

9017

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

Introduced by M. of A. WEINSTEIN, JOHN, DESTITO, LENTOL -- (at request of the Governor) -- read once and referred to the Committee on Judiciary

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
14 section two hundred forty-nine of this part shall be in conformity with
15 the rules]; AND
16 2. PROVIDE FOR THE DEVELOPMENT OF TRAINING PROGRAMS WITH THE INPUT OF
17 AND IN CONSULTATION WITH THE STATE OFFICE FOR THE PREVENTION OF DOMESTIC

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

LBD12033-13-9

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

8 3. REQUIRE THAT ALL ATTORNEYS FOR CHILDREN, INCLUDING NEW AND VETERAN
9 ATTORNEYS, RECEIVE INITIAL AND ONGOING TRAINING AS PROVIDED FOR IN THIS
10 SECTION.

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

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

16 (a) In any action or proceeding brought (1) to annul a marriage or to
17 declare the nullity of a void marriage, or (2) for a separation, or (3)
18 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
19 tion and order to show cause, the custody of or right to visitation with
20 any child of a marriage, the court shall require verification of the
21 status of any child of the marriage with respect to such child's custody
22 and support, including any prior orders, and shall enter orders for
23 custody and support as, in the court's discretion, justice requires,
24 having regard to the circumstances of the case and of the respective
25 parties and to the best interests of the child and subject to the
26 provisions of subdivision one-c of this section. Where either party to
27 an action concerning custody of or a right to visitation with a child
28 alleges in a sworn petition or complaint or sworn answer, cross-peti-
29 tion, counterclaim or other sworn responsive pleading that the other
30 party has committed an act of domestic violence against the party making
31 the allegation or a family or household member of either party, as such
32 family or household member is defined in article eight of the family
33 court act, and such allegations are proven by a preponderance of the
34 evidence, the court must consider the effect of such domestic violence
35 upon the best interests of the child, together with such other facts and
36 circumstances as the court deems relevant in making a direction pursuant
37 to this section AND STATE ON THE RECORD HOW SUCH FINDINGS, FACTS AND
38 CIRCUMSTANCES FACTORED INTO THE DIRECTION. If a parent makes a good
39 faith allegation based on a reasonable belief supported by facts that
40 the child is the victim of child abuse, child neglect, or the effects of
41 domestic violence, and if that parent acts lawfully and in good faith in
42 response to that reasonable belief to protect the child or seek treat-
43 ment for the child, then that parent shall not be deprived of custody,
44 visitation or contact with the child, or restricted in custody, visita-
45 tion or contact, based solely on that belief or the reasonable actions
46 taken based on that belief. If an allegation that a child is abused is
47 supported by a preponderance of the evidence, then the court shall
48 consider such evidence of abuse in determining the visitation arrange-
49 ment that is in the best interest of the child, and the court shall not
50 place a child in the custody of a parent who presents a substantial risk
51 of harm to that child, AND SHALL STATE ON THE RECORD HOW SUCH FINDINGS
52 WERE FACTORED INTO THE DETERMINATION. An order directing the payment of
53 child support shall contain the social security numbers of the named
54 parties. In all cases there shall be no prima facie right to the custody
55 of the child in either parent. Such direction shall make provision for
56 child support out of the property of either or both parents. The court

