

5031

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. HASSELL-THOMPSON -- (at request of the Governor) --
read twice and ordered printed, and when printed to be committed to
the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to preventing housing discrimination against victims of domestic violence; to amend the executive law, in relation to prohibiting employers from discriminating against victims of domestic violence or stalking in seeking treatment or safety planning; to amend the family court act, in relation to requiring law guardians to receive training or education in domestic violence; 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 penal law, in relation to providing that a second violation of an order of protection within five years constitutes the felony of criminal contempt in the first degree; to amend the criminal procedure law and the family court act, in relation to orders of protection; to amend the criminal procedure law, in relation to reporting domestic violence incidents to the supervising probation department or the division of parole; to amend the criminal procedure law, in relation to certain history related to charges for certain domestic violence offenses not be sealed; to amend the penal law, in relation to the sentencing of a violent felony offender who was a victim of domestic violence to a lesser determinate term; and to amend the executive law, in relation to domestic violence fatality review teams

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

- 1 Section 1. Section 292 of the executive law is amended by adding a new
- 2 subdivision 34 to read as follows:
- 3 34. THE TERM "VICTIM OF DOMESTIC VIOLENCE" MEANS ANY PERSON IN A SITU-
- 4 ATION IN WHICH SUCH PERSON OR SUCH PERSON'S CHILD IS A VICTIM OF AN ACT
- 5 WHICH WOULD CONSTITUTE A VIOLATION OF THE PENAL LAW, INCLUDING, BUT NOT

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

LBD12033-09-9

1 LIMITED TO ACTS CONSTITUTING DISORDERLY CONDUCT, HARASSMENT, MENACING,
2 RECKLESS ENDANGERMENT, STALKING, KIDNAPPING, ASSAULT, ATTEMPTED ASSAULT,
3 OR ATTEMPTED MURDER; AND

4 (A) SUCH ACT OR ACTS HAVE RESULTED IN ACTUAL PHYSICAL OR EMOTIONAL
5 INJURY OR HAVE CREATED A SUBSTANTIAL RISK OF PHYSICAL OR EMOTIONAL HARM
6 TO SUCH PERSON OR SUCH PERSON'S CHILD; AND

7 (B) SUCH ACT OR ACTS ARE OR ARE ALLEGED TO HAVE BEEN COMMITTED BY A
8 MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THESE TERMS ARE DEFINED IN
9 SUBDIVISION ONE OF SECTION EIGHT HUNDRED TWELVE OF THE FAMILY COURT ACT.

10 (C) FOR PURPOSES OF THE DOMESTIC VIOLENCE PROVISIONS OF THIS ARTICLE,
11 "CHILD" MEANS A PERSON WHO HAS NOT ATTAINED THE AGE OF EIGHTEEN YEARS,
12 AND WHO IS A BIRTH OR ADOPTIVE CHILD OR WHO IS A CHILD WITH WHOSE CARE
13 AND CUSTODY THE INDIVIDUAL IS LAWFULLY CHARGED.

14 S 2. Paragraph (a) of subdivision 2 of section 296 of the executive
15 law, as amended by chapter 106 of the laws of 2003, is amended to read
16 as follows:

17 (a) It shall be an unlawful discriminatory practice for any person,
18 being the owner, lessee, proprietor, manager, superintendent, agent or
19 employee of any place of public accommodation, resort or amusement,
20 because of the race, creed, color, national origin, sexual orientation,
21 military status, sex, or disability [or], marital status, OR STATUS AS A
22 VICTIM OF DOMESTIC VIOLENCE of any person, directly or indirectly, to
23 refuse, withhold from or deny to such person any of the accommodations,
24 advantages, facilities or privileges thereof, including the extension of
25 credit, or, directly or indirectly, to publish, circulate, issue,
26 display, post or mail any written or printed communication, notice or
27 advertisement, to the effect that any of the accommodations, advantages,
28 facilities and privileges of any such place shall be refused, withheld
29 from or denied to any person on account of race, creed, color, national
30 origin, sexual orientation, military status, sex, or disability [or],
31 marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or that the
32 patronage or custom thereof of any person of or purporting to be of any
33 particular race, creed, color, national origin, sexual orientation,
34 military status, sex [or], marital status, OR STATUS AS A VICTIM OF
35 DOMESTIC VIOLENCE, or having a disability is unwelcome, objectionable or
36 not acceptable, desired or solicited.

37 S 3. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
38 296 of the executive law, paragraphs (a), (b) and (c) as amended and
39 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
40 to read as follows:

41 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
42 hold from any person or group of persons such housing accommodations
43 because of the race, creed, color, disability, national origin, sexual
44 orientation, military status, age, sex, marital status, [or] familial
45 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
46 persons, or to represent that any housing accommodation or land is not
47 available for inspection, sale, rental or lease when in fact it is so
48 available.

49 (b) To discriminate against any person because of his or her race,
50 creed, color, disability, national origin, sexual orientation, military
51 status, age, sex, marital status, [or] familial status, OR STATUS AS A
52 VICTIM OF DOMESTIC VIOLENCE in the terms, conditions or privileges of
53 any publicly-assisted housing accommodations or in the furnishing of
54 facilities or services in connection therewith.

55 (c) To cause to be made any written or oral inquiry or record concern-
56 ing the race, creed, color, disability, national origin, sexual orien-

tation, membership in the reserve armed forces of the United States or in the organized militia of the state, age, sex, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of a person seeking to rent or lease any publicly-assisted housing accommodation; provided, however, that nothing in this subdivision shall prohibit a member of the reserve armed forces of the United States or in the organized militia of the state from voluntarily disclosing such membership.

(c-1) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any intent to make any such limitation, specification or discrimination.

S 4. Subdivisions 3-b and 4 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, are amended to read as follows:

3-b. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, sexual orientation, military status, sex, age [or], marital status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

S 5. Paragraphs (a), (b), (c) and (d) of subdivision 5 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, are amended to read as follows:

(a) It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed or to be constructed, or any agent or employee thereof:

(1) To refuse to sell, rent, lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sexual orientation, military

1 status, sex, age, disability, marital status, [or] familial status, OR
2 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
3 represent that any housing accommodation or land is not available for
4 inspection, sale, rental or lease when in fact it is so available.

