

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GUNTHER, ZEBROWSKI, PHEFFER -- 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 notification to victims of orders of protection

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

1 Section 1. Section 530.12 of the criminal procedure law is amended by  
2 adding a new subdivision 16 to read as follows:

3 16. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-  
4 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
5 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
6 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-  
7 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE  
8 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
9 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE  
10 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
11 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR  
12 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
13 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
14 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
15 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
16 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
17 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
18 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

19 S 2. Section 530.13 of the criminal procedure law is amended by adding  
20 a new subdivision 6-a to read as follows:

21 6-A. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFOR-  
22 MATION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
23 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
24 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-

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

1 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE  
2 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
3 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE  
4 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
5 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR  
6 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
7 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
8 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
9 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
10 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
11 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
12 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

13 S 3. Section 446 of the family court act, as amended by chapter 948 of  
14 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
15 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
16 subdivision (i) as added by chapter 483 of the laws of 1995, subdivision  
17 (h) as added and subdivision (i) as relettered by chapter 253 of the  
18 laws of 2006, paragraph 1 of subdivision (h) as amended by chapter 532  
19 of the laws of 2008, the second undesignated paragraph as amended by  
20 chapter 326 of the laws of 2008, the third undesignated paragraph as  
21 added by chapter 73 of the laws of 2007 and the closing paragraph as  
22 added by chapter 341 of the laws of 2010, is amended to read as follows:

23 S 446. Order of protection. 1. The court may make an order of  
24 protection in assistance or as a condition of any other order made under  
25 this part. The order of protection may set forth reasonable conditions  
26 of behavior to be observed for a specified time by the petitioner or  
27 respondent or both. No order of protection may direct any party to  
28 observe conditions of behavior unless the party requesting the order of  
29 protection has served and filed a petition or counter-claim in accord-  
30 ance with section one hundred fifty-four-b of this act. Such an order  
31 may require the petitioner or the respondent:

32 (a) to stay away from the home, school, business or place of employ-  
33 ment of any other party, the other spouse, the other parent or the  
34 child, and to stay away from any other specific location designated by  
35 the court;

36 (b) to permit a parent, or a person entitled to visitation by a court  
37 order or a separation agreement, to visit the child at stated periods;

38 (c) to refrain from committing a family offense, as defined in subdi-  
39 vision one of section eight hundred twelve of this act, or any criminal  
40 offense against the child or against the other parent or against any  
41 person to whom custody of the child is awarded, or from harassing,  
42 intimidating or threatening such persons;

43 (d) to permit a designated party to enter the residence during a spec-  
44 ified period of time in order to remove personal belongings not in issue  
45 in this proceeding or in any other proceeding or action under this act  
46 or the domestic relations law;

47 (e) to refrain from acts of commission or omission that create an  
48 unreasonable risk to the health, safety or welfare of a child;

49 (f) to participate in an educational program and to pay the costs  
50 thereof if the person has the means to do so, provided however that  
51 nothing contained herein shall be deemed to require payment of the costs  
52 of any such program by the state or any political subdivision thereof;

53 (g) to provide, either directly or by means of medical and health  
54 insurance, for expenses incurred for medical care and treatment arising  
55 from the incident or incidents forming the basis for the issuance of the  
56 order.

1 (h) [1.] (1) to refrain from intentionally injuring or killing, with-  
2 out justification, any companion animal the respondent knows to be  
3 owned, possessed, leased, kept or held by the person protected by the  
4 order or a minor child residing in such person's household.

5 [2.] (2) "Companion animal", as used in this section, shall have the  
6 same meaning as in subdivision five of section three hundred fifty of  
7 the agriculture and markets law.

8 (i) to observe such other conditions as are necessary to further the  
9 purposes of protection.

10 2. The court may also award custody of the child, during the term of  
11 the order of protection to either parent, or to an appropriate relative  
12 within the second degree. Nothing in this section gives the court power  
13 to place or board out any child or to commit a child to an institution  
14 or agency. In making orders of protection, the court shall so act as to  
15 insure that in the care, protection, discipline and guardianship of the  
16 child his religious faith shall be preserved and protected.

17 3. Notwithstanding the foregoing provisions, an order of protection,  
18 or temporary order of protection where applicable, may be entered  
19 against a former spouse and persons who have a child in common, regard-  
20 less of whether such persons have been married or have lived together at  
21 any time, or against a member of the same family or household as defined  
22 in subdivision one of section eight hundred twelve of this act.

