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

S. 405 A. 316

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:

Section 1. The opening paragraph of subdivision 1 of section 812 of the family court act, as separately amended by chapters 341 and 405 of the laws of 2010, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, assault in the third degree or an attempted assault, criminal obstruction of breathing or blood circulation or strangulation between spouses or former spouses, or between parent and child or between members of the same family or 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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sible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. FAMILY OFFENSES ALLEGED TO HAVE BEEN COMMITTED BY A CHILD UNDER THE AGE OF EIGHTEEN AGAINST A PARENT OR GUARDIAN SHALL BE ADDRESSED IN ACCORDANCE WITH ARTICLE SEVEN, RATHER THAN THIS ARTICLE, OF THIS ACT. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

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

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

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