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

5207

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. ESPAILLAT, SCHIMMINGER, JOHN, HOOPER, ROBINSON, KOON, PEOPLES, ZEBROWSKI, LAVINE, REILLY -- Multi-Sponsored by -- M. of A. ABBATE, ALFANO, BACALLES, BARRA, BENJAMIN, DIAZ, ERRIGO, McENENY, PERRY, PHEFFER, N. RIVERA, SCARBOROUGH, WALKER, WRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the criminal procedure law, in relation to family offense notification procedures

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

Section 1. The family court act is amended by adding a new section 829 to read as follows:

S 829. NOTIFICATION OF RELEASE. UPON THE RELEASE OF A PERSON ACCUSED OF COMMITTING A FAMILY OFFENSE FROM CUSTODY, THE COURT SHALL NOTIFY THE VICTIM OR PETITIONER OF SUCH RELEASE WITHIN SEVENTY-TWO HOURS. NOTICE SHALL BE MADE BY ANY OF THE FOLLOWING METHODS:

1. BY DELIVERING NOTIFICATION TO THE VICTIM OR PETITIONER;

2. BY DELIVERING NOTIFICATION TO A PERSON OF SUITABLE AGE AND DISCRETION AT THE DWELLING PLACE OR USUAL PLACE OF ABODE OF THE VICTIM OR PETITIONER AND BY MAILING NOTIFICATION TO THE VICTIM OR PETITIONER AT HIS OR HER LAST KNOWN RESIDENCE IN AN ENVELOPE BEARING THE LEGEND "PERSONAL AND CONFIDENTIAL" AND NOT INDICATING ON THE OUTSIDE THEREOF, BY RETURN ADDRESS OR OTHERWISE, THAT THE COMMUNICATION IS FROM THE COURT OR CONCERNS AND ACTION FOR WHICH THE VICTIM OR PETITIONER WAS A PARTY;

3. WHERE NOTIFICATION UNDER SUBDIVISIONS ONE AND TWO OF THIS SECTION CANNOT BE MADE WITH DUE DILIGENCE, BY AFFIXING THE NOTIFICATION TO THE DOOR OF THE DWELLING PLACE OR USUAL PLACE OF ABODE OF THE VICTIM OR PETITIONER AND BY EITHER MAILING THE NOTIFICATION TO SUCH VICTIM OR PETITIONER AT HIS OR HER LAST KNOWN RESIDENCE IN AN ENVELOPE BEARING THE LEGEND "PERSONAL AND CONFIDENTIAL" AND NOT INDICATING ON THE OUTSIDE THEREOF, BY RETURN ADDRESS OR OTHERWISE, THAT THE COMMUNICATION IS FROM

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

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THE COURT OR CONCERNS AN ACTION FOR WHICH THE VICTIM OR PETITIONER WAS A PARTY;

4. BY TELEPHONE OR OVERNIGHT MAIL IF THE COURT DETERMINES THAT NOTIFICATION IS NECESSARY TO PROTECT THE VICTIM OR PETITIONER; OR

5. IN SUCH MANNER AS THE COURT WITH JURISDICTION DIRECTS, IF SERVICE IS IMPRACTICABLE UNDER SUBDIVISIONS ONE, TWO, THREE AND FOUR OF THIS SECTION.

S 2. Section 530.12 of the criminal procedure law is amended by adding a new subdivision 16 to read as follows:

16. UPON RELEASING FROM CUSTODY A DEFENDANT CHARGED WITH A FAMILY OFFENSE, AS DEFINED IN SECTION 530.11 OF THIS ARTICLE OR WITH ANY OTHER CRIME SUBJECT TO THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, THE COURT SHALL NOTIFY THE VICTIM OR PETITIONER OF SUCH RELEASE WITHIN SEVENTY-TWO HOURS. NOTICE SHALL BE MADE BY ANY OF THE FOLLOWING METHODS:

(A) BY DELIVERING NOTIFICATION TO THE VICTIM OR PETITIONER;

(B) BY DELIVERING NOTIFICATION TO A PERSON OF SUITABLE AGE AND DISCRETION AT THE DWELLING PLACE OR USUAL PLACE OF ABODE OF THE VICTIM OR PETITIONER AND BY MAILING NOTIFICATION TO THE VICTIM OR PETITIONER AT HIS OR HER LAST KNOWN RESIDENCE IN AN ENVELOPE BEARING THE LEGEND "PERSONAL AND CONFIDENTIAL" AND NOT INDICATING ON THE OUTSIDE THEREOF, BY RETURN ADDRESS OR OTHERWISE, THAT THE COMMUNICATION IS FROM THE COURT OR CONCERNS AN ACTION FOR WHICH THE VICTIM OR PETITIONER WAS A PARTY;

(C) WHERE NOTIFICATION UNDER PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION CANNOT BE MADE WITH DUE DILIGENCE, BY AFFIXING THE NOTIFICATION TO THE DOOR OF THE DWELLING PLACE OR USUAL PLACE OF ABODE OF THE VICTIM OR PETITIONER AND BY EITHER MAILING THE NOTIFICATION TO SUCH VICTIM OR PETITIONER AT HIS OR HER LAST KNOWN RESIDENCE IN AN ENVELOPE BEARING THE LEGEND "PERSONAL AND CONFIDENTIAL" AND NOT INDICATING ON THE OUTSIDE THEREOF, BY RETURN ADDRESS OR OTHERWISE, THAT THE COMMUNICATION IS FROM THE COURT OR CONCERNS AN ACTION FOR WHICH THE VICTIM OR PETITIONER WAS A PARTY;

(D) BY TELEPHONE OR OVERNIGHT MAIL IF THE COURT DETERMINES THAT NOTIFICATION IS NECESSARY TO PROTECT THE VICTIM OR PETITIONER; OR

(E) IN SUCH MANNER AS THE COURT WITH JURISDICTION DIRECTS, IF SERVICE IS IMPRACTICABLE UNDER PARAGRAPHS (A), (B), (C) AND (D) OF THIS SUBDIVISION.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, that effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.