23 4. In addition to the foregoing provisions, the court may issue an  
24 order, pursuant to section two hundred twenty-seven-c of the real prop-  
25 erty law, authorizing the party for whose benefit any order of  
26 protection has been issued to terminate a lease or rental agreement  
27 pursuant to section two hundred twenty-seven-c of the real property law.

28 5. In any proceeding pursuant to this article, a court shall not deny  
29 an order of protection, or dismiss an application for such an order,  
30 solely on the basis that the acts or events alleged are not relatively  
31 contemporaneous with the date of the application or the conclusion of  
32 the action. The duration of any temporary order shall not by itself be a  
33 factor in determining the length or issuance of any final order.

34 6. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-  
35 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
36 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
37 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-  
38 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE  
39 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
40 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE  
41 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
42 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR  
43 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
44 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
45 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
46 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
47 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
48 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
49 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

50 S 4. Section 551 of the family court act, as amended by chapter 948 of  
51 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
52 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
53 subdivision (j) as added by chapter 483 of the laws of 1995, subdivision  
54 (i) as added and subdivision (j) as relettered by chapter 253 of the  
55 laws of 2006, paragraph 1 of subdivision (i) as amended by chapter 532  
56 of the laws of 2008, the third undesignated paragraph as amended by

1 chapter 326 of the laws of 2008 and the closing paragraph as added by  
2 chapter 341 of the laws of 2010, is amended to read as follows:

3 S 551. Order of protection. 1. The court may make an order of  
4 protection in assistance or as a condition of any other order made under  
5 this article. The order of protection may set forth reasonable condi-  
6 tions of behavior to be observed for a specified time by the petitioner  
7 or respondent or both. No order of protection may direct any party to  
8 observe conditions of behavior unless the party requesting the order of  
9 protection has served and filed a petition or counter-claim in accord-  
10 ance with section one hundred fifty-four-b of this act. Such an order  
11 may require the petitioner or the respondent:

12 (a) to stay away from the home, school, business or place of employ-  
13 ment of any other party, the other parent, or the child, and to stay  
14 away from any other specific location designated by the court;

15 (b) to permit a parent, or a person entitled to visitation by a court  
16 order or a separation agreement to visit the child at stated periods;

17 (c) to refrain from committing a family offense, as defined in subdi-  
18 vision one of section eight hundred twelve of this act, or any criminal  
19 offense against the child or against the other parent or against any  
20 person to whom custody of the child is awarded, or from harassing,  
21 intimidating or threatening such persons;

22 (d) to permit a designated party to enter the residence during a spec-  
23 ified period of time in order to remove personal belongings not in issue  
24 in this proceeding or in any other proceeding or action under this act  
25 or the domestic relations law;

26 (e) to refrain from acts of commission or omission that create an  
27 unreasonable risk to the health, safety or welfare of a child;

28 (f) to participate in an educational program and to pay the costs  
29 thereof if the person has the means to do so, provided, however, that  
30 nothing contained herein shall be deemed to require payment of the costs  
31 of any such program by the state or any political subdivision thereof;

32 (g) to provide, either directly or by means of medical and health  
33 insurance, for expenses incurred for medical care and treatment arising  
34 from the incident or incidents forming the basis for the issuance of the  
35 order;

36 (h) to pay the reasonable counsel fees and disbursements involved in  
37 obtaining or enforcing the order of the person who is protected by such  
38 order if such order is issued or enforced, whether or not an order of  
39 filiation is made.

40 (i) [1.] (1) to refrain from intentionally injuring or killing, with-  
41 out justification, any companion animal the respondent knows to be  
42 owned, possessed, leased, kept or held by the person protected by the  
43 order or a minor child residing in such person's household.

44 [2.] (2) "Companion animal", as used in this section, shall have the  
45 same meaning as in subdivision five of section three hundred fifty of  
46 the agriculture and markets law.

47 (j) to observe such other conditions as are necessary to further the  
48 purposes of protection.

49 2. The court may also award custody of the child, during the term of  
50 the order of protection to either parent, or to an appropriate relative  
51 within the second degree. Nothing in this section gives the court power  
52 to place or board out any child or to commit a child to an institution  
53 or agency. In making orders of protection, the court shall so act as to  
54 insure that in the care, protection, discipline and guardianship of the  
55 child his religious faith shall be preserved and protected.

