

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

5031--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. HASSELL-THOMPSON, ADAMS, BRESLIN, KRUEGER, OPPENHEIMER, SAMPSON, SCHNEIDERMAN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to requiring attorneys for children to receive training or education in domestic violence prevention; to amend the domestic relations law, in relation to requiring the court to state on the record the domestic violence and child abuse factored into their award of custody or visitation; to amend the criminal procedure law and the family court act, in relation to orders of protection; and to amend the criminal procedure law, in relation to reporting domestic violence incidents to the supervising probation department or the division of parole

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

1 Section 1. Section 249-b of the family court act, as added by chapter
2 626 of the laws of 2007, is amended to read as follows:
3 S 249-b. Rules of court. (A) The chief administrator of the courts,
4 pursuant to paragraph (e) of subdivision two of section two hundred
5 twelve of the judiciary law, shall promulgate court rules [prescribing]
6 FOR ATTORNEYS FOR CHILDREN. SUCH COURT RULES SHALL:
7 1. PRESCRIBE workload standards for attorneys for children, including
8 maximum numbers of children who can be represented at any given time, in
9 order to ensure that children receive effective assistance of counsel
10 comporting with legal and ethical mandates, the complexity of the
11 proceedings affecting each client to which the law guardian is assigned,
12 and the nature of the court appearance likely to be required for each
13 individual client[. Appointments of attorneys for children under

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

LBD12033-14-9

1 section two hundred forty-nine of this part shall be in conformity with
2 the rules]; AND

3 2. PROVIDE FOR THE DEVELOPMENT OF TRAINING PROGRAMS WITH THE INPUT OF
4 AND IN CONSULTATION WITH THE STATE OFFICE FOR THE PREVENTION OF DOMESTIC
5 VIOLENCE. SUCH TRAINING PROGRAMS MUST INCLUDE THE DYNAMICS OF DOMESTIC
6 VIOLENCE AND ITS EFFECT ON VICTIMS AND ON CHILDREN, AND THE RELATIONSHIP
7 BETWEEN SUCH DYNAMICS AND THE ISSUES CONSIDERED BY THE COURT, INCLUDING,
8 BUT NOT LIMITED TO, CUSTODY, VISITATION AND CHILD SUPPORT. SUCH TRAINING
9 PROGRAMS ALONG WITH THE PROVIDERS OF SUCH TRAINING MUST BE APPROVED BY
10 THE OFFICE OF COURT ADMINISTRATION FOLLOWING CONSULTATION WITH AND INPUT
11 FROM THE STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE; AND

12 3. REQUIRE THAT ALL ATTORNEYS FOR CHILDREN, INCLUDING NEW AND VETERAN
13 ATTORNEYS, RECEIVE INITIAL AND ONGOING TRAINING AS PROVIDED FOR IN THIS
14 SECTION.

15 (B) APPOINTMENTS OF ATTORNEYS FOR CHILDREN UNDER SECTION TWO HUNDRED
16 FORTY-NINE OF THIS PART SHALL BE IN CONFORMITY WITH THE RULES.

17 S 2. Paragraph (a) of subdivision 1 of section 240 of the domestic
18 relations law, as amended by chapter 538 of the laws of 2008, is amended
19 to read as follows:

