

8807--B

Cal. No. 625

2009-2010 Regular Sessions

I N A S S E M B L Y

June 10, 2009

Introduced by M. of A. PAULIN, WEINSTEIN, JOHN, BENJAMIN, CANESTRARI, COOK, CYMBROWITZ, DINOWITZ, ESPAILLAT, GALEF, JAFFEE, PHEFFER, ROBINSON, SCHIMMINGER, SWEENEY, CHRISTENSEN -- Multi-Sponsored by -- M. of A. MAGEE, MARKEY, REILLY -- read once and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the criminal procedure law, in relation to determining the expiration date of an order of protection

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

1 Section 1. The opening paragraph of subdivision 5 of section 530.12 of
2 the criminal procedure law, as amended by chapter 476 of the laws of
3 2009, is amended to read as follows:
4 Upon SENTENCING ON A conviction [of] FOR any crime or violation
5 between spouses, BETWEEN A parent and child, or between members of the
6 same family or household as defined in subdivision one of section 530.11
7 of this article, the court may in addition to any other disposition,
8 including a conditional discharge or youthful offender adjudication,
9 enter an order of protection. Where a temporary order of protection was
10 issued, the court shall state on the record the reasons for issuing or
11 not issuing an order of protection. The duration of such an order shall
12 be fixed by the court and: (A) in the case of a felony conviction, shall
13 not exceed the greater of: (i) eight years from the date of such
14 [conviction] SENTENCING, or (ii) eight years from the date of the expi-
15 ration of the maximum term of an indeterminate or the term of a determi-
16 nate sentence of imprisonment actually imposed; or (B) in the case of a
17 conviction for a class A misdemeanor, shall not exceed the greater of:
18 (i) five years from the date of such [conviction] SENTENCING, or (ii)
19 five years from the date of the expiration of the maximum term of a

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

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1 definite or intermittent term actually imposed; or (C) in the case of a
2 conviction for any other offense, shall not exceed the greater of: (i)
3 two years from the date of [conviction] SENTENCING, or (ii) two years
4 from the date of the expiration of the maximum term of a definite or
5 intermittent term actually imposed. For purposes of determining the
6 duration of an order of protection entered pursuant to this subdivision,
7 a conviction shall be deemed to include a conviction that has been
8 replaced by a youthful offender adjudication. In addition to any other
9 conditions, such an order may require the defendant:

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

13 Upon SENTENCING ON A conviction [of] FOR any crime or violation
14 between spouses, BETWEEN A parent and child, or between members of the
15 same family or household AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11
16 OF THIS ARTICLE, the court may in addition to any other disposition,
17 including a conditional discharge or youthful offender adjudication,
18 enter an order of protection. Where a temporary order of protection was
19 issued, the court shall state on the record the reasons for issuing or
20 not issuing an order of protection. The duration of such an order shall
21 be fixed by the court and, in the case of a felony conviction, shall not
22 exceed the greater of: (i) five years from the date of such [conviction]
23 SENTENCING, or (ii) three years from the date of the expiration of the
24 maximum term of an indeterminate sentence of imprisonment actually
25 imposed; or in the case of a conviction for a class A misdemeanor, shall
26 not exceed three years from the date of such [conviction] SENTENCING; or
27 in the case of a conviction for any other offense, shall not exceed one
28 year from the date of [conviction] SENTENCING. For purposes of deter-
29 mining the duration of an order of protection entered pursuant to this
30 subdivision, a conviction shall be deemed to include a conviction that
31 has been replaced by a youthful offender adjudication. In addition to
32 any other conditions, such an order may require the defendant:

33 S 3. The opening paragraph of subdivision 4 of section 530.13 of the
34 criminal procedure law, as amended by chapter 476 of the laws of 2009,
35 is amended to read as follows:

36 Upon SENTENCING ON A conviction [of] FOR any offense, where the court
37 has not issued an order of protection pursuant to section 530.12 of this
38 article, the court may, in addition to any other disposition, including
39 a conditional discharge or youthful offender adjudication, enter an
40 order of protection. Where a temporary order of protection was issued,
41 the court shall state on the record the reasons for issuing or not issu-
42 ing an order of protection. The duration of such an order shall be fixed
43 by the court and; (A) in the case of a felony conviction, shall not
44 exceed the greater of: (i) eight years from the date of such
45 [conviction] SENTENCING, or (ii) eight years from the date of the expi-
46 ration of the maximum term of an indeterminate or the term of a determi-
47 nate sentence of imprisonment actually imposed; or (B) in the case of a
48 conviction for a class A misdemeanor, shall not exceed the greater of:
49 (i) five years from the date of such [conviction] SENTENCING, or (ii)
50 five years from the date of the expiration of the maximum term of a
51 definite or intermittent term actually imposed; or (C) in the case of a
52 conviction for any other offense, shall not exceed the greater of: (i)
53 two years from the date of [conviction] SENTENCING, or (ii) two years
54 from the date of the expiration of the maximum term of a definite or
55 intermittent term actually imposed. For purposes of determining the
56 duration of an order of protection entered pursuant to this subdivision,

1 a conviction shall be deemed to include a conviction that has been
2 replaced by a youthful offender adjudication. In addition to any other
3 conditions such an order may require that the defendant:

4 S 4. The opening paragraph of subdivision 4 of section 530.13 of the
5 criminal procedure law, as amended by chapter 384 of the laws of 2001,
6 is amended to read as follows:

7 Upon SENTENCING ON A conviction [of] FOR any offense, where the court
8 has not issued an order of protection pursuant to section 530.12 of this
9 article, the court may, in addition to any other disposition, including
10 a conditional discharge or youthful offender adjudication, enter an
11 order of protection. Where a temporary order of protection was issued,
12 the court shall state on the record the reasons for issuing or not issu-
13 ing an order of protection. The duration of such an order shall be fixed
14 by the court and, in the case of a felony conviction, shall not exceed
15 the greater of: (i) five years from the date of such [conviction]
16 SENTENCING, or (ii) three years from the date of the expiration of the
17 maximum term of an indeterminate sentence of imprisonment actually
18 imposed; or in the case of a conviction for a class A misdemeanor, shall
19 not exceed three years from the date of such [conviction] SENTENCING; or
20 in the case of a conviction for any other offense, shall not exceed one
21 year from the date of [conviction] SENTENCING. For purposes of deter-
22 mining the duration of an order of protection entered pursuant to this
23 subdivision, a conviction shall be deemed to include a conviction that
24 has been replaced by a youthful offender adjudication. In addition to
25 any other conditions such an order may require that the defendant:

26 S 5. This act shall take effect on the thirtieth day after it shall
27 have become a law and shall apply to all criminal actions whenever
28 commenced provided sentence therein has not been imposed prior to such
29 effective date; provided, however, that the amendments to the opening
30 paragraph of subdivision 5 of section 530.12 and the opening paragraph
31 of subdivision 4 of section 530.13 of the criminal procedure law made by
32 sections one and three of this act shall be subject to the expiration
33 and reversion of such paragraphs pursuant to chapter 3 of the laws of
34 1995, as amended, when upon such date the provisions of sections two and
35 four of this act shall take effect.