1 3. Notwithstanding the foregoing provisions, an order of protection,  
2 or temporary order of protection where applicable, may be entered  
3 against a former spouse and persons who have a child in common, regard-  
4 less of whether such persons have been married or have lived together at  
5 any time, or against a member of the same family or household as defined  
6 in subdivision one of section eight hundred twelve of this act.

7 4. In any proceeding pursuant to this article, a court shall not deny  
8 an order of protection, or dismiss an application for such an order,  
9 solely on the basis that the acts or events alleged are not relatively  
10 contemporaneous with the date of the application or the conclusion of  
11 the action. The duration of any temporary order shall not by itself be a  
12 factor in determining the length or issuance of any final order.

13 5. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-  
14 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
15 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
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18 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
19 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE  
20 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
21 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR  
22 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
23 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
24 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
25 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
26 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
27 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
28 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

29 S 5. Section 656 of the family court act, as amended by chapter 948 of  
30 the laws of 1984, the opening paragraph as amended by chapter 706 of the  
31 laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and  
32 subdivision (j) as added by chapter 483 of the laws of 1995, subdivision  
33 (i) as added and subdivision (j) as relettered by chapter 253 of the  
34 laws of 2006, the second undesignated paragraph as amended by chapter  
35 326 of the laws of 2008, the third undesignated paragraph as added by  
36 chapter 73 of the laws of 2007 and the closing paragraph as added by  
37 chapter 341 of the laws of 2010, is amended to read as follows:

38 S 656. Order of protection. 1. The court may make an order of  
39 protection and an order of probation in assistance or as a condition of  
40 any other order made under this part. The order of protection may set  
41 forth reasonable conditions of behavior to be observed for a specific  
42 time by any petitioner or any respondent, and shall specify if an order  
43 of probation is in effect. No order of protection may direct any party  
44 to observe conditions of behavior unless the party requesting the order  
45 of protection has served and filed a petition or counter-claim in  
46 accordance with section one hundred fifty-four-b of this act. Such an  
47 order may require the petitioner or the respondent:

48 (a) to stay away from the home, school, business or place of employ-  
49 ment of any other party, the other spouse or parent, or the child, and  
50 to stay away from any other specific location designated by the court;

51 (b) to permit a parent, or a person entitled to visitation by a court  
52 order or a separation agreement, to visit the child at stated periods;

53 (c) to refrain from committing a family offense, as defined in subdi-  
54 vision one of section eight hundred twelve of this act, or any criminal  
55 offense against the child or against the other parent or against any

1 person to whom custody of the child is awarded, or from harassing,  
2 intimidating or threatening such persons;

3 (d) to permit a designated party to enter the residence during a spec-  
4 ified period of time in order to remove personal belongings not in issue  
5 in this proceeding or in any other proceeding or action under this act  
6 or the domestic relations law;

7 (e) to refrain from acts of commission or omission that create an  
8 unreasonable risk to the health, safety or welfare of a child;

9 (f) to participate in an educational program and to pay the costs  
10 thereof if the person has the means to do so, provided however that  
11 nothing contained herein shall be deemed to require payment of the costs  
12 of any such program by the state or any political subdivision thereof;

13 (g) to provide, either directly or by means of medical and health  
14 insurance, for expenses incurred for medical care and treatment arising  
15 from the incident or incidents forming the basis for the issuance of the  
16 order;

17 (h) to pay the reasonable counsel fees and disbursements involved in  
18 obtaining or enforcing the order of the person who is protected by such  
19 order if such order is issued or enforced.

20 (i) [1.] (1) to refrain from intentionally injuring or killing, with-  
21 out justification, any companion animal the respondent knows to be  
22 owned, possessed, leased, kept or held by the petitioner or a minor  
23 child residing in the household.

24 [2.] (2) "Companion animal", as used in this section, shall have the  
25 same meaning as in subdivision five of section three hundred fifty of  
26 the agriculture and markets law.

27 (j) to observe such other conditions as are necessary to further the  
28 purposes of protection.

29 2. The court shall not require anyone seeking an order of protection  
30 under this section to first request that child protective services  
31 investigate the allegations or to first request permission to file a  
32 petition under article ten of this act.

33 3. Notwithstanding the foregoing provisions, an order of protection,  
34 or temporary order of protection where applicable, may be entered  
35 against a former spouse and persons who have a child in common, regard-  
36 less of whether such persons have been married or have lived together at  
37 any time, or against a member of the same family or household as defined  
38 in subdivision one of section eight hundred twelve of this act.

