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

5705

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. WEINSTEIN, LANCMAN, PAULIN, -- Multi-Sponsored by -- M. of A. BING, BRENNAN, CHRISTENSEN, CLARK, CYMBROWITZ, DESTITO, GALEF, GLICK, GOTTFRIED, HIKIND, JACOBS, JOHN, McENENY, ORTIZ, RAMOS, SWEENEY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the duration of an order of protection

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

Section 1. The opening paragraph of subdivision 5 of section 530.12 of the criminal procedure law, as amended by chapter 215 of the laws of 2006, is amended to read as follows:

Upon conviction of any crime or violation between spouses, parent and child, or between members of the same family or household AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS ARTICLE, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and[,]: (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such conviction, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed THE GREATER OF: (I) five years from the date of such conviction, OR (II) FIVE YEARS FROM THE DATE OF THE EXPIRATION OF THE MAXIMUM TERM OF A DEFINITE OR INTERMITTENT TERM ACTUALLY IMPOSED; or (C) in the case of a conviction for any other offense, shall not exceed THE GREATER OF: (I) two years from the date of conviction, OR (II) TWO YEARS FROM THE DATE OF THE EXPIRATION OF THE MAXIMUM TERM OF A DEFINITE OR INTERMITTENT TERM ACTUALLY IMPOSED. For purposes of determining the duration of an

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

order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

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

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

S 3. This act shall take effect immediately, provided, however, that the amendments to the opening paragraph of subdivision 5 of section 530.12 of the criminal procedure law, made by section one of this act, shall not affect the expiration of such opening paragraph and shall be deemed to expire therewith; and provided, further, that the amendments to the opening paragraph of subdivision 4 of section 530.13 of the criminal procedure law, made by section two of this act, shall not affect the expiration of such opening paragraph and shall be deemed to expire therewith.