1 shall make its award for child support pursuant to subdivision one-b of
2 this section. Such direction may provide for reasonable visitation
3 rights to the maternal and/or paternal grandparents of any child of the
4 parties. Such direction as it applies to rights of visitation with a
5 child remanded or placed in the care of a person, official, agency or
6 institution pursuant to article ten of the family court act, or pursuant
7 to an instrument approved under section three hundred fifty-eight-a of
8 the social services law, shall be enforceable pursuant to part eight of
9 article ten of the family court act and sections three hundred fifty-
10 eight-a and three hundred eighty-four-a of the social services law and
11 other applicable provisions of law against any person having care and
12 custody, or temporary care and custody, of the child. Notwithstanding
13 any other provision of law, any written application or motion to the
14 court for the establishment, modification or enforcement of a child
15 support obligation for persons not in receipt of public assistance and
16 care must contain either a request for child support enforcement
17 services which would authorize the collection of the support obligation
18 by the immediate issuance of an income execution for support enforcement
19 as provided for by this chapter, completed in the manner specified in
20 section one hundred eleven-g of the social services law; or a statement
21 that the applicant has applied for or is in receipt of such services; or
22 a statement that the applicant knows of the availability of such
23 services, has declined them at this time and where support enforcement
24 services pursuant to section one hundred eleven-g of the social services
25 law have been declined that the applicant understands that an income
26 deduction order may be issued pursuant to subdivision (c) of section
27 fifty-two hundred forty-two of the civil practice law and rules without
28 other child support enforcement services and that payment of an adminis-
29 trative fee may be required. The court shall provide a copy of any such
30 request for child support enforcement services to the support collection
31 unit of the appropriate social services district any time it directs
32 payments to be made to such support collection unit. Additionally, the
33 copy of any such request shall be accompanied by the name, address and
34 social security number of the parties; the date and place of the
35 parties' marriage; the name and date of birth of the child or children;
36 and the name and address of the employers and income payors of the party
37 from whom child support is sought or from the party ordered to pay child
38 support to the other party. Such direction may require the payment of a
39 sum or sums of money either directly to the custodial parent or to third
40 persons for goods or services furnished for such child, or for both
41 payments to the custodial parent and to such third persons; provided,
42 however, that unless the party seeking or receiving child support has
43 applied for or is receiving such services, the court shall not direct
44 such payments to be made to the support collection unit, as established
45 in section one hundred eleven-h of the social services law. Every order
46 directing the payment of support shall require that if either parent
47 currently, or at any time in the future, has health insurance benefits
48 available that may be extended or obtained to cover the child, such
49 parent is required to exercise the option of additional coverage in
50 favor of such child and execute and deliver to such person any forms,
51 notices, documents or instruments necessary to assure timely payment of
52 any health insurance claims for such child.

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

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

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

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

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

50 (a) An allegation that the respondent assaulted or attempted to
51 assault his or her spouse, or former spouse, parent, child or other
52 member of the same family or household or engaged in disorderly conduct,
53 harassment, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE
54 THIRD DEGREE, SEXUAL ABUSE IN THE SECOND DEGREE AS SET FORTH IN SUBDIVI-
55 SION ONE OF SECTION 130.60 OF THE PENAL LAW, stalking, CRIMINAL

1 MISCHIEF, menacing or reckless endangerment toward any such person;
2 [and]

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

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

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

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

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

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

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

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

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

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

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

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

1 8-A. (A) WHERE AN INFORMATION, A SIMPLIFIED INFORMATION, A
2 PROSECUTOR'S INFORMATION, A MISDEMEANOR COMPLAINT, A FELONY COMPLAINT OR
3 AN INDICTMENT CHARGES HARASSMENT IN THE SECOND DEGREE AS DEFINED IN
4 SECTION 240.26 OF THE PENAL LAW, THE PEOPLE MAY SERVE UPON THE DEFENDANT
5 AND FILE WITH THE COURT A NOTICE ALLEGING THAT SUCH OFFENSE WAS COMMIT-
6 TED AGAINST A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT,
7 AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER. SUCH
8 NOTICE MUST BE SERVED WITHIN FIFTEEN DAYS AFTER ARRAIGNMENT ON AN INFOR-
9 MATION, A SIMPLIFIED INFORMATION, A PROSECUTOR'S INFORMATION, A MISDE-
10 MEANOR COMPLAINT, A FELONY COMPLAINT OR AN INDICTMENT FOR SUCH CHARGE
11 AND BEFORE TRIAL. SUCH NOTICE MUST INCLUDE THE NAME OF THE PERSON
12 ALLEGED TO BE A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE DEFENDANT
13 AND SPECIFY THE SPECIFIC FAMILY OR HOUSEHOLD RELATIONSHIP AS DEFINED IN
14 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

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

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

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