

2916

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. KOON, SCHIMMINGER, PHEFFER, MAGNARELLI, MORELLE, DINOWITZ, SEMINERIO -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, CLARK, COLTON, DelMONTE, GALEF, HIKIND, HOOPER, JACOBS, JOHN, MAYER-SOHN, ORTIZ, SCARBOROUGH, WEISENBERG, 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:

1 Section 1. The family court act is amended by adding a new section 829
2 to read as follows:
3 S 829. FAMILY OFFENSE NOTIFICATION. UPON RELEASING A PERSON ACCUSED OF
4 COMMITTING A FAMILY OFFENSE FROM CUSTODY, THE COURT SHALL NOTIFY THE
5 PETITIONER OR VICTIM OF SUCH RELEASE, WHEN THE COURT DETERMINES THAT
6 NOTIFICATION IS NECESSARY TO PROTECT THE PETITIONER OR VICTIM. NOTICE
7 SHALL BE BY FIRST CLASS MAIL, UNLESS THE COURT DETERMINES THAT NOTIFICA-
8 TION BY TELEPHONE OR OVERNIGHT MAIL IS REQUIRED.
9 S 2. Section 530.12 of the criminal procedure law is amended by adding
10 a new subdivision 14-a to read as follows:
11 14-A. UPON RELEASING FROM CUSTODY A PERSON CHARGED WITH A FAMILY
12 OFFENSE AS DEFINED IN SECTION 530.11 OF THIS ARTICLE OR WITH ANY OTHER
13 CRIME SUBJECT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, THE
14 COURT SHALL NOTIFY THE COMPLAINANT OR VICTIM OF SUCH RELEASE WHEN THE
15 COURT DETERMINES THAT NOTIFICATION IS NECESSARY TO PROTECT THE COMPLAIN-
16 ANT OR VICTIM. NOTICE SHALL BE BY FIRST CLASS MAIL, UNLESS THE COURT
17 DETERMINES THAT NOTIFICATION BY TELEPHONE OR OVERNIGHT MAIL IS REQUIRED.
18 S 3. Subdivision 8 of section 530.12 of the criminal procedure law, as
19 amended by section 5 of part D of chapter 56 of the laws of 2008, is
20 amended to read as follows:
21 8. In any proceeding in which an order of protection or temporary
22 order of protection or a warrant has been issued under this section, the

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

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1 clerk of the court shall issue to the complainant and defendant and
2 defense counsel and to any other person affected by the order a copy of
3 the order of protection or temporary order of protection and ensure that
4 a copy of the order of protection or temporary order of protection be
5 transmitted to the local correctional facility where the individual is
6 or will be detained, the state or local correctional facility where the
7 individual is or will be imprisoned, and the supervising probation
8 department or division of parole where the individual is under probation
9 or parole supervision. The presentation of a copy of such order or a
10 warrant to any peace officer acting pursuant to his special duties or
11 police officer shall constitute authority for him to arrest a person who
12 has violated the terms of such order and bring such person before the
13 court and, otherwise, so far as lies within his power, to aid in secur-
14 ing the protection such order was intended to afford. IF THE COMPLAINANT
15 OR VICTIM IS NOT PRESENT IN COURT WHEN AN ORDER OF PROTECTION OR TEMPO-
16 RARY ORDER OF PROTECTION IS ISSUED, THE CLERK OF THE COURT SHALL NOTIFY
17 THE COMPLAINANT OR VICTIM OF SUCH ORDER. NOTICE SHALL BE BY FIRST CLASS
18 MAIL, UNLESS THE COURT OR THE PROSECUTING AGENCY DETERMINES THAT NOTIFI-
19 CATION BY TELEPHONE OR OVERNIGHT MAIL IS REQUIRED.

20 S 4. This act shall take effect on the first of January next succeed-
21 ing the date on which it shall have become a law; provided that, effec-
22 tive immediately any rules, regulations, or official forms necessary for
23 the timely implementation of this act may be promulgated and other meas-
24 ures necessary for the timely implementation of this act may be taken.