5 (2) To discriminate against any person because of race, creed, color,
6 national origin, sexual orientation, military status, sex, age, disabili-
7 ty, marital status, [or] familial status, OR STATUS AS A VICTIM OF
8 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
9 rental or lease of any such housing accommodation or in the furnishing
10 of facilities or services in connection therewith.

11 (3) To print or circulate or cause to be printed or circulated any
12 statement, advertisement or publication, or to use any form of applica-
13 tion for the purchase, rental or lease of such housing accommodation or
14 to make any record or inquiry in connection with the prospective
15 purchase, rental or lease of such a housing accommodation which
16 expresses, directly or indirectly, any limitation, specification or
17 discrimination as to race, creed, color, national origin, sexual orien-
18 tation, military status, sex, age, disability, marital status, [or]
19 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE, or any
20 intent to make any such limitation, specification or discrimination.

21 The provisions of this paragraph [(a)] shall not apply (1) to the
22 rental of a housing accommodation in a building which contains housing
23 accommodations for not more than two families living independently of
24 each other, if the owner resides in one of such housing accommodations,
25 (2) to the restriction of the rental of all rooms in a housing accommo-
26 dation to individuals of the same sex or (3) to the rental of a room or
27 rooms in a housing accommodation, if such rental is by the occupant of
28 the housing accommodation or by the owner of the housing accommodation
29 and the owner resides in such housing accommodation or (4) solely with
30 respect to age and familial status to the restriction of the sale,
31 rental or lease of housing accommodations exclusively to persons sixty-
32 two years of age or older and the spouse of any such person, or for
33 housing intended and operated for occupancy by at least one person
34 fifty-five years of age or older per unit. In determining whether hous-
35 ing is intended and operated for occupancy by persons fifty-five years
36 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
37 federal Fair Housing Act of 1988, as amended, shall apply.

38 (b) It shall be an unlawful discriminatory practice for the owner,
39 lessee, sub-lessee, or managing agent of, or other person having the
40 right of ownership or possession of or the right to sell, rent or lease,
41 land or commercial space:

42 (1) To refuse to sell, rent, lease or otherwise deny to or withhold
43 from any person or group of persons land or commercial space because of
44 the race, creed, color, national origin, sexual orientation, military
45 status, sex, age, disability, marital status, [or] familial status, OR
46 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
47 represent that any housing accommodation or land is not available for
48 inspection, sale, rental or lease when in fact it is so available;

49 (2) To discriminate against any person because of race, creed, color,
50 national origin, sexual orientation, military status, sex, age, disabili-
51 ty, marital status, [or] familial status, OR STATUS AS A VICTIM OF
52 DOMESTIC VIOLENCE in the terms, conditions or privileges of the sale,
53 rental or lease of any such land or commercial space; or in the furnish-
54 ing of facilities or services in connection therewith;

55 (3) To print or circulate or cause to be printed or circulated any
56 statement, advertisement or publication, or to use any form of applica-

1 tion for the purchase, rental or lease of such land or commercial space
2 or to make any record or inquiry in connection with the prospective
3 purchase, rental or lease of such land or commercial space which
4 expresses, directly or indirectly, any limitation, specification or
5 discrimination as to race, creed, color, national origin, sexual orien-
6 tation, military status, sex, age, disability, marital status, [or]
7 familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE; or any
8 intent to make any such limitation, specification or discrimination.

9 (4) With respect to age and familial status, the provisions of this
10 paragraph shall not apply to the restriction of the sale, rental or
11 lease of land or commercial space exclusively to persons fifty-five
12 years of age or older and the spouse of any such person, or to the
13 restriction of the sale, rental or lease of land to be used for the
14 construction, or location of housing accommodations exclusively for
15 persons sixty-two years of age or older, or intended and operated for
16 occupancy by at least one person fifty-five years of age or older per
17 unit. In determining whether housing is intended and operated for occu-
18 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
19 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
20 amended, shall apply.

21 (c) It shall be an unlawful discriminatory practice for any real
22 estate broker, real estate salesperson or employee or agent thereof:

23 (1) To refuse to sell, rent or lease any housing accommodation, land
24 or commercial space to any person or group of persons or to refuse to
25 negotiate for the sale, rental or lease, of any housing accommodation,
26 land or commercial space to any person or group of persons because of
27 the race, creed, color, national origin, sexual orientation, military
28 status, sex, age, disability, marital status, [or] familial status, OR
29 STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or persons, or to
30 represent that any housing accommodation, land or commercial space is
31 not available for inspection, sale, rental or lease when in fact it is
32 so available, or otherwise to deny or withhold any housing accommo-
33 dation, land or commercial space or any facilities of any housing accom-
34 modation, land or commercial space from any person or group of persons
35 because of the race, creed, color, national origin, sexual orientation,
36 military status, sex, age, disability, marital status, [or] familial
37 status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of such person or
38 persons.

39 (2) To print or circulate or cause to be printed or circulated any
40 statement, advertisement or publication, or to use any form of applica-
41 tion for the purchase, rental or lease of any housing accommodation,
42 land or commercial space or to make any record or inquiry in connection
43 with the prospective purchase, rental or lease of any housing accommo-
44 dation, land or commercial space which expresses, directly or indirect-
45 ly, any limitation, specification, or discrimination as to race, creed,
46 color, national origin, sexual orientation, military status, sex, age,
47 disability, marital status, [or] familial status, OR STATUS AS A VICTIM
48 OF DOMESTIC VIOLENCE; or any intent to make any such limitation, spec-
49 ification or discrimination.

50 (3) With respect to age and familial status, the provisions of this
51 paragraph shall not apply to the restriction of the sale, rental or
52 lease of any land or commercial space exclusively to persons fifty-five
53 years of age or older and the spouse of any such person, or to the
54 restriction of the sale, rental or lease of any housing accommodation or
55 land to be used for the construction or location of housing accommo-
56 dations for persons sixty-two years of age or older, or intended and

operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

(d) It shall be an unlawful discriminatory practice for any real estate board, because of the race, creed, color, national origin, sexual orientation, military status, age, sex, disability, marital status, [or] familial status, OR STATUS AS A VICTIM OF DOMESTIC VIOLENCE of any individual who is otherwise qualified for membership, to exclude or expel such individual from membership, or to discriminate against such individual in the terms, conditions and privileges of membership in such board.

