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

4259

2011-2012 Regular Sessions

I N S E N A T E

March 25, 2011

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

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:

Section 1. Subdivision 11 of section 530.12 of the criminal procedure law, as amended by chapter 498 of the laws of 1993, the opening paragraph as amended by chapter 597 of the laws of 1998, paragraph (a) as amended by chapter 222 of the laws of 1994 and paragraph (d) as amended by chapter 644 of the laws of 1996, is amended to read as follows:

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court [may] SHALL:

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

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody FOR A MINIMUM PERIOD OF THIRTY DAYS; or

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

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction FOR A MINIMUM PERIOD OF THIRTY DAYS. In addition, if the act which constitutes the violation of the order of

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

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protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

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

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

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

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

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

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

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

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

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

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

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