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

4935

2009-2010 Regular Sessions

I N  A S S E M B L Y

February 10, 2009

Introduced by M. of A. ESPAILLAT, N. RIVERA, FIELDS, LAVINE, WRIGHT, BOYLAND, COOK, REILLY -- Multi-Sponsored by -- M. of A. ABBATE, ALFANO, BACALLES, BARRA, BENJAMIN, CHRISTENSEN, DIAZ, ERRIGO, FARRELL, GREENE, GUNTHER, JOHN, V. LOPEZ, LUPARDO, MAYERSOHN, PERRY, PHEFFER, ROBINSON, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to extending final orders of protection after a conviction

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

Section 1. The opening paragraph of subdivision 5 of section 530.12 of the criminal procedure law, as amended by chapter 215 of the laws of 2006, is amended to read as follows:

Upon conviction of any crime or violation between spouses, parent and child, or between members of the same family or household, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court FOR SUCH PERIOD AS THE COURT, IN ITS DISCRETION, DEEMS APPROPRIATE TO SECURE THE PROTECTION OF PERSONS AFFECTED BY ITS TERMS, UP TO THE LIFETIME OF SUCH PERSON, and[, in] SUCH DURATION SHALL BE STATED IN THE ORDER. IN the case of a felony conviction, shall not exceed the greater of: (i) [eight] TEN years from the date of such conviction, or (ii) [eight] TEN years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed five years from the date of such conviction; or in the case of a conviction for any other offense, shall not exceed two years from the date of conviction. A COURT SHALL HAVE THE AUTHORITY TO RENEW AN

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

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ORDER OF PROTECTION ISSUED PURSUANT TO THIS SECTION FOR A DURATION UPON A FINDING BY THE ISSUING COURT THAT THERE HAS BEEN A CHANGE IN CIRCUMSTANCES THAT NECESSITATES THE RENEWAL AND THAT THE RENEWAL ENSURES THE CONTINUED SAFETY OF THE VICTIM OR ANY OTHER PERSON COVERED BY THE ORDER. For purposes of [determining the duration of an order of protection entered pursuant to] this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

S 2. The opening paragraph of subdivision 5 of section 530.12 of the criminal procedure law, as amended by section 2 of chapter 384 of the laws of 2001, is amended to read as follows:

Upon conviction of any crime or violation between spouses, parent and child, or between members of the same family or household, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court FOR SUCH PERIOD AS THE COURT, IN ITS DISCRETION, DEEMS APPROPRIATE TO SECURE THE PROTECTION OF PERSONS AFFECTED BY ITS TERMS, UP TO THE LIFETIME OF SUCH PERSON, and[, in] SUCH DURATION SHALL BE STATED IN THE ORDER. IN the case of a felony conviction, shall not exceed the greater of: (i) [five] TEN years from the date of such conviction, or (ii) [three] TEN years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such conviction; or in the case of a conviction for any other offense, shall not exceed one year from the date of conviction. A COURT SHALL HAVE THE AUTHORITY TO RENEW AN ORDER OF PROTECTION ISSUED PURSUANT TO THIS SECTION FOR A DURATION UPON A FINDING BY THE ISSUING COURT THAT THERE HAS BEEN A CHANGE IN CIRCUMSTANCES THAT NECESSITATES THE RENEWAL AND THAT THE RENEWAL ENSURES THE CONTINUED SAFETY OF THE VICTIM OR ANY OTHER PERSON COVERED BY THE ORDER. For purposes of [determining the duration of an order of protection entered pursuant to] this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

S 3. This act shall take effect immediately; provided that the amendments to the opening paragraph of subdivision 5 of section 530.12 of the criminal procedure law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two of this act shall take effect.