S 6. Subdivision 20 of section 296 of the executive law, as renumbered by chapter 204 of the laws of 1996, is renumbered subdivision 21 and a new subdivision 20 is added to read as follows:

20. (A) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER, BECAUSE OF ANY INDIVIDUAL'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE, TO REFUSE TO HIRE OR EMPLOY OR TO BAR OR TO DISCHARGE FROM EMPLOYMENT SUCH INDIVIDUAL OR TO DISCRIMINATE AGAINST SUCH INDIVIDUAL IN COMPENSATION OR IN TERMS, CONDITIONS OR PRIVILEGES OF EMPLOYMENT.

(B) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER TO PRINT OR CIRCULATE OR CAUSE TO BE PRINTED OR CIRCULATED ANY STATEMENT, ADVERTISEMENT OR PUBLICATION, OR TO USE ANY FORM OF APPLICATION FOR EMPLOYMENT OR TO MAKE ANY INQUIRY IN CONNECTION WITH PROSPECTIVE EMPLOYMENT WHICH EXPRESSES, DIRECTLY OR INDIRECTLY, ANY LIMITATION, SPECIFICATION OR DISCRIMINATION AS TO STATUS AS A VICTIM OF DOMESTIC VIOLENCE, OR ANY INTENT TO MAKE ANY SUCH LIMITATION, SPECIFICATION OR DISCRIMINATION; PROVIDED, HOWEVER, THAT NO PROVISION OF THIS SUBDIVISION SHALL BE CONSTRUED TO PROHIBIT THE EMPLOYER FROM MAKING ANY INQUIRY OR OBTAINING INFORMATION FOR THE PURPOSE OF PROVIDING ASSISTANCE TO, OR A REASONABLE ACCOMMODATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION TO, A VICTIM OF DOMESTIC VIOLENCE.

(C)(1) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER TO REFUSE TO PROVIDE A REASONABLE ACCOMMODATION TO AN EMPLOYEE WHO IS KNOWN BY THE EMPLOYER TO BE A VICTIM OF DOMESTIC VIOLENCE, LIMITED TO THOSE ACCOMMODATIONS SET FORTH IN SUBPARAGRAPH TWO OF THIS PARAGRAPH, WHEN SUCH EMPLOYEE MUST BE ABSENT FROM WORK FOR A REASONABLE TIME, UNLESS SUCH ABSENCE WOULD CAUSE AN UNDUE HARDSHIP TO THE EMPLOYER AS SET FORTH IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, PROVIDED, HOWEVER THAT THE EMPLOYER MAY REQUIRE AN EMPLOYEE TO CHARGE ANY TIME OFF PURSUANT TO THIS SECTION AGAINST ANY LEAVE WITH PAY ORDINARILY GRANTED, WHERE AVAILABLE, AND ANY SUCH ABSENCE THAT CANNOT BE CHARGED MAY BE TREATED AS LEAVE WITHOUT PAY.

(2) AN EMPLOYER IS REQUIRED TO PROVIDE A REASONABLE ACCOMMODATION TO AN EMPLOYEE WHO IS A VICTIM OF DOMESTIC VIOLENCE WHO MUST BE ABSENT FROM WORK FOR A REASONABLE TIME, IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH ONE OF THIS PARAGRAPH, LIMITED TO THE FOLLOWING:

(I) SEEKING MEDICAL ATTENTION FOR INJURIES CAUSED BY DOMESTIC VIOLENCE; OR

(II) OBTAINING SERVICES FROM A DOMESTIC VIOLENCE SHELTER, PROGRAM, OR RAPE CRISIS CENTER AS A RESULT OF DOMESTIC VIOLENCE; OR

(III) OBTAINING PSYCHOLOGICAL COUNSELING RELATED TO AN INCIDENT OR INCIDENTS OF DOMESTIC VIOLENCE; OR

1 (IV) PARTICIPATING IN SAFETY PLANNING AND TAKING OTHER ACTIONS TO
2 INCREASE SAFETY FROM FUTURE INCIDENTS OF DOMESTIC VIOLENCE, INCLUDING
3 TEMPORARY OR PERMANENT RELOCATION; OR

4 (V) OBTAINING LEGAL SERVICES, ASSISTING IN THE PROSECUTION OF THE
5 OFFENSE, OR APPEARING IN COURT IN RELATION TO THE INCIDENT OR INCIDENTS
6 OF DOMESTIC VIOLENCE.

7 (3) AN EMPLOYER IS NOT REQUIRED TO PROVIDE A REASONABLE ACCOMMODATION
8 FOR AN EMPLOYEE'S ABSENCE IN ACCORDANCE WITH THE PROVISIONS OF SUBPARA-
9 GRAPHS ONE AND TWO OF THIS PARAGRAPH WHERE THE EMPLOYEE'S ABSENCE WOULD
10 CONSTITUTE AN UNDUE HARDSHIP TO THE EMPLOYER. A DETERMINATION OF WHETHER
11 SUCH AN ABSENCE WILL CONSTITUTE AN UNDUE HARDSHIP SHALL INCLUDE CONSID-
12 ERATION OF FACTORS SUCH AS:

13 (I) THE OVERALL SIZE OF THE BUSINESS, PROGRAM OR ENTERPRISE WITH
14 RESPECT TO THE NUMBER OF EMPLOYEES, NUMBER AND TYPE OF FACILITIES, AND
15 SIZE OF BUDGET;

16 (II) THE TYPE OF OPERATION IN WHICH THE BUSINESS, PROGRAM OR ENTER-
17 PRISE IS ENGAGED, INCLUDING THE COMPOSITION AND STRUCTURE OF THE WORK-
18 FORCE; AND

19 (III) WHETHER THE ACCOMMODATION WILL RESULT IN THE INABILITY OF AN
20 EMPLOYEE TO PERFORM THE ESSENTIAL FUNCTIONS OF THE POSITION IN WHICH HE
21 OR SHE IS EMPLOYED.

22 (4) AN EMPLOYEE WHO MUST BE ABSENT FROM WORK IN ACCORDANCE WITH THE
23 PROVISIONS OF SUBPARAGRAPH ONE OF THIS PARAGRAPH SHALL PROVIDE THE
24 EMPLOYER WITH REASONABLE ADVANCE NOTICE OF THE EMPLOYEE'S ABSENCE,
25 UNLESS SUCH ADVANCE NOTICE IS NOT FEASIBLE.

