

2840

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. PRETLOW -- Multi-Sponsored by -- M. of A. SWEENEY
-- 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 orders of protection

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

1 Section 1. Subdivision 1 of section 530.12 of the criminal procedure
2 law is amended by adding five new paragraphs (c-1), (c-2), (c-3), (c-4)
3 and (c-5) to read as follows:
4 (C-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A
5 RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE
6 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER
7 DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN
8 RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER
9 ACTION;
10 (C-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A
11 RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE
12 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE
13 PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS
14 FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;
15 (C-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH
16 ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO
17 REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID
18 DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE
19 RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT
20 SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL
21 OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR
22 THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL
23
24
25

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

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EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(C-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(C-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 2. Subdivision 5 of section 530.12 of the criminal procedure law is amended by adding five new paragraphs (b-1), (b-2), (b-3), (b-4) and (b-5) to read as follows:

(B-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(B-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(B-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(B-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(B-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 3. Section 446 of the family court act is amended by adding five new subdivisions (f-1), (f-2), (f-3), (f-4) and (f-5) to read as follows:

(F-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(F-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

1 (F-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCI-
2 DENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH
3 ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO
4 REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID
5 DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE
6 RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITION-
7 ER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT
8 SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCK-
9 ET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL
10 OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR
11 THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL
12 EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR
13 PAIN AND SUFFERING;

14 (F-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL
15 INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS,
16 DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION
17 AND OTHER PERSONAL EFFECTS;

18 (F-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR
19 OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY
20 THE PARTIES;

21 S 4. Section 656 of the family court act is amended by adding five
22 new subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) to read as
23 follows:

24 (G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A
25 RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE
26 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER
27 DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN
28 RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER
29 ACTION;

30 (G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A
31 RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE
32 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE
33 PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS
34 FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

35 (G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCI-
36 DENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH
37 ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO
38 REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID
39 DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE
40 RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITION-
41 ER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT
42 SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCK-
43 ET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL
44 OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR
45 THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL
46 EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR
47 PAIN AND SUFFERING;

48 (G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL
49 INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS,
50 DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION
51 AND OTHER PERSONAL EFFECTS;

52 (G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR
53 OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY
54 THE PARTIES;

55 S 5. Section 842 of the family court act is amended by adding five new
56 subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) to read as follows:

1 (G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A
2 RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE
3 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER
4 DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN
5 RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER
6 ACTION;

7 (G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A
8 RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE
9 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE
10 PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS
11 FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

12 (G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCI-
13 DENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH
14 ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO
15 REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID
16 DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE
17 RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITION-
18 ER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT
19 SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCK-
20 ET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL
21 OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR
22 THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL
23 EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR
24 PAIN AND SUFFERING;

25 (G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL
26 INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS,
27 DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION
28 AND OTHER PERSONAL EFFECTS;

29 (G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR
30 OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY
31 THE PARTIES;

32 S 6. Subdivision 1 of section 1056 of the family court act is amended
33 by adding five new paragraphs (e-1), (e-2), (e-3), (e-4) and (e-5) to
34 read as follows:

35 (E-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A
36 RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE
37 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER
38 DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN
39 RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER
40 ACTION;

41 (E-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A
42 RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE
43 RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE
44 PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS
45 FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

46 (E-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCI-
47 DENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH
48 ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO
49 REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID
50 DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE
51 RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITION-
52 ER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT
53 SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCK-
54 ET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL
55 OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR
56 THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL

1 EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR
2 PAIN AND SUFFERING;

3 (E-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL
4 INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS,
5 DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION
6 AND OTHER PERSONAL EFFECTS;

7 (E-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR
8 OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY
9 THE PARTIES;

10 S 7. The family court act is amended by adding a new section 842-b to
11 read as follows:

12 S 842-B. ORDER ON CONSENT. THE COURT MAY, PRIOR TO ISSUING AN ORDER OF
13 PROTECTION ON CONSENT OF THE PARTIES WITHOUT A FINDING OF WRONGDOING,
14 IMPOSE AN ORDER ON CONSENT OF SUCH PARTIES WHICH CONTAINS SUCH TERMS AND
15 CONDITIONS AS ARE AUTHORIZED UNDER SECTION EIGHT HUNDRED FORTY-TWO OF
16 THIS PART.

17 S 8. This act shall take effect on the sixtieth day after it shall
18 have become a law.