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

8375

2009-2010 Regular Sessions

I N A S S E M B L Y

May 15, 2009

Introduced by M. of A. WEINSTEIN, PAULIN, CHRISTENSEN, CYMBROWITZ, GALEF, HOYT, KOON, MARKEY, MILLMAN, SCARBOROUGH -- Multi-Sponsored by -- M. of A. GOTTFRIED, RUSSELL, SWEENEY, WEISENBERG -- 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 the concurrent jurisdiction of criminal courts and family courts over certain sex offenses committed against family and household members

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

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

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE, SEXUAL ABUSE IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 130.60 OF THE PENAL LAW, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, assault in the second degree, assault in the third degree or an attempted assault between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For

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

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purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

S 2. The opening paragraph of subdivision 1 of section 812 of the family court act, as amended by chapter 326 of the laws of 2008, is amended to read as follows:

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

S 3. Paragraph (a) of subdivision 1 of section 821 of the family court act, as amended by chapter 635 of the laws of 1999, is amended to read as follows:

(a) An allegation that the respondent assaulted or attempted to assault his or her spouse, or former spouse, parent, child or other member of the same family or household or engaged in disorderly conduct, harassment, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE THIRD DEGREE, SEXUAL ABUSE IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 130.60 OF THE PENAL LAW, stalking, CRIMINAL MISCHIEF, menacing or reckless endangerment toward any such person; [and]

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.