR THE PURPOSES OF SECTION ONE HUNDRED SIXTY-EIGHT OF THIS ARTI-  
7 CLE, BE TRANSMITTED BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS AND  
8 MAY BE TRANSMITTED BY FACSIMILE TRANSMISSION OR ELECTRONIC MEANS FOR  
9 EXPEDITED SERVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. FOR  
10 PURPOSES OF THIS SECTION, "FACSIMILE TRANSMISSION" AND "ELECTRONIC  
11 MEANS" SHALL BE AS DEFINED IN SUBDIVISION (F) OF RULE TWENTY-ONE HUNDRED  
12 THREE OF THE CIVIL PRACTICE LAW AND RULES.  
13     S 2. Subdivision 3-a of section 240 of the domestic relations law, as  
14 added by chapter 429 of the laws of 1995, is amended to read as follows:  
15     3-a. Service of order of protection. A. If a temporary order of  
16 protection has been issued OR AN ORDER OF PROTECTION HAS BEEN ISSUED  
17 upon a default, unless the party requesting the order states on the  
18 record that she or he will arrange for other means for service or deliver  
19 the order to a peace or police officer directly for service, the  
20 court shall immediately deliver a copy of the temporary order of  
21 protection or order of protection to a peace officer, acting pursuant to  
22 his or her special duties and designated by the court, or to a police  
23 officer as defined in paragraph (b) or (d) of subdivision thirty-four of  
24 section 1.20 of the criminal procedure law, or, in the city of New York,  
25 to a designated representative of the police department of the city of  
26 New York. Any peace or police officer or designated person receiving a  
27 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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1 hereunder shall serve or provide for the service thereof together with  
2 any associated papers that may be served simultaneously, at any address  
3 designated therewith, including the summons and petition or complaint if  
4 not previously served. Service of such temporary order of protection or  
5 order of protection and associated papers shall, insofar as practicable,  
6 be achieved promptly. An officer or designated person obliged to perform  
7 service pursuant to this subdivision, and his or her employer, shall not  
8 be liable for damages resulting from failure to achieve service where,  
9 having made a reasonable effort, such officer or designated person is  
10 unable to locate and serve the temporary order of protection or order of  
11 protection at any address provided by the party requesting the order. A  
12 statement subscribed by the officer or designated person, and affirmed  
13 by him or her to be true under the penalties of perjury, stating the  
14 papers served, the date, time, address or in the event there is no  
15 address, place, and manner of service, the name and a brief physical  
16 description of the party served, shall be proof of service of the  
17 summons, petition and temporary order of protection or order of  
18 protection. When the temporary order of protection or order of  
19 protection and other papers, if any, have been served, such officer or  
20 designated person shall provide the court with an affirmation, certifi-  
21 cate or affidavit of service and shall provide notification of the date  
22 and time of such service to the statewide computer registry established  
23 pursuant to section two hundred twenty-one-a of the executive law.

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

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

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

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

41 S 5. This act shall take effect immediately.