26 (5) AN EMPLOYEE WHO MUST BE ABSENT FROM WORK IN ACCORDANCE WITH THE
27 PROVISIONS OF SUBPARAGRAPH ONE OF THIS PARAGRAPH AND WHO CANNOT FEASIBLY
28 GIVE REASONABLE ADVANCE NOTICE OF THE ABSENCE IN ACCORDANCE WITH SUBPAR-
29 AGRAPH FOUR OF THIS PARAGRAPH MUST, WITHIN A REASONABLE TIME AFTER THE
30 ABSENCE, PROVIDE A CERTIFICATION TO THE EMPLOYER WHEN REQUESTED BY THE
31 EMPLOYER.

32 SUCH CERTIFICATION SHALL BE IN THE FORM OF:

33 (I) A POLICE REPORT INDICATING THAT THE EMPLOYEE WAS A VICTIM OF
34 DOMESTIC VIOLENCE;

35 (II) A COURT ORDER PROTECTING OR SEPARATING THE EMPLOYEE FROM THE
36 PERPETRATOR OF AN ACT OF DOMESTIC VIOLENCE;

37 (III) OTHER EVIDENCE FROM THE COURT OR PROSECUTING ATTORNEY THAT THE
38 EMPLOYEE APPEARED IN COURT; OR

39 (IV) DOCUMENTATION FROM A MEDICAL PROFESSIONAL, DOMESTIC VIOLENCE
40 ADVOCATE, HEALTH CARE PROVIDER, OR COUNSELOR THAT THE EMPLOYEE WAS
41 UNDERGOING COUNSELING OR TREATMENT FOR PHYSICAL OR MENTAL INJURIES OR
42 ABUSE RESULTING IN VICTIMIZATION FROM AN ACT OF DOMESTIC VIOLENCE.

43 (6) WHERE AN EMPLOYEE HAS A PHYSICAL OR MENTAL DISABILITY RESULTING
44 FROM AN INCIDENT OR SERIES OF INCIDENTS OF DOMESTIC VIOLENCE, SUCH
45 EMPLOYEE SHALL BE TREATED IN THE SAME MANNER AS AN EMPLOYEE WITH ANY
46 OTHER DISABILITY, PURSUANT TO THE PROVISIONS OF THIS SECTION WHICH
47 PROVIDE THAT DISCRIMINATION AND REFUSAL TO PROVIDE REASONABLE ACCOMMO-
48 DATION OF DISABILITY ARE UNLAWFUL DISCRIMINATORY PRACTICES.

49 (D) TO THE EXTENT ALLOWED BY LAW, EMPLOYERS SHALL MAINTAIN THE CONFI-
50 DENTIALITY OF ANY INFORMATION REGARDING AN EMPLOYEE'S STATUS AS A VICTIM
51 OF DOMESTIC VIOLENCE.

52 S 7. Section 249-b of the family court act, as added by chapter 626
53 of the laws of 2007, is amended to read as follows:

54 S 249-b. Rules of court. (A) The chief administrator of the courts,
55 pursuant to paragraph (e) of subdivision two of section two hundred

twelve of the judiciary law, shall promulgate court rules [prescribing] FOR ATTORNEYS FOR CHILDREN. SUCH COURT RULES SHALL:

1. PRESCRIBE workload standards for attorneys for children, including maximum numbers of children who can be represented at any given time, in order to ensure that children receive effective assistance of counsel comporting with legal and ethical mandates, the complexity of the proceedings affecting each client to which the law guardian is assigned, and the nature of the court appearance likely to be required for each individual client[. Appointments of attorneys for children under section two hundred forty-nine of this part shall be in conformity with the rules]; AND

2. REQUIRE THAT EACH PERSON APPOINTED BY THE COURT TO BE AN ATTORNEY FOR A CHILD COMPLETE A MINIMUM OF FOUR HOURS OF TRAINING OR EDUCATION IN DOMESTIC VIOLENCE, AS PROVIDED IN THIS SECTION. SUCH TRAINING OR EDUCATION MUST BE APPROVED BY THE CERTIFICATION COMMITTEE OR INCLUDED ON A LIST OF RECOMMENDED PROGRAMS SPONSORED BY INDEPENDENT PROVIDERS OF LEGAL EDUCATION. SUCH TRAINING OR EDUCATION PROGRAM MUST INCLUDE THE DYNAMICS OF DOMESTIC VIOLENCE AND ITS EFFECT ON VICTIMS AND ON CHILDREN, AND THE RELATIONSHIP BETWEEN SUCH DYNAMICS AND THE ISSUES CONSIDERED BY THE COURT, INCLUDING, BUT NOT LIMITED TO, CUSTODY, VISITATION AND CHILD SUPPORT.

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

S 8. Paragraph (a) of subdivision 1 of section 240 of the domestic relations law, as amended by chapter 538 of the laws of 2008, is amended to read as follows:

(a) In any action or proceeding brought (1) to annul a marriage or to declare the nullity of a void marriage, or (2) for a separation, or (3) for a divorce, or (4) to obtain, by a writ of habeas corpus or by petition and order to show cause, the custody of or right to visitation with any child of a marriage, the court shall require verification of the status of any child of the marriage with respect to such child's custody and support, including any prior orders, and shall enter orders for custody and support as, in the court's discretion, justice requires, having regard to the circumstances of the case and of the respective parties and to the best interests of the child and subject to the provisions of subdivision one-c of this section. Where either party to an action concerning custody of or a right to visitation with a child alleges in a sworn petition or complaint or sworn answer, cross-petition, counterclaim or other sworn responsive pleading that the other party has committed an act of domestic violence against the party making the allegation or a family or household member of either party, as such family or household member is defined in article eight of the family court act, and such allegations are proven by a preponderance of the evidence, the court must consider the effect of such domestic violence upon the best interests of the child, together with such other facts and circumstances as the court deems relevant in making a direction pursuant to this section AND STATE ON THE RECORD HOW SUCH FINDINGS, FACTS AND CIRCUMSTANCES FACTORED INTO THE DIRECTION. If a parent makes a good faith allegation based on a reasonable belief supported by facts that the child is the victim of child abuse, child neglect, or the effects of domestic violence, and if that parent acts lawfully and in good faith in response to that reasonable belief to protect the child or seek treatment for the child, then that parent shall not be deprived of custody, visitation or contact with the child, or restricted in custody, visitation or contact, based solely on that belief or the reasonable actions

