

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

5261--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. MENG, WEISENBERG, SPANO -- Multi-Sponsored by --
M. of A. GOTTFRIED, PHEFFER -- read once and referred to the Committee
on Codes -- committee discharged, bill amended, ordered reprinted
as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to orders of
protection for family and non-family offenses

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

1 Section 1. Subdivision 11 of section 530.12 of the criminal procedure
2 law, as amended by chapter 498 of the laws of 1993, the opening para-
3 graph as amended by chapter 597 of the laws of 1998, paragraph (a) as
4 amended by chapter 222 of the laws of 1994 and paragraph (d) as amended
5 by chapter 644 of the laws of 1996, is amended to read as follows:
6 11. If a defendant is brought before the court for failure to obey any
7 lawful order issued under this section, or an order of protection issued
8 by a court of competent jurisdiction in another state, territorial or
9 tribal jurisdiction, and if, after hearing, the court is satisfied by
10 competent proof that the defendant has willfully failed to obey any such
11 order, the court [may] SHALL:
12 (a) revoke an order of recognizance or revoke an order of bail or
13 order forfeiture of such bail and commit the defendant to custody FOR A
14 MINIMUM PERIOD OF THIRTY DAYS; or
15 (b) restore the case to the calendar when there has been an adjourn-
16 ment in contemplation of dismissal and commit the defendant to custody
17 FOR A MINIMUM PERIOD OF THIRTY DAYS; or
18 (c) revoke a conditional discharge in accordance with section 410.70
19 of this chapter and impose probation supervision or impose a sentence of
20 imprisonment in accordance with the penal law based on the original
21 conviction FOR A MINIMUM PERIOD OF THIRTY DAYS; or
22 (d) revoke probation in accordance with section 410.70 of this chapter
23 and impose a sentence of imprisonment in accordance with the penal law

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

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1 based on the original conviction FOR A MINIMUM PERIOD OF THIRTY DAYS. In
2 addition, if the act which constitutes the violation of the order of
3 protection or temporary order of protection is a crime or a violation
4 the defendant may be charged with and tried for that crime or violation.

5 S 2. Section 530.12 of the criminal procedure law is amended by adding
6 a new subdivision 11-a to read as follows:

7 11-A. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION ELEVEN OF
8 THIS SECTION, IF A DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE
9 SET FORTH IN TITLE H OF PART THREE OF THE PENAL LAW, THE COURT SHALL
10 ORDER THAT THE DEFENDANT BE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM
11 DEVICE WHICH SHALL RELIABLY MONITOR, TRACK AND LOCATE THE POSITION OF
12 SUCH DEFENDANT. SUCH DEFENDANT SHALL BE EQUIPPED WITH SUCH GLOBAL POSI-
13 TIONING DEVICE FOR THE DURATION OF SUCH TEMPORARY ORDER OF PROTECTION OR
14 ANY RENEWAL THEREOF.

15 S 3. Subdivision 8 of section 530.13 of the criminal procedure law, as
16 added by chapter 388 of the laws of 1984, is amended to read as follows:

17 8. If a defendant is brought before the court for failure to obey any
18 lawful order issued under this section and if, after hearing, the court
19 is satisfied by competent proof that the defendant has willfully failed
20 to obey any such order, the court [may] SHALL:

21 (a) revoke an order of recognizance or bail and commit the defendant
22 to custody FOR A MINIMUM PERIOD OF THIRTY DAYS; or

23 (b) restore the case to the calendar when there has been an adjourn-
24 ment in contemplation of dismissal and commit the defendant to custody
25 [or impose or increase bail pending a trial of the original crime or
26 violation] FOR A MINIMUM PERIOD OF THIRTY DAYS; or

27 (c) revoke a conditional discharge in accordance with section 410.70
28 of this chapter and [impose probation supervision or] impose a sentence
29 of imprisonment in accordance with the penal law based on the original
30 conviction WHICH SHALL BE FOR A MINIMUM PERIOD OF THIRTY DAYS; or

31 (d) revoke probation in accordance with section 410.70 of this chapter
32 and impose a sentence of imprisonment in accordance with the penal law
33 based on the original conviction WHICH SHALL BE FOR A MINIMUM PERIOD OF
34 THIRTY DAYS. In addition, if the act which constitutes the violation of
35 the order of protection or temporary order of protection is a crime or a
36 violation the defendant may be charged with and tried for that crime or
37 violation.

38 S 4. Subdivision 9 of section 530.13 of the criminal procedure law, as
39 renumbered by chapter 388 of the laws of 1984, is renumbered subdivision
40 10 and a new subdivision 9 is added to read as follows:

41 9. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION EIGHT OF THIS
42 SECTION, IF A DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE SET
43 FORTH IN TITLE H OF PART THREE OF THE PENAL LAW, THE COURT SHALL ORDER
44 THAT THE DEFENDANT BE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM DEVICE
45 WHICH SHALL RELIABLY MONITOR, TRACK AND LOCATE THE POSITION OF SUCH
46 DEFENDANT. SUCH DEFENDANT SHALL BE EQUIPPED WITH SUCH GLOBAL POSITIONING
47 DEVICE FOR THE DURATION OF SUCH TEMPORARY ORDER OF PROTECTION OR ANY
48 RENEWAL THEREOF.

49 S 5. This act shall take effect on the sixtieth day after it shall
50 have become a law.