20 (a) In any action or proceeding brought (1) to annul a marriage or to
21 declare the nullity of a void marriage, or (2) for a separation, or (3)
22 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
23 tion and order to show cause, the custody of or right to visitation with
24 any child of a marriage, the court shall require verification of the
25 status of any child of the marriage with respect to such child's custody
26 and support, including any prior orders, and shall enter orders for
27 custody and support as, in the court's discretion, justice requires,
28 having regard to the circumstances of the case and of the respective
29 parties and to the best interests of the child and subject to the
30 provisions of subdivision one-c of this section. Where either party to
31 an action concerning custody of or a right to visitation with a child
32 alleges in a sworn petition or complaint or sworn answer, cross-peti-
33 tion, counterclaim or other sworn responsive pleading that the other
34 party has committed an act of domestic violence against the party making
35 the allegation or a family or household member of either party, as such
36 family or household member is defined in article eight of the family
37 court act, and such allegations are proven by a preponderance of the
38 evidence, the court must consider the effect of such domestic violence
39 upon the best interests of the child, together with such other facts and
40 circumstances as the court deems relevant in making a direction pursuant
41 to this section AND STATE ON THE RECORD HOW SUCH FINDINGS, FACTS AND
42 CIRCUMSTANCES FACTORED INTO THE DIRECTION. If a parent makes a good
43 faith allegation based on a reasonable belief supported by facts that
44 the child is the victim of child abuse, child neglect, or the effects of
45 domestic violence, and if that parent acts lawfully and in good faith in
46 response to that reasonable belief to protect the child or seek treat-
47 ment for the child, then that parent shall not be deprived of custody,
48 visitation or contact with the child, or restricted in custody, visita-
49 tion or contact, based solely on that belief or the reasonable actions
50 taken based on that belief. If an allegation that a child is abused is
51 supported by a preponderance of the evidence, then the court shall
52 consider such evidence of abuse in determining the visitation arrange-
53 ment that is in the best interest of the child, and the court shall not
54 place a child in the custody of a parent who presents a substantial risk
55 of harm to that child, AND SHALL STATE ON THE RECORD HOW SUCH FINDINGS
56 WERE FACTORED INTO THE DETERMINATION. An order directing the payment of

1 child support shall contain the social security numbers of the named
2 parties. In all cases there shall be no prima facie right to the custody
3 of the child in either parent. Such direction shall make provision for
4 child support out of the property of either or both parents. The court
5 shall make its award for child support pursuant to subdivision one-b of
6 this section. Such direction may provide for reasonable visitation
7 rights to the maternal and/or paternal grandparents of any child of the
8 parties. Such direction as it applies to rights of visitation with a
9 child remanded or placed in the care of a person, official, agency or
10 institution pursuant to article ten of the family court act, or pursuant
11 to an instrument approved under section three hundred fifty-eight-a of
12 the social services law, shall be enforceable pursuant to part eight of
13 article ten of the family court act and sections three hundred fifty-
14 eight-a and three hundred eighty-four-a of the social services law and
15 other applicable provisions of law against any person having care and
16 custody, or temporary care and custody, of the child. Notwithstanding
17 any other provision of law, any written application or motion to the
18 court for the establishment, modification or enforcement of a child
19 support obligation for persons not in receipt of public assistance and
20 care must contain either a request for child support enforcement
21 services which would authorize the collection of the support obligation
22 by the immediate issuance of an income execution for support enforcement
23 as provided for by this chapter, completed in the manner specified in
24 section one hundred eleven-g of the social services law; or a statement
25 that the applicant has applied for or is in receipt of such services; or
26 a statement that the applicant knows of the availability of such
27 services, has declined them at this time and where support enforcement
28 services pursuant to section one hundred eleven-g of the social services
29 law have been declined that the applicant understands that an income
30 deduction order may be issued pursuant to subdivision (c) of section
31 fifty-two hundred forty-two of the civil practice law and rules without
32 other child support enforcement services and that payment of an adminis-
33 trative fee may be required. The court shall provide a copy of any such
34 request for child support enforcement services to the support collection
35 unit of the appropriate social services district any time it directs
36 payments to be made to such support collection unit. Additionally, the
37 copy of any such request shall be accompanied by the name, address and
38 social security number of the parties; the date and place of the
39 parties' marriage; the name and date of birth of the child or children;
40 and the name and address of the employers and income payors of the party
41 from whom child support is sought or from the party ordered to pay child
42 support to the other party. Such direction may require the payment of a
43 sum or sums of money either directly to the custodial parent or to third
44 persons for goods or services furnished for such child, or for both
45 payments to the custodial parent and to such third persons; provided,
46 however, that unless the party seeking or receiving child support has
47 applied for or is receiving such services, the court shall not direct
48 such payments to be made to the support collection unit, as established
49 in section one hundred eleven-h of the social services law. Every order
50 directing the payment of support shall require that if either parent
51 currently, or at any time in the future, has health insurance benefits
52 available that may be extended or obtained to cover the child, such
53 parent is required to exercise the option of additional coverage in
54 favor of such child and execute and deliver to such person any forms,
55 notices, documents or instruments necessary to assure timely payment of
56 any health insurance claims for such child.