1 taken based on that belief. If an allegation that a child is abused is
2 supported by a preponderance of the evidence, then the court shall
3 consider such evidence of abuse in determining the visitation arrange-
4 ment that is in the best interest of the child, and the court shall not
5 place a child in the custody of a parent who presents a substantial risk
6 of harm to that child, AND SHALL STATE ON THE RECORD HOW SUCH FINDINGS
7 WERE FACTORED INTO THE DETERMINATION. An order directing the payment of
8 child support shall contain the social security numbers of the named
9 parties. In all cases there shall be no prima facie right to the custody
10 of the child in either parent. Such direction shall make provision for
11 child support out of the property of either or both parents. The court
12 shall make its award for child support pursuant to subdivision one-b of
13 this section. Such direction may provide for reasonable visitation
14 rights to the maternal and/or paternal grandparents of any child of the
15 parties. Such direction as it applies to rights of visitation with a
16 child remanded or placed in the care of a person, official, agency or
17 institution pursuant to article ten of the family court act, or pursuant
18 to an instrument approved under section three hundred fifty-eight-a of
19 the social services law, shall be enforceable pursuant to part eight of
20 article ten of the family court act and sections three hundred fifty-
21 eight-a and three hundred eighty-four-a of the social services law and
22 other applicable provisions of law against any person having care and
23 custody, or temporary care and custody, of the child. Notwithstanding
24 any other provision of law, any written application or motion to the
25 court for the establishment, modification or enforcement of a child
26 support obligation for persons not in receipt of public assistance and
27 care must contain either a request for child support enforcement
28 services which would authorize the collection of the support obligation
29 by the immediate issuance of an income execution for support enforcement
30 as provided for by this chapter, completed in the manner specified in
31 section one hundred eleven-g of the social services law; or a statement
32 that the applicant has applied for or is in receipt of such services; or
33 a statement that the applicant knows of the availability of such
34 services, has declined them at this time and where support enforcement
35 services pursuant to section one hundred eleven-g of the social services
36 law have been declined that the applicant understands that an income
37 deduction order may be issued pursuant to subdivision (c) of section
38 fifty-two hundred forty-two of the civil practice law and rules without
39 other child support enforcement services and that payment of an adminis-
40 trative fee may be required. The court shall provide a copy of any such
41 request for child support enforcement services to the support collection
42 unit of the appropriate social services district any time it directs
43 payments to be made to such support collection unit. Additionally, the
44 copy of any such request shall be accompanied by the name, address and
45 social security number of the parties; the date and place of the
46 parties' marriage; the name and date of birth of the child or children;
47 and the name and address of the employers and income payors of the party
48 from whom child support is sought or from the party ordered to pay child
49 support to the other party. Such direction may require the payment of a
50 sum or sums of money either directly to the custodial parent or to third
51 persons for goods or services furnished for such child, or for both
52 payments to the custodial parent and to such third persons; provided,
53 however, that unless the party seeking or receiving child support has
54 applied for or is receiving such services, the court shall not direct
55 such payments to be made to the support collection unit, as established
56 in section one hundred eleven-h of the social services law. Every order

1 directing the payment of support shall require that if either parent
2 currently, or at any time in the future, has health insurance benefits
3 available that may be extended or obtained to cover the child, such
4 parent is required to exercise the option of additional coverage in
5 favor of such child and execute and deliver to such person any forms,
6 notices, documents or instruments necessary to assure timely payment of
7 any health insurance claims for such child.

8 S 9. Subdivision (c) of section 215.51 of the penal law, as amended by
9 chapter 349 of the laws of 2006, is amended to read as follows:

10 (c) he or she commits the crime of criminal contempt in the second
11 degree as defined in subdivision three of section 215.50 of this article
12 by violating [that part of] a duly served order of protection, or such
13 order of which the defendant has actual knowledge because he or she was
14 present in court when such order was issued, under sections two hundred
15 forty and two hundred fifty-two of the domestic relations law, articles
16 four, five, six and eight of the family court act and section 530.12 of
17 the criminal procedure law, or an order of protection issued by a court
18 of competent jurisdiction in another state, territorial or tribal juris-
19 diction, [which requires the respondent or defendant to stay away from
20 the person or persons on whose behalf the order was issued,] and where
21 the defendant has been previously convicted of the crime of aggravated
22 criminal contempt or criminal contempt in the first or second degree for
23 violating an order of protection [as described herein] within the
24 preceding five years; or

25 S 10. The opening paragraph of subdivision 1 of section 530.11 of the
26 criminal procedure law, as amended by chapter 326 of the laws of 2008,
27 is amended to read as follows:

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

50 S 11. The opening paragraph of subdivision 1 of section 812 of the
51 family court act, as amended by chapter 326 of the laws of 2008, is
52 amended to read as follows:

53 The family court and the criminal courts shall have concurrent juris-
54 diction over any proceeding concerning acts which would constitute
55 disorderly conduct, harassment in the first degree, harassment in the
56 second degree, aggravated harassment in the second degree, SEXUAL

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

18 S 12. Paragraph (a) of subdivision 1 of section 821 of the family
19 court act, as amended by chapter 635 of the laws of 1999, is amended to
20 read as follows:

21 (a) An allegation that the respondent assaulted or attempted to
22 assault his or her spouse, or former spouse, parent, child or other
23 member of the same family or household or engaged in disorderly conduct,
24 harassment, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE IN THE
25 THIRD DEGREE, SEXUAL ABUSE AS SET FORTH IN SUBDIVISION ONE OF SECTION
26 130.60 OF THE PENAL LAW, stalking, menacing or reckless endangerment
27 toward any such person; [and]

28 S 13. Subdivision 5 of section 140.10 of the criminal procedure law,
29 as amended by chapter 626 of the laws of 1997, is amended to read as
30 follows:

