

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KRUEGER -- 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 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
16 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-
17 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE
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-
56 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE

1 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW
2 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR
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.