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

1429

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to orders of protection

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

Section 1. Subdivision 1 of section 530.12 of the criminal procedure law is amended by adding five new paragraphs (c-1), (c-2), (c-3), (c-4) and (c-5) to read as follows:

(C-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(C-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(C-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR

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

THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(C-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(C-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 2. Subdivision 5 of section 530.12 of the criminal procedure law is amended by adding five new paragraphs (b-1), (b-2), (b-3), (b-4) and (b-5) to read as follows:

(B-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(B-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(B-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(B-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(B-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 3. Section 446 of the family court act is amended by adding five new subdivisions (f-1), (f-2), (f-3), (f-4) and (f-5) to read as follows:

(F-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(F-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE

PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(F-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(F-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(F-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 4. Section 656 of the family court act is amended by adding five new subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) to read as follows:

(G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 5. Section 842 of the family court act is amended by adding five new subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) to read as follows:

(G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 6. Subdivision 1 of section 1056 of the family court act is amended by adding five new paragraphs (e-1), (e-2), (e-3), (e-4) and (e-5) to read as follows:

(E-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(E-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(E-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL

OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(E-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(E-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 7. The family court act is amended by adding a new section 842-b to read as follows:

S 842-B. ORDER ON CONSENT. THE COURT MAY, PRIOR TO ISSUING AN ORDER OF PROTECTION ON CONSENT OF THE PARTIES WITHOUT A FINDING OF WRONGDOING, IMPOSE AN ORDER ON CONSENT OF SUCH PARTIES WHICH CONTAINS SUCH TERMS AND CONDITIONS AS ARE AUTHORIZED UNDER SECTION EIGHT HUNDRED FORTY-TWO OF THIS ARTICLE.

S 8. This act shall take effect on the sixtieth day after it shall have become a law.