31 5. Upon investigating a report of a crime or offense between members
32 of the same family or household as such terms are defined in section
33 530.11 of this chapter and section eight hundred twelve of the family
34 court act, a law enforcement officer shall prepare and file a written
35 report of the incident, on a form promulgated pursuant to section eight
36 hundred thirty-seven of the executive law, including statements made by
37 the victim and by any witnesses, and make any additional reports
38 required by local law enforcement policy or regulations. Such report
39 shall be prepared and filed, whether or not an arrest is made as a
40 result of the officers' investigation, and shall be retained by the law
41 enforcement agency for a period of not less than four years. Where the
42 reported incident involved an offense committed against a person who is
43 sixty-five years of age or older a copy of the report required by this
44 subdivision shall be sent to the New York state committee for the coor-
45 dination of police services to elderly persons established pursuant to
46 section eight hundred forty-four-b of the executive law. WHERE THE
47 REPORTED INCIDENT INVOLVED AN OFFENSE COMMITTED BY AN INDIVIDUAL KNOWN
48 BY THE LAW ENFORCEMENT OFFICER TO BE UNDER PROBATION OR PAROLE SUPER-
49 VISION, HE OR SHE SHALL TRANSMIT A COPY OF THE REPORT AS SOON AS PRACTI-
50 CABLE TO THE SUPERVISING PROBATION DEPARTMENT OR THE DIVISION OF PAROLE.

51 S 14. Subdivisions 1 and 2 of section 160.55 of the criminal procedure
52 law, subdivision 1 as amended by chapter 169 of the laws of 1994 and
53 subdivision 2 as added by chapter 142 of the laws of 1991, are amended
54 to read as follows:

55 1. Upon the termination of a criminal action or proceeding against a
56 person by the conviction of such person of a traffic infraction or a

1 violation, other than a violation of HARASSMENT IN THE SECOND DEGREE AS
2 DESCRIBED IN SECTION 240.26 OF THE PENAL LAW COMMITTED AGAINST A MEMBER
3 OF THE SAME FAMILY OR HOUSEHOLD AS DEFINED IN SUBDIVISION ONE OF SECTION
4 530.11 OF THIS CHAPTER AS DETERMINED BY THE COURT PURSUANT TO PARAGRAPH
5 (F) OF THIS SUBDIVISION, loitering as described in paragraph (d) or (e)
6 of subdivision one of section 160.10 of this chapter or the violation of
7 operating a motor vehicle while ability impaired as described in subdivi-
8 sion one of section eleven hundred ninety-two of the vehicle and traf-
9 fic law, unless the district attorney upon motion with not less than
10 five days notice to such person or his or her attorney demonstrates to
11 the satisfaction of the court that the interests of justice require
12 otherwise, or the court on its own motion with not less than five days
13 notice to such person or his or her attorney determines that the inter-
14 ests of justice require otherwise and states the reasons for such deter-
15 mination on the record, the clerk of the court wherein such criminal
16 action or proceeding was terminated shall immediately notify the commis-
17 sioner of the division of criminal justice services and the heads of all
18 appropriate police departments and other law enforcement agencies that
19 the action has been terminated by such conviction. Upon receipt of
20 notification of such termination:

21 (a) every photograph of such person and photographic plate or proof,
22 and all palmprints and fingerprints taken or made of such person pursu-
23 ant to the provisions of this article in regard to the action or
24 proceeding terminated, and all duplicates and copies thereof, except a
25 digital fingerprint image where authorized pursuant to paragraph (e) of
26 this subdivision, shall forthwith be, at the discretion of the recipient
27 agency, either destroyed or returned to such person, or to the attorney
28 who represented such person at the time of the termination of the action
29 or proceeding, at the address given by such person or attorney during
30 the action or proceeding, by the division of criminal justice services
31 and by any police department or law enforcement agency having any such
32 photograph, photographic plate or proof, palmprints or fingerprints in
33 its possession or under its control;

34 (b) any police department or law enforcement agency, including the
35 division of criminal justice services, which transmitted or otherwise
36 forwarded to any agency of the United States or of any other state or of
37 any other jurisdiction outside the state of New York copies of any such
38 photographs, photographic plates or proofs, palmprints and fingerprints,
39 shall forthwith formally request in writing that all such copies be
40 destroyed or returned to the police department or law enforcement agency
41 which transmitted or forwarded them, and upon such return such depart-
42 ment or agency shall, at its discretion, either destroy or return them
43 as provided herein;

44 (c) all official records and papers relating to the arrest or prose-
45 cution, including all duplicates and copies thereof, on file with the
46 division of criminal justice services, police agency, or prosecutor's
47 office shall be sealed and not made available to any person or public or
48 private agency;

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

1 responsibility for the issuance of licenses to possess guns, when the
2 accused has made application for such a license, or (iv) the New York
3 state division of parole when the accused is under parole supervision as
4 a result of conditional release or parole release granted by the New
5 York state board of parole and the arrest which is the subject of the
6 inquiry is one which occurred while the accused was under such super-
7 vision, or (v) the probation department responsible for supervision of
8 the accused when the arrest which is the subject of the inquiry is one
9 which occurred while the accused was under such supervision; and

10 (e) where fingerprints subject to the provisions of this section have
11 been received by the division of criminal justice services and have been
12 filed by the division as digital images, such images may be retained,
13 provided that a fingerprint card of the individual is on file with the
14 division which was not sealed pursuant to this section or section 160.50
15 of this article.

16 (F) UPON THE TERMINATION OF A CRIMINAL ACTION OR PROCEEDING AGAINST A
17 PERSON BY THE CONVICTION OF SUCH PERSON OF A VIOLATION OF HARASSMENT IN
18 THE SECOND DEGREE AS DESCRIBED IN SECTION 240.26 OF THE PENAL LAW, THE
19 COURT SHALL DETERMINE IF THE VIOLATION WAS COMMITTED AGAINST A MEMBER OF
20 THE SAME FAMILY OR HOUSEHOLD MEMBER AS DEFINED IN SUBDIVISION ONE OF
21 SECTION 530.11 OF THIS CHAPTER.