1 S 3. The opening paragraph of subdivision 1 of section 530.11 of the
2 criminal procedure law, as amended by chapter 326 of the laws of 2008,
3 is amended to read as follows:

4 The family court and the criminal courts shall have concurrent juris-
5 diction over any proceeding concerning acts which would constitute
6 disorderly conduct, harassment in the first degree, harassment in the
7 second degree, aggravated harassment in the second degree, SEXUAL
8 MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE, SEXUAL
9 ABUSE IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISION ONE OF SECTION
10 130.60 OF THE PENAL LAW, stalking in the first degree, stalking in the
11 second degree, stalking in the third degree, stalking in the fourth
12 degree, criminal mischief, menacing in the second degree, menacing in
13 the third degree, reckless endangerment, assault in the second degree,
14 assault in the third degree or an attempted assault between spouses or
15 former spouses, or between parent and child or between members of the
16 same family or household except that if the respondent would not be
17 criminally responsible by reason of age pursuant to section 30.00 of the
18 penal law, then the family court shall have exclusive jurisdiction over
19 such proceeding. Notwithstanding a complainant's election to proceed in
20 family court, the criminal court shall not be divested of jurisdiction
21 to hear a family offense proceeding pursuant to this section. For
22 purposes of this section, "disorderly conduct" includes disorderly
23 conduct not in a public place. For purposes of this section, "members of
24 the same family or household" with respect to a proceeding in the crimi-
25 nal courts shall mean the following:

26 S 4. The opening paragraph of subdivision 1 of section 812 of the
27 family court act, as amended by chapter 326 of the laws of 2008, is
28 amended to read as follows:

29 The family court and the criminal courts shall have concurrent juris-
30 diction over any proceeding concerning acts which would constitute
31 disorderly conduct, harassment in the first degree, harassment in the
32 second degree, aggravated harassment in the second degree, SEXUAL
33 MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE, SEXUAL
34 ABUSE IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISION ONE OF SECTION
35 130.60 OF THE PENAL LAW, stalking in the first degree, stalking in the
36 second degree, stalking in the third degree, stalking in the fourth
37 degree, criminal mischief, menacing in the second degree, menacing in
38 the third degree, reckless endangerment, assault in the second degree,
39 assault in the third degree or an attempted assault between spouses or
40 former spouses, or between parent and child or between members of the
41 same family or household except that if the respondent would not be
42 criminally responsible by reason of age pursuant to section 30.00 of the
43 penal law, then the family court shall have exclusive jurisdiction over
44 such proceeding. Notwithstanding a complainant's election to proceed in
45 family court, the criminal court shall not be divested of jurisdiction
46 to hear a family offense proceeding pursuant to this section. For
47 purposes of this article, "disorderly conduct" includes disorderly
48 conduct not in a public place. For purposes of this article, "members
49 of the same family or household" shall mean the following:

50 S 5. Paragraph (a) of subdivision 1 of section 821 of the family court
51 act, as amended by chapter 635 of the laws of 1999, is amended to read
52 as follows:

53 (a) An allegation that the respondent assaulted or attempted to
54 assault his or her spouse, or former spouse, parent, child or other
55 member of the same family or household or engaged in disorderly conduct,
56 harassment, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE

1 THIRD DEGREE, SEXUAL ABUSE IN THE SECOND DEGREE AS SET FORTH IN SUBDIVI-
2 SION ONE OF SECTION 130.60 OF THE PENAL LAW, stalking, CRIMINAL
3 MISCHIEF, menacing or reckless endangerment toward any such person;
4 [and]

