

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 5, 2011

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

IN ASSEMBLY -- Introduced by M. of A. ROBINSON -- read once and referred 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 juveniles under the age of eighteen

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

1 Section 1. The opening paragraph of subdivision 1 of section 812 of
2 the family court act, as separately amended by chapters 341 and 405 of
3 the laws of 2010, 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, criminal obstruction of breath-
14 ing or blood circulation, strangulation in the second degree, strangula-
15 tion in the first degree, assault in the second degree, assault in the
16 third degree or an attempted assault, criminal obstruction of breathing
17 or blood circulation or strangulation between spouses or former spouses,
18 or between parent and child or between members of the same family or
19 household except that if the respondent would not be criminally respon-

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

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1 sible by reason of age pursuant to section 30.00 of the penal law, then
2 the family court shall have exclusive jurisdiction over such proceeding.
3 FAMILY OFFENSES ALLEGED TO HAVE BEEN COMMITTED BY A CHILD UNDER THE AGE
4 OF EIGHTEEN AGAINST A PARENT OR GUARDIAN SHALL BE ADDRESSED IN ACCORD-
5 ANCE WITH ARTICLE SEVEN, RATHER THAN THIS ARTICLE, OF THIS ACT. Notwith-
6 standing a complainant's election to proceed in family court, the crimi-
7 nal court shall not be divested of jurisdiction to hear a family offense
8 proceeding pursuant to this section. In any proceeding pursuant to this
9 article, a court shall not deny an order of protection, or dismiss a
10 petition, solely on the basis that the acts or events alleged are not
11 relatively contemporaneous with the date of the petition, the conclusion
12 of the fact-finding or the conclusion of the dispositional hearing. For
13 purposes of this article, "disorderly conduct" includes disorderly
14 conduct not in a public place. For purposes of this article, "members of
15 the same family or household" shall mean the following:

16 S 2. The opening paragraph of subdivision 1 of section 530.11 of the
17 criminal procedure law, as amended by chapter 405 of the laws of 2010,
18 is amended to read as follows:

19 The family court and the criminal courts shall have concurrent juris-
20 diction over any proceeding concerning acts which would constitute
21 disorderly conduct, harassment in the first degree, harassment in the
22 second degree, aggravated harassment in the second degree, sexual
23 misconduct, forcible touching, sexual abuse in the third degree, sexual
24 abuse in the second degree as set forth in subdivision one of section
25 130.60 of the penal law, stalking in the first degree, stalking in the
26 second degree, stalking in the third degree, stalking in the fourth
27 degree, criminal mischief, menacing in the second degree, menacing in
28 the third degree, reckless endangerment, strangulation in the first
29 degree, strangulation in the second degree, criminal obstruction of
30 breathing or blood circulation, assault in the second degree, assault in
31 the third degree or an attempted assault between spouses or former
32 spouses, or between parent and child or between members of the same
33 family or household except that if the respondent would not be criminal-
34 ly responsible by reason of age pursuant to section 30.00 of the penal
35 law, then the family court shall have exclusive jurisdiction over such
36 proceeding. FAMILY OFFENSES ALLEGED TO HAVE BEEN COMMITTED BY A CHILD
37 UNDER THE AGE OF EIGHTEEN AGAINST A PARENT OR GUARDIAN SHALL BE
38 ADDRESSED IN ACCORDANCE WITH ARTICLE SEVEN OF THE FAMILY COURT ACT.
39 Notwithstanding a complainant's election to proceed in family court, the
40 criminal court shall not be divested of jurisdiction to hear a family
41 offense proceeding pursuant to this section. For purposes of this
42 section, "disorderly conduct" includes disorderly conduct not in a
43 public place. For purposes of this section, "members of the same family
44 or household" with respect to a proceeding in the criminal courts shall
45 mean the following:

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