22 2. A report of the termination of the action or proceeding by
23 conviction of a traffic violation or a violation other than a violation
24 of loitering as described in paragraph (d) or (e) of subdivision one of
25 section 160.10 of this chapter or the violation of operating a motor
26 vehicle while ability impaired as described in subdivision one of
27 section eleven hundred ninety-two of the vehicle and traffic law, shall
28 be sufficient notice of sealing to the commissioner of the division of
29 criminal justice services unless the report also indicates that the
30 court directed that the record not be sealed in the interests of
31 justice. Where the court has determined pursuant to subdivision one of
32 this section that sealing is not in the interests of justice, the clerk
33 of the court shall include notification of that determination in any
34 report to such division of the disposition of the action or proceeding.
35 WHEN THE COURT HAS DETERMINED THAT A VIOLATION OF HARASSMENT IN THE
36 SECOND DEGREE WAS COMMITTED AGAINST A MEMBER OF THE SAME FAMILY OR
37 HOUSEHOLD PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SEALING IS NOT
38 AUTHORIZED AND THE CLERK OF THE COURT SHALL INCLUDE NOTIFICATION OF THAT
39 DETERMINATION IN ANY REPORT TO SUCH DIVISION OF THE DISPOSITION OF THE
40 ACTION OR PROCEEDING.

41 S 15. Section 60.12 of the penal law, as added by chapter 1 of the
42 laws of 1998, is amended to read as follows:

43 S 60.12 Authorized disposition; alternative [indeterminate] sentence of
44 imprisonment; domestic violence cases.

45 1. Notwithstanding any other provision of law, where a court is impos-
46 ing sentence pursuant to section 70.02 upon a conviction for an offense
47 enumerated in subdivision one of such section, other than an offense
48 defined in article one hundred thirty of this chapter, and is authorized
49 or required pursuant to such section to impose a determinate sentence of
50 imprisonment for such offense, the court, upon a determination following
51 a hearing that (a) the defendant was the victim of physical, sexual or
52 psychological abuse by the victim or intended victim of such offense,
53 (b) such abuse was a factor in causing the defendant to commit such
54 offense and (c) the victim or intended victim of such offense was a
55 member of the same family or household as the defendant as such term is
56 defined in subdivision one of section 530.11 of the criminal procedure

1 law, may, in lieu of imposing such determinate sentence of imprisonment
2 FOR A TERM IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION 70.02 OF THIS
3 TITLE, impose [an indeterminate] A DETERMINATE sentence of imprisonment
4 FOR A TERM in accordance with [subdivisions two and three] SUBDIVISION
5 TWO of this section.

6 2. The [maximum] term of [an indeterminate] A DETERMINATE sentence
7 imposed pursuant to subdivision one of this section must be fixed by the
8 court as follows:

9 (a) For a class B felony, the term must be at least [six] THREE AND
10 ONE-HALF years and must not exceed [twenty-five] FIFTEEN years;

11 (b) For a class C felony, the term must be at least [four and one-
12 half] TWO years and must not exceed [fifteen] SEVEN years;

13 (c) For a class D felony, the term must be at least [three] ONE AND
14 ONE-HALF years and must not exceed [seven] FOUR years; and

15 (d) For a class E felony, the term must be at least [three years] ONE
16 YEAR and must not exceed [four] THREE years.

17 [3. The minimum period of imprisonment under an indeterminate
18 sentence imposed pursuant to subdivision one of this section must be
19 fixed by the court at one-half of the maximum term imposed and must be
20 specified in the sentence.]

21 S 16. Section 575 of the executive law is amended by adding a new
22 subdivision 11 to read as follows:

23 11. DOMESTIC VIOLENCE FATALITY REVIEW TEAMS. (A) A COUNTY, CITY OR
24 OTHER LOCAL GOVERNMENTAL ENTITY MAY ESTABLISH A DOMESTIC VIOLENCE FATAL-
25 ITY REVIEW TEAM FOR THE PURPOSE OF ANALYZING THE DOMESTIC VIOLENCE-RE-
26 LATED DEATH OR NEAR DEATH OF AN INDIVIDUAL, WITH THE GOAL OF IMPROVING
27 SYSTEMS, REDUCING THE NUMBER OF DOMESTIC VIOLENCE-RELATED FATALITIES AND
28 FACILITATING COMMUNICATION AMONG THE VARIOUS AGENCIES INVOLVED IN DOMES-
29 TIC VIOLENCE CASES, EXCEPT THAT NO SUCH TEAM SHALL CONDUCT A REVIEW OF
30 THE DEATH OF A CHILD FOR THOSE CASES IN WHICH THE OFFICE OF CHILDREN AND
31 FAMILY SERVICES IS REQUIRED TO ISSUE A FATALITY REPORT IN ACCORDANCE
32 WITH SUBDIVISION FIVE OF SECTION TWENTY OF THE SOCIAL SERVICES LAW.

33 (B) AT LEAST ONE REPRESENTATIVE OF THE RELEVANT COUNTY, CITY OR LOCAL
34 GOVERNMENTAL ENTITY SHALL CHAIR A DOMESTIC VIOLENCE FATALITY REVIEW TEAM
35 ESTABLISHED PURSUANT TO THIS SUBDIVISION.

36 (C) MEMBERS OF A DOMESTIC VIOLENCE FATALITY REVIEW TEAM SHALL BE
37 APPOINTED BY THE CHAIR AND SHALL INCLUDE, BUT NOT BE LIMITED TO, AT
38 LEAST ONE REPRESENTATIVE FROM LAW ENFORCEMENT OR THE DISTRICT ATTORNEY'S
39 OFFICE, AT LEAST ONE REPRESENTATIVE FROM A LOCAL DEPARTMENT OF SOCIAL
40 SERVICES AND AT LEAST ONE REPRESENTATIVE OF A DOMESTIC VIOLENCE SERVICES
41 PROGRAM OR ADVOCACY GROUP. A DOMESTIC VIOLENCE FATALITY REVIEW TEAM MAY
42 ALSO INCLUDE REPRESENTATIVES FROM SEXUAL ASSAULT SERVICES PROGRAMS,
43 PUBLIC HEALTH AGENCIES, HOSPITALS, LOCAL DIVISIONS OF PROBATION, LOCAL
44 OFFICES OF THE DIVISION OF PAROLE, THE OFFICE OF THE MEDICAL EXAMINER OR
45 CORONER, ANY LOCAL DOMESTIC VIOLENCE TASK FORCE, COORDINATING COUNCIL OR
46 OTHER INTERAGENCY ENTITY THAT MEETS REGULARLY TO SUPPORT A COORDINATED
47 COMMUNITY RESPONSE TO DOMESTIC VIOLENCE, AND ANY OTHER PERSON NECESSARY
48 TO THE WORK OF THE COUNTY, CITY OR LOCAL GOVERNMENTAL TEAM, INCLUDING
49 SURVIVORS OF DOMESTIC VIOLENCE.