5 S 6. Subdivision 5 of section 140.10 of the criminal procedure law, as
6 amended by chapter 626 of the laws of 1997, is amended to read as
7 follows:

8 5. Upon investigating a report of a crime or offense between members
9 of the same family or household as such terms are defined in section
10 530.11 of this chapter and section eight hundred twelve of the family
11 court act, a law enforcement officer shall prepare and file a written
12 report of the incident, on a form promulgated pursuant to section eight
13 hundred thirty-seven of the executive law, including statements made by
14 the victim and by any witnesses, and make any additional reports
15 required by local law enforcement policy or regulations. Such report
16 shall be prepared and filed, whether or not an arrest is made as a
17 result of the officers' investigation, and shall be retained by the law
18 enforcement agency for a period of not less than four years. Where the
19 reported incident involved an offense committed against a person who is
20 sixty-five years of age or older a copy of the report required by this
21 subdivision shall be sent to the New York state committee for the coor-
22 dination of police services to elderly persons established pursuant to
23 section eight hundred forty-four-b of the executive law. WHERE THE
24 REPORTED INCIDENT INVOLVED AN OFFENSE COMMITTED BY AN INDIVIDUAL KNOWN
25 BY THE LAW ENFORCEMENT OFFICER TO BE UNDER PROBATION OR PAROLE SUPER-
26 VISION, HE OR SHE SHALL TRANSMIT A COPY OF THE REPORT AS SOON AS PRACTI-
27 CABLE TO THE SUPERVISING PROBATION DEPARTMENT OR THE DIVISION OF PAROLE.

28 S 7. Paragraph (a) of subdivision 1 of section 160.55 of the criminal
29 procedure law, as amended by chapter 169 of the laws of 1994, is amended
30 to read as follows:

31 (a) every photograph of such person and photographic plate or proof,
32 and all palmprints and fingerprints taken or made of such person pursu-
33 ant to the provisions of this article in regard to the action or
34 proceeding terminated, and all duplicates and copies thereof, except a
35 digital fingerprint image where authorized pursuant to paragraph (e) of
36 this subdivision, EXCEPT FOR THE PALMPRINTS AND FINGERPRINTS CONCERNING
37 A DISPOSITION OF HARASSMENT IN THE SECOND DEGREE AS DEFINED IN SECTION
38 240.26 OF THE PENAL LAW, COMMITTED AGAINST A MEMBER OF THE SAME FAMILY
39 OR HOUSEHOLD AS THE DEFENDANT, AS DEFINED IN SUBDIVISION ONE OF SECTION
40 530.11 OF THIS CHAPTER, AND DETERMINED PURSUANT TO SUBDIVISION EIGHT-A
41 OF SECTION 170.10 OF THIS TITLE, shall forthwith be, at the discretion
42 of the recipient agency, either destroyed or returned to such person, or
43 to the attorney who represented such person at the time of the termi-
44 nation of the action or proceeding, at the address given by such person
45 or attorney during the action or proceeding, by the division of criminal
46 justice services and by any police department or law enforcement agency
47 having any such photograph, photographic plate or proof, palmprints or
48 fingerprints in its possession or under its control;

49 S 8. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
50 procedure law, as amended by chapter 169 of the laws of 1994, is amended
51 to read as follows:

52 (d) the records referred to in paragraph (c) of this subdivision shall
53 be made available to the person accused or to such person's designated
54 agent, and shall be made available to (i) a prosecutor in any proceeding
55 in which the accused has moved for an order pursuant to section 170.56
56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex

1 parte motion in any superior court, if such agency demonstrates to the
2 satisfaction of the court that justice requires that such records be
3 made available to it, or (iii) any state or local officer or agency with
4 responsibility for the issuance of licenses to possess guns, when the
5 accused has made application for such a license, or (iv) the New York
6 state division of parole when the accused is under parole supervision as
7 a result of conditional release or parole release granted by the New
8 York state board of parole and the arrest which is the subject of the
9 inquiry is one which occurred while the accused was under such super-
10 vision, or (v) the probation department responsible for supervision of
11 the accused when the arrest which is the subject of the inquiry is one
12 which occurred while the accused was under such supervision, OR (VI) A
13 POLICE AGENCY, PROBATION DEPARTMENT, SHERIFF'S OFFICE, DISTRICT ATTOR-
14 NEY'S OFFICE, DEPARTMENT OF CORRECTION OF ANY MUNICIPALITY AND PAROLE
15 DEPARTMENT, FOR LAW ENFORCEMENT PURPOSES, UPON ARREST IN INSTANCES IN
16 WHICH THE INDIVIDUAL STANDS CONVICTED OF HARASSMENT IN THE SECOND
17 DEGREE, AS DEFINED IN SECTION 240.26 OF THE PENAL LAW, COMMITTED AGAINST
18 A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT, AS DEFINED IN
19 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER, AND DETERMINED PURSU-
20 ANT TO SUBDIVISION EIGHT-A OF SECTION 170.10 OF THIS TITLE; and

21 S 9. Subdivision 4 of section 170.10 of the criminal procedure law is
22 amended by adding a new paragraph (e) to read as follows:

23 (E) WHERE AN INFORMATION, A SIMPLIFIED INFORMATION, A PROSECUTOR'S
24 INFORMATION, A MISDEMEANOR COMPLAINT, A FELONY COMPLAINT OR AN INDICT-
25 MENT CHARGES HARASSMENT IN THE SECOND DEGREE, AS DEFINED IN SECTION
26 240.26 OF THE PENAL LAW, IF THERE IS A JUDGMENT OF CONVICTION FOR SUCH
27 OFFENSE AND SUCH OFFENSE IS DETERMINED TO HAVE BEEN COMMITTED AGAINST A
28 MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT, AS DEFINED IN
29 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER, THE RECORD OF SUCH
30 CONVICTION SHALL BE ACCESSIBLE FOR LAW ENFORCEMENT PURPOSES AND NOT
31 SEALED, AS SPECIFIED IN PARAGRAPH (A) AND SUBPARAGRAPH (VI) OF PARAGRAPH
32 (D) OF SUBDIVISION ONE OF SECTION 160.55 OF THIS TITLE; AND

33 S 10. Subdivision 2 of section 160.55 of the criminal procedure law,
34 as added by chapter 142 of the laws of 1991, is amended to read as
35 follows:

36 2. A report of the termination of the action or proceeding by
37 conviction of a traffic violation or a violation other than a violation
38 of loitering as described in paragraph (d) or (e) of subdivision one of
39 section 160.10 of this [chapter] TITLE or the violation of operating a
40 motor vehicle while ability impaired as described in subdivision one of
41 section eleven hundred ninety-two of the vehicle and traffic law, shall
42 be sufficient notice of sealing to the commissioner of the division of
43 criminal justice services unless the report also indicates that the
44 court directed that the record not be sealed in the interests of
45 justice. Where the court has determined pursuant to subdivision one of
46 this section that sealing is not in the interests of justice, the clerk
47 of the court shall include notification of that determination in any
48 report to such division of the disposition of the action or proceeding.
49 WHEN THE DEFENDANT HAS BEEN FOUND GUILTY OF A VIOLATION OF HARASSMENT IN
50 THE SECOND DEGREE AND IT WAS DETERMINED PURSUANT TO SUBDIVISION EIGHT-A
51 OF SECTION 170.10 OF THIS TITLE THAT SUCH VIOLATION WAS COMMITTED
52 AGAINST A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT, THE
53 CLERK OF THE COURT SHALL INCLUDE NOTIFICATION OF THAT DETERMINATION IN
54 ANY REPORT TO SUCH DIVISION OF THE DISPOSITION OF THE ACTION OR PROCEED-
55 ING FOR PURPOSES OF PARAGRAPH (A) AND SUBPARAGRAPH (VI) OF PARAGRAPH (D)
56 OF SUBDIVISION ONE OF THIS SECTION.

