

6981

I N   S E N A T E

March 3, 2010

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Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and  
when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the criminal procedure law, in  
relation to family offenses alleged to have been committed by juve-  
niles under the age of eighteen

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

1     Section 1. The opening paragraph of subdivision 1 of section 812 of  
2     the family court act, as amended by chapter 476 of the laws of 2009, is  
3     amended to read as follows:  
4     The family court and the criminal courts shall have concurrent juris-  
5     diction over any proceeding concerning acts which would constitute  
6     disorderly conduct, harassment in the first degree, harassment in the  
7     second degree, aggravated harassment in the second degree, sexual  
8     misconduct, forcible touching, sexual abuse in the third degree, sexual  
9     abuse in the second degree as set forth in subdivision one of section  
10    130.60 of the penal law, stalking in the first degree, stalking in the  
11    second degree, stalking in the third degree, stalking in the fourth  
12    degree, criminal mischief, menacing in the second degree, menacing in  
13    the third degree, reckless endangerment, assault in the second degree,  
14    assault in the third degree or an attempted assault between spouses or  
15    former spouses, or between parent and child or between members of the  
16    same family or household except that if the respondent would not be  
17    criminally responsible by reason of age pursuant to section 30.00 of the  
18    penal law, then the family court shall have exclusive jurisdiction over  
19    such proceeding. *FAMILY OFFENSES ALLEGED TO HAVE BEEN COMMITTED BY A*  
20    *CHILD UNDER THE AGE OF EIGHTEEN AGAINST A PARENT OR GUARDIAN SHALL BE*  
21    *ADDRESSED IN ACCORDANCE WITH ARTICLE SEVEN, RATHER THAN THIS ARTICLE, OF*  
22    *THIS ACT.* Notwithstanding a complainant's election to proceed in family  
23    court, the criminal court shall not be divested of jurisdiction to hear  
24    a family offense proceeding pursuant to this section. For purposes of  
25    this article, "disorderly conduct" includes disorderly conduct not in a  
26    public place. For purposes of this article, "members of the same family  
27    or household" shall mean the following:

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

LBD10369-05-0

1 S 2. The opening paragraph of subdivision 1 of section 530.11 of the  
2 criminal procedure law, as amended by chapter 476 of the laws of 2009,  
3 is amended to read as follows:

4 The family court and the criminal courts shall have concurrent juris-  
5 diction over any proceeding concerning acts which would constitute  
6 disorderly conduct, harassment in the first degree, harassment in the  
7 second degree, aggravated harassment in the second degree, sexual  
8 misconduct, forcible touching, sexual abuse in the third degree, sexual  
9 abuse in the second degree as set forth in subdivision one of section  
10 130.60 of the penal law, stalking in the first degree, stalking in the  
11 second degree, stalking in the third degree, stalking in the fourth  
12 degree, criminal mischief, menacing in the second degree, menacing in  
13 the third degree, reckless endangerment, assault in the second degree,  
14 assault in the third degree or an attempted assault between spouses or  
15 former spouses, or between parent and child or between members of the  
16 same family or household except that if the respondent would not be  
17 criminally responsible by reason of age pursuant to section 30.00 of the  
18 penal law, then the family court shall have exclusive jurisdiction over  
19 such proceeding. FAMILY OFFENSES ALLEGED TO HAVE BEEN COMMITTED BY A  
20 CHILD UNDER THE AGE OF EIGHTEEN AGAINST A PARENT OR GUARDIAN SHALL BE  
21 ADDRESSED IN ACCORDANCE WITH ARTICLE SEVEN OF THE FAMILY COURT ACT.  
22 Notwithstanding a complainant's election to proceed in family court, the  
23 criminal court shall not be divested of jurisdiction to hear a family  
24 offense proceeding pursuant to this section. For purposes of this  
25 section, "disorderly conduct" includes disorderly conduct not in a  
26 public place. For purposes of this section, "members of the same family  
27 or household" with respect to a proceeding in the criminal courts shall  
28 mean the following:

29 S 3. This act shall take effect on the ninetieth day after it shall  
30 have become a law and shall apply to petitions filed on or after such  
31 effective date.