50 (D) DOMESTIC VIOLENCE FATALITY REVIEW TEAMS SHALL REGISTER CONTACT
51 INFORMATION FOR ALL MEMBERS OF THE TEAM WITH THE OFFICE FOR THE
52 PREVENTION OF DOMESTIC VIOLENCE.

53 (E) UPON THE REQUEST OF ANY DOMESTIC VIOLENCE FATALITY REVIEW TEAM,
54 THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE SHALL PROVIDE
55 SUPPORT, ASSISTANCE AND GUIDANCE, INCLUDING PROVIDING MODEL PROTOCOLS

1 AND GUIDELINES, TO ASSIST IN THE IMPLEMENTATION OF A DOMESTIC VIOLENCE
2 FATALITY REVIEW.

3 (F) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY AND TO THE
4 EXTENT CONSISTENT WITH FEDERAL LAW, A DOMESTIC VIOLENCE FATALITY REVIEW
5 TEAM ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL HAVE ACCESS TO THE
6 FOLLOWING RECORDS WHEN NECESSARY FOR THE INVESTIGATION OF THE INCIDENT:

7 (I) CLIENT-IDENTIFIABLE RECORDS MAINTAINED BY A LOCAL DEPARTMENT OF
8 SOCIAL SERVICES EXCEPT FOR CHILD PROTECTIVE SERVICES RECORDS UNDER TITLE
9 SIX OF ARTICLE SIX OF THE SOCIAL SERVICES LAW; AND

10 (II) LAW ENFORCEMENT RECORDS, EXCEPT WHERE THE PROVISION OF SUCH
11 RECORDS WOULD INTERFERE WITH AN ONGOING LAW ENFORCEMENT INVESTIGATION OR
12 IDENTIFY A CONFIDENTIAL SOURCE OR ENDANGER THE SAFETY OR WELFARE OF AN
13 INDIVIDUAL.

14 (G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ALL
15 RECORDS RECEIVED, MEETINGS CONDUCTED, REPORTS AND RECORDS MADE AND MAIN-
16 TAINED AND ALL BOOKS AND PAPERS OBTAINED BY A DOMESTIC VIOLENCE FATALITY
17 REVIEW TEAM SHALL BE CONFIDENTIAL, AND SHALL NOT BE OPEN OR MADE AVAIL-
18 ABLE, EXCEPT BY COURT ORDER OR AS SET FORTH IN PARAGRAPHS (I) AND (J) OF
19 THIS SUBDIVISION.

20 (H) DOMESTIC VIOLENCE FATALITY REVIEW TEAMS, MEMBERS OF DOMESTIC
21 VIOLENCE FATALITY REVIEW TEAMS AND PERSONS WHO PRESENT INFORMATION TO
22 DOMESTIC VIOLENCE FATALITY REVIEW TEAMS SHALL HAVE IMMUNITY FROM CIVIL
23 AND CRIMINAL LIABILITY FOR ALL REASONABLE AND GOOD FAITH ACTIONS TAKEN
24 PURSUANT TO THIS SUBDIVISION, AND SHALL NOT BE QUESTIONED IN ANY CIVIL
25 OR CRIMINAL PROCEEDING REGARDING ANY OPINIONS FORMED AS A RESULT OF A
26 MEETING OF SUCH REVIEW TEAMS. NOTHING IN THIS SECTION SHALL BE CONSTRUED
27 TO PREVENT A PERSON FROM TESTIFYING AS TO INFORMATION WHICH IS OBTAINED
28 INDEPENDENTLY OF A DOMESTIC VIOLENCE FATALITY REVIEW TEAM, OR INFORMA-
29 TION WHICH IS PUBLIC.

30 (I) CONSISTENT WITH ALL FEDERAL AND STATE CONFIDENTIALITY PROTECTIONS,
31 THE FATALITY REVIEW TEAM MAY PROVIDE RECOMMENDATIONS TO ANY INDIVIDUAL
32 OR ENTITY FOR WHOM RECOMMENDATIONS FOR CORRECTIVE OR OTHER APPROPRIATE
33 ACTIONS WILL BE MADE.

34 (J) EACH DOMESTIC VIOLENCE FATALITY REVIEW TEAM SHALL DEVELOP A REPORT
35 OF THE DEATH OR NEAR DEATH INVESTIGATED. SUCH REPORT SHALL NOT CONTAIN
36 ANY INDIVIDUALLY IDENTIFIABLE INFORMATION BUT SHALL SPECIFY THE FAMILY
37 MEMBER OR HOUSEHOLD MEMBER RELATIONSHIP AS DEFINED IN SUBDIVISION ONE OF
38 SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW. EACH SUCH REPORT, ANY
39 RECOMMENDATIONS ISSUED PURSUANT TO PARAGRAPH (I) OF THIS SUBDIVISION AND
40 ANY CORRECTIVE ACTIONS TAKEN PURSUANT TO THIS SUBDIVISION SHALL BE
41 PROVIDED TO THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE UPON
42 COMPLETION.

43 (K) WHERE APPROPRIATE, THE OFFICE FOR THE PREVENTION OF DOMESTIC
44 VIOLENCE SHALL PROVIDE TWO COPIES OF THE REPORT PREPARED PURSUANT TO
45 PARAGRAPH (J) OF THIS SUBDIVISION TO THE OFFICE OF CHILDREN AND FAMILY
46 SERVICES.

47 (L) THE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE SHALL PERIOD-
48 ICALLY SUBMIT A CUMULATIVE REPORT TO THE GOVERNOR AND THE LEGISLATURE
49 INCORPORATING THE AGGREGATE DATA IN THE DOMESTIC VIOLENCE FATALITY
50 REVIEW TEAM REPORTS RECEIVED PURSUANT TO THIS SUBDIVISION AND SHALL
51 INCLUDE A SUMMARY OF THE FINDINGS AND RECOMMENDATIONS MADE BY SUCH
52 TEAMS. THE CUMULATIVE REPORT MAY THEREAFTER BE MADE AVAILABLE TO THE
53 PUBLIC WHERE SUCH DISCLOSURE WOULD BE CONSISTENT WITH FEDERAL AND STATE
54 CONFIDENTIALITY PROTECTIONS.

55 S 17. This act shall take effect on the ninetieth day after it shall
56 have become a law.