1 S 11. Section 170.10 of the criminal procedure law is amended by
2 adding a new subdivision 8-a to read as follows:

3 8-A. (A) WHERE AN INFORMATION, A SIMPLIFIED INFORMATION, A
4 PROSECUTOR'S INFORMATION, A MISDEMEANOR COMPLAINT, A FELONY COMPLAINT OR
5 AN INDICTMENT CHARGES HARASSMENT IN THE SECOND DEGREE AS DEFINED IN
6 SECTION 240.26 OF THE PENAL LAW, THE PEOPLE MAY SERVE UPON THE DEFENDANT
7 AND FILE WITH THE COURT A NOTICE ALLEGING THAT SUCH OFFENSE WAS COMMIT-
8 TED AGAINST A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT,
9 AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER. SUCH
10 NOTICE MUST BE SERVED WITHIN FIFTEEN DAYS AFTER ARRAIGNMENT ON AN INFOR-
11 MATION, A SIMPLIFIED INFORMATION, A PROSECUTOR'S INFORMATION, A MISDE-
12 MEANOR COMPLAINT, A FELONY COMPLAINT OR AN INDICTMENT FOR SUCH CHARGE
13 AND BEFORE TRIAL. SUCH NOTICE MUST INCLUDE THE NAME OF THE PERSON
14 ALLEGED TO BE A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT
15 AND SPECIFY THE SPECIFIC FAMILY OR HOUSEHOLD RELATIONSHIP AS DEFINED IN
16 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

17 (B) IF A DEFENDANT, CHARGED WITH HARASSMENT IN THE SECOND DEGREE AS
18 DEFINED IN SECTION 240.26 OF THE PENAL LAW STIPULATES, OR ADMITS IN THE
19 COURSE OF A PLEA DISPOSITION, THAT THE PERSON AGAINST WHOM THE CHARGED
20 OFFENSE IS ALLEGED TO HAVE BEEN COMMITTED IS A MEMBER OF THE SAME FAMILY
21 OR HOUSEHOLD AS THE DEFENDANT, AS DEFINED IN SUBDIVISION ONE OF SECTION
22 530.11 OF THIS CHAPTER, SUCH ALLEGATION SHALL BE DEEMED ESTABLISHED FOR
23 PURPOSES OF PARAGRAPH (A) AND SUBPARAGRAPH (VI) OF PARAGRAPH (D) OF
24 SUBDIVISION ONE OF SECTION 160.55 OF THIS TITLE. IF THE DEFENDANT DENIES
25 SUCH ALLEGATION, THE PEOPLE MAY, BY PROOF BEYOND A REASONABLE DOUBT,
26 PROVE AS PART OF THEIR CASE THAT THE ALLEGED VICTIM OF SUCH OFFENSE WAS
27 A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT. IN SUCH
28 CIRCUMSTANCES, THE TRIER OF FACT SHALL MAKE ITS DETERMINATION WITH
29 RESPECT TO SUCH ALLEGATION ORALLY ON THE RECORD OR IN WRITING.

30 S 12. The opening paragraph of subdivision 5 of section 530.12 of the
31 criminal procedure law, as amended by chapter 215 of the laws of 2006,
32 is amended to read as follows:

