

1195--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. GUNTHER, ZEBROWSKI, JAFFEE, ABBATE, SCARBOROUGH, RIVERA, HOOPER, COLTON, ROSENTHAL, GALEF, ROSA -- Multi-Sponsored by -- M. of A. BOYLAND, CROUCH, MAGEE -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

LBD00949-03-4

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

3 6-A. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFOR-
4 MATION 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 3. Section 446 of the family court act, as amended by chapter 526 of
20 the laws of 2013, and the closing paragraph as added by chapter 480 of
21 the laws of 2013, is amended to read as follows:

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

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

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

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

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

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

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

52 (g) to provide, either directly or by means of medical and health
53 insurance, for expenses incurred for medical care and treatment arising
54 from the incident or incidents forming the basis for the issuance of the
55 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) [1.] (1) to promptly return specified identification documents to
9 the protected party, in whose favor the order of protection or temporary
10 order of protection is issued; provided, however, that such order may:
11 (A) include any appropriate provision designed to ensure that any such
12 document is available for use as evidence in this proceeding, and avail-
13 able if necessary for legitimate use by the party against whom such
14 order is issued; and (B) specify the manner in which such return shall
15 be accomplished.

16 [2.] (2) For purposes of this subdivision, "identification document"
17 shall mean any of the following: (A) exclusively in the name of the
18 protected party: birth certificate, passport, social security card,
19 health insurance or other benefits card, a card or document used to
20 access bank, credit or other financial accounts or records, tax returns,
21 any driver's license, and immigration documents including but not limit-
22 ed to a United States permanent resident card and employment authori-
23 zation document; and (B) upon motion and after notice and an opportunity
24 to be heard, any of the following, including those that may reflect
25 joint use or ownership, that the court determines are necessary and are
26 appropriately transferred to the protected party: any card or document
27 used to access bank, credit or other financial accounts or records, tax
28 returns, and any other identifying cards and documents; and

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

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

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

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

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

55 6. The protected party in whose favor the order of protection or
56 temporary order of protection is issued may not be held to violate an

1 order issued in his or her favor nor may such protected party be
2 arrested for violating such order.

3 7. 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 4. Section 551 of the family court act, as amended by chapter 526 of
20 the laws of 2013, and the closing paragraph as added by chapter 480 of
21 the laws of 2013, is amended to read as follows:

22 S 551. Order of protection. 1. The court may make an order of
23 protection in assistance or as a condition of any other order made under
24 this article. The order of protection may set forth reasonable condi-
25 tions of behavior to be observed for a specified time by the petitioner
26 or respondent or both. No order of protection may direct any party to
27 observe conditions of behavior unless the party requesting the order of
28 protection has served and filed a petition or counter-claim in accord-
29 ance with section one hundred fifty-four-b of this act. Such an order
30 may require the petitioner or the respondent:

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

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

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

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

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

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

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

55 (h) to pay the reasonable counsel fees and disbursements involved in
56 obtaining or enforcing the order of the person who is protected by such

1 order if such order is issued or enforced, whether or not an order of
2 filiation is made;

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

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

10 (j) [1.] (1) to promptly return specified identification documents to
11 the protected party, in whose favor the order of protection or temporary
12 order of protection is issued; provided, however, that such order may:

13 (A) include any appropriate provision designed to ensure that any such
14 document is available for use as evidence in this proceeding, and avail-
15 able if necessary for legitimate use by the party against whom such
16 order is issued; and (B) specify the manner in which such return shall
17 be accomplished.

18 [2.] (2) For purposes of this subdivision, "identification document"
19 shall mean any of the following: (A) exclusively in the name of the
20 protected party: birth certificate, passport, social security card,
21 health insurance or other benefits card, a card or document used to
22 access bank, credit or other financial accounts or records, tax returns,
23 any driver's license, and immigration documents including but not limit-
24 ed to a United States permanent resident card and employment authori-
25 zation document; and (B) upon motion and after notice and an opportunity
26 to be heard, any of the following, including those that may reflect
27 joint use or ownership, that the court determines are necessary and are
28 appropriately transferred to the protected party: any card or document
29 used to access bank, credit or other financial accounts or records, tax
30 returns, and any other identifying cards and documents; and

31 (k) to observe such other conditions as are necessary to further the
32 purposes of protection.

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

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

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

52 5. The protected party in whose favor the order of protection or
53 temporary order of protection is issued may not be held to violate an
54 order issued in his or her favor nor may such protected party be
55 arrested for violating such order.

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

17 S 5. Section 656 of the family court act, as amended by chapter 526 of
18 the laws of 2013, and the closing paragraph as added by chapter 480 of
19 the laws of 2013, is amended to read as follows:

20 S 656. Order of protection. 1. The court may make an order of
21 protection and an order of probation in assistance or as a condition of
22 any other order made under this part. The order of protection may set
23 forth reasonable conditions of behavior to be observed for a specific
24 time by any petitioner or any respondent, and shall specify if an order
25 of probation is in effect. No order of protection may direct any party
26 to observe conditions of behavior unless the party requesting the order
27 of protection has served and filed a petition or counter-claim in
28 accordance with section one hundred fifty-four-b of this act. Such an
29 order may require the petitioner or the respondent:

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

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

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

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

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

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

50 (g) to provide, either directly or by means of medical and health
51 insurance, for expenses incurred for medical care and treatment arising
52 from the incident or incidents forming the basis for the issuance of the
53 order;

54 (h) to pay the reasonable counsel fees and disbursements involved in
55 