39 4. In addition to the foregoing provisions, the court may issue an  
40 order, pursuant to section two hundred twenty-seven-c of the real prop-  
41 erty law, authorizing the party for whose benefit any order of  
42 protection has been issued to terminate a lease or rental agreement  
43 pursuant to section two hundred twenty-seven-c of the real property law.

44 5. In any proceeding pursuant to this article, a court shall not deny  
45 an order of protection, or dismiss an application for such an order,  
46 solely on the basis that the acts or events alleged are not relatively  
47 contemporaneous with the date of the application or the conclusion of  
48 the action. The duration of any temporary order shall not by itself be a  
49 factor in determining the length or issuance of any final order.

50 6. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-  
51 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
52 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
53 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-  
54 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE  
55 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
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1 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
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3 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
4 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
5 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
6 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
7 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
8 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
9 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

10 S 6. Section 842 of the family court act, as amended by chapter 222 of  
11 the laws of 1994, the opening paragraph as separately amended by chap-  
12 ters 325 and 341 of the laws of 2010, subdivisions (a), (b), (c), (d)  
13 and (e) as amended and subdivision (j) as added by chapter 483 of the  
14 laws of 1995, subdivision (i) as added and subdivision (j) as relettered  
15 by chapter 253 of the laws of 2006, the second undesignated paragraph as  
16 amended by chapter 325 of the laws of 2010, the third undesignated para-  
17 graph as amended by chapter 224 of the laws of 1994, the sixth undesign-  
18 ated paragraph as added by section 8 of part D of chapter 56 of the  
19 laws of 2008, the seventh undesignated paragraph as amended by chapter  
20 326 of the laws of 2008 and the closing paragraph as added by chapter 73  
21 of the laws of 2007, is amended to read as follows:

22 S 842. Order of protection. 1. An order of protection under section  
23 eight hundred forty-one of this part shall set forth reasonable condi-  
24 tions of behavior to be observed for a period not in excess of two years  
25 by the petitioner or respondent or for a period not in excess of five  
26 years upon (i) a finding by the court on the record of the existence of  
27 aggravating circumstances as defined in paragraph (vii) of subdivision  
28 (a) of section eight hundred twenty-seven of this article; or (ii) a  
29 finding by the court on the record that the conduct alleged in the peti-  
30 tion is in violation of a valid order of protection. Any finding of  
31 aggravating circumstances pursuant to this section shall be stated on  
32 the record and upon the order of protection. The court may also, upon  
33 motion, extend the order of protection for a reasonable period of time  
34 upon a showing of good cause or consent of the parties. The fact that  
35 abuse has not occurred during the pendency of an order shall not, in  
36 itself, constitute sufficient ground for denying or failing to extend  
37 the order. The court must articulate a basis for its decision on the  
38 record. The duration of any temporary order shall not by itself be a  
39 factor in determining the length or issuance of any final order. Any  
40 order of protection issued pursuant to this section shall specify if an  
41 order of probation is in effect. Any order of protection issued pursuant  
42 to this section may require the petitioner or the respondent:

43 (a) to stay away from the home, school, business or place of employ-  
44 ment of any other party, the other spouse, the other parent, or the  
45 child, and to stay away from any other specific location designated by  
46 the court, provided that the court shall make a determination, and shall  
47 state such determination in a written decision or on the record, whether  
48 to impose a condition pursuant to this [subdivision] PARAGRAPH, provided  
49 further, however, that failure to make such a determination shall not  
50 affect the validity of such order of protection. In making such determi-  
51 nation, the court shall consider, but shall not be limited to consider-  
52 ation of, whether the order of protection is likely to achieve its  
53 purpose in the absence of such a condition, conduct subject to prior  
54 orders of protection, prior incidents of abuse, extent of past or pres-  
55 ent injury, threats, drug or alcohol abuse, and access to weapons;

- 1 (b) to permit a parent, or a person entitled to visitation by a court  
2 order or a separation agreement, to visit the child at stated periods;
- 3 (c) to refrain from committing a family offense, as defined in subdi-  
4 vision one of section eight hundred twelve of this [act] ARTICLE, or any  
5 criminal offense against the child or against the other parent or  
6 against any person to whom custody of the child is awarded, or from  
7 harassing, intimidating or threatening such persons;
- 8 (d) to permit a designated party to enter the residence during a spec-  
9 ified period of time in order to remove personal belongings not in issue  
10 in this proceeding or in any other proceeding or action under this act  
11 or the domestic relations law;
- 12 (e) to refrain from acts of commission or omission that create an  
13 unreasonable risk to the health, safety or welfare of a child;
- 14 (f) to pay the reasonable counsel fees and disbursements involved in  
15 obtaining or enforcing the order of the person who is protected by such  
16 order if such order is issued or enforced;
- 17 (g) to require the respondent to participate in a batterer's education  
18 program designed to help end violent behavior, which may include refer-  
19 ral to drug and alcohol counselling, and to pay the costs thereof if the  
20 person has the means to do so, provided however that nothing contained  
21 herein shall be deemed to require payment of the costs of any such  
22 program by the petitioner, the state or any political subdivision there-  
23 of; and
- 24 (h) to provide, either directly or by means of medical and health  
25 insurance, for expenses incurred for medical care and treatment arising  
26 from the incident or incidents forming the basis for the issuance of the  
27 order.
- 28 (i) [1.] (1) to refrain from intentionally injuring or killing, with-  
29 out justification, any companion animal the respondent knows to be  
30 owned, possessed, leased, kept or held by the petitioner or a minor  
31 child residing in the household.
- 32 [2.] (2) "Companion animal", as used in this section, shall have the  
33 same meaning as in subdivision five of section three hundred fifty of  
34 the agriculture and markets law.
- 35 (j) to observe such other conditions as are necessary to further the  
36 purposes of protection.
- 37 2. The court may also award custody of the child, during the term of  
38 the order of protection to either parent, or to an appropriate relative  
39 within the second degree. Nothing in this section gives the court power  
40 to place or board out any child or to commit a child to an institution  
41 or agency.
- 42 3. Notwithstanding the provisions of section eight hundred seventeen  
43 of this article, where a temporary order of child support has not  
44 already been issued, the court may in addition to the issuance of an  
45 order of protection pursuant to this section, issue an order for tempo-  
46 rary child support in an amount sufficient to meet the needs of the  
47 child, without a showing of immediate or emergency need. The court shall  
48 make an order for temporary child support notwithstanding that informa-  
49 tion with respect to income and assets of the respondent may be unavail-  
50 able. Where such information is available, the court may make an award  
51 for temporary child support pursuant to the formula set forth in subdi-  
52 vision one of section four hundred thirteen of this act. Temporary  
53 orders of support issued pursuant to this article shall be deemed to  
54 have been issued pursuant to section four hundred thirteen of this act.
- 55 4. Upon making an order for temporary child support pursuant to this  
56 subdivision, the court shall advise the petitioner of the availability

1 of child support enforcement services by the support collection unit of  
2 the local department of social services, to enforce the temporary order  
3 and to assist in securing continued child support, and shall set the  
4 support matter down for further proceedings in accordance with article  
5 four of this act.

6 5. Where the court determines that the respondent has employer-provid-  
7 ed medical insurance, the court may further direct, as part of an order  
8 of temporary support under this subdivision, that a medical support  
9 execution be issued and served upon the respondent's employer as  
10 provided for in section fifty-two hundred forty-one of the civil prac-  
11 tice law and rules.

12 6. In any proceeding in which an order of protection or temporary  
13 order of protection or a warrant has been issued under this section, the  
14 clerk of the court shall issue to the petitioner and respondent and his  
15 counsel and to any other person affected by the order a copy of the  
16 order of protection or temporary order of protection and ensure that a  
17 copy of the order of protection or temporary order of protection be  
18 transmitted to the local correctional facility where the individual is  
19 or will be detained, the state or local correctional facility where the  
20 individual is or will be imprisoned, and the supervising probation  
21 department or division of parole where the individual is under probation  
22 or parole supervision.

23 7. Notwithstanding the foregoing provisions, an order of protection,  
24 or temporary order of protection where applicable, may be entered  
25 against a former spouse and persons who have a child in common, regard-  
26 less of whether such persons have been married or have lived together at  
27 any time, or against a member of the same family or household as defined  
28 in subdivision one of section eight hundred twelve of this article.

29 8. In addition to the foregoing provisions, the court may issue an  
30 order, pursuant to section two hundred twenty-seven-c of the real prop-  
31 erty law, authorizing the party for whose benefit any order of  
32 protection has been issued to terminate a lease or rental agreement  
33 pursuant to section two hundred twenty-seven-c of the real property law.

34 9. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-  
35 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION  
36 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH  
37 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-  
38 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE  
39 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-  
40 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE  
41 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW  
42 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR  
43 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-  
44 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR  
45 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE  
46 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-  
47 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE  
48 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS  
49 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

50 S 7. This act shall take effect immediately.