33 Upon conviction of any crime or violation between spouses, parent and
34 child, or between members of the same family or household AS DEFINED IN
35 SUBDIVISION ONE OF SECTION 530.11 OF THIS ARTICLE, the court may in
36 addition to any other disposition, including a conditional discharge or
37 youthful offender adjudication, enter an order of protection. Where a
38 temporary order of protection was issued, the court shall state on the
39 record the reasons for issuing or not issuing an order of protection.
40 The duration of such an order shall be fixed by the court and[,]: (A) in
41 the case of a felony conviction, shall not exceed the greater of: (i)
42 eight years from the date of such conviction, or (ii) eight years from
43 the date of the expiration of the maximum term of an indeterminate or
44 the term of a determinate sentence of imprisonment actually imposed; or
45 (B) in the case of a conviction for a class A misdemeanor, shall not
46 exceed THE GREATER OF: (I) five years from the date of such conviction,
47 OR (II) FIVE YEARS FROM THE DATE OF THE EXPIRATION OF THE MAXIMUM TERM
48 OF A DEFINITE OR INTERMITTENT TERM ACTUALLY IMPOSED; or (C) in the case
49 of a conviction for any other offense, shall not exceed THE GREATER OF:
50 (I) two years from the date of conviction, OR (II) TWO YEARS FROM THE
51 DATE OF THE EXPIRATION OF THE MAXIMUM TERM OF A DEFINITE OR INTERMITTENT
52 TERM ACTUALLY IMPOSED. For purposes of determining the duration of an
53 order of protection entered pursuant to this subdivision, a conviction
54 shall be deemed to include a conviction that has been replaced by a
55 youthful offender adjudication. In addition to any other conditions,
56 such an order may require the defendant:

1 S 13. The opening paragraph of subdivision 4 of section 530.13 of the
2 criminal procedure law, as amended by chapter 215 of the laws of 2006,
3 is amended to read as follows:

4 Upon conviction of any offense, where the court has not issued an
5 order of protection pursuant to section 530.12 of this article, the
6 court may, in addition to any other disposition, including a conditional
7 discharge or youthful offender adjudication, enter an order of
8 protection. Where a temporary order of protection was issued, the court
9 shall state on the record the reasons for issuing or not issuing an
10 order of protection. The duration of such an order shall be fixed by the
11 court and[,]; (A) in the case of a felony conviction, shall not exceed
12 the greater of: (i) eight years from the date of such conviction, or
13 (ii) eight years from the date of the expiration of the maximum term of
14 an indeterminate or the term of a determinate sentence of imprisonment
15 actually imposed; or (B) in the case of a conviction for a class A
16 misdemeanor, shall not exceed THE GREATER OF: (I) five years from the
17 date of such conviction, OR (II) FIVE YEARS FROM THE DATE OF THE EXPIRA-
18 TION OF THE MAXIMUM TERM OF A DEFINITE OR INTERMITTENT TERM ACTUALLY
19 IMPOSED; or (C) in the case of a conviction for any other offense, shall
20 not exceed THE GREATER OF: (I) two years from the date of conviction, OR
21 (II) TWO YEARS FROM THE DATE OF THE EXPIRATION OF THE MAXIMUM TERM OF A
22 DEFINITE OR INTERMITTENT TERM ACTUALLY IMPOSED. For purposes of deter-
23 mining the duration of an order of protection entered pursuant to this
24 subdivision, a conviction shall be deemed to include a conviction that
25 has been replaced by a youthful offender adjudication. In addition to
26 any other conditions such an order may require that the defendant:

27 S 14. Consistent with available resources, the division of human
28 rights, in conjunction with the office for the prevention of domestic
29 violence, shall develop training programs where necessary to implement
30 subdivision 20 of section 296 of the executive law, as added by a chap-
31 ter of the laws of 2009.

32 S 15. This act shall take effect on the ninetieth day after it shall
33 have become a law; provided, however, sections seven, eight and ten of
34 this act shall take effect on the one hundred twentieth day after it
35 shall have become a law and shall apply to convictions entered on or
36 after such effective date; provided, however, that sections nine and
37 eleven of this act shall take effect on the thirtieth day after it shall
38 have become a law; and provided, further, that the amendments to the
39 opening paragraph of subdivision 5 of section 530.12 and the opening
40 paragraph of subdivision 4 of section 530.13 of the criminal procedure
41 law made by sections twelve and thirteen of this act shall not affect
42 the expiration of such paragraphs and shall be deemed to expire there-
43 with.