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

6195--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 26, 2009

Introduced by M. of A. WEINSTEIN, GALEF -- Multi-Sponsored by -- M. of A. CLARK, COOK, FARRELL, GLICK, GOTTFRIED, JAFFEE, MARKEY, McENENY, MILLMAN, NOLAN, PAULIN, PRETLOW, ROSENTHAL, SWEENEY, WEISENBERG -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to the extension of orders of protection in family offense proceedings

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

Section 1. The opening paragraph of section 842 of the family court act, as amended by chapter 579 of the laws of 2003, is amended to read as follows:

An order of protection under section eight hundred forty-one of this part shall set forth reasonable conditions of behavior to be observed for a period not in excess of two years by the petitioner or respondent or for a period not in excess of five years upon (i) a finding by the court on the record of the existence of aggravating circumstances as defined in paragraph (vii) of subdivision (a) of section eight hundred twenty-seven of this article; or (ii) a finding by the court on the record that the conduct alleged in the petition is in violation of a valid order of protection. Any finding of aggravating circumstances pursuant to this section shall be stated on the record and upon the order of protection. THE COURT MAY ALSO, UPON MOTION, EXTEND THE ORDER OF PROTECTION FOR A REASONABLE PERIOD OF TIME UPON A SHOWING OF GOOD CAUSE OR CONSENT OF THE PARTIES. THE FACT THAT ABUSE HAS NOT OCCURRED DURING THE PENDENCY OF AN ORDER SHALL NOT, IN ITSELF, CONSTITUTE SUFFICIENT GROUND FOR DENYING OR FAILING TO EXTEND THE ORDER. THE COURT MUST ARTICULATE A BASIS FOR ITS DECISION ON THE RECORD. Any order of protection issued pursuant to this section shall specify if an order of

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

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probation is in effect. Any order of protection issued pursuant to this section may require the petitioner or the respondent:

S 2. The second undesignated paragraph of section 842 of the family court act, as amended by chapter 222 of the laws of 1994, is amended to read as follows:

The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. [The court may also upon the showing of special circumstances extend the order of protection for a reasonable period of time.]

S 3. This act shall take effect immediately, and shall apply to all orders entered prior to such effective date, and to all actions and proceedings pending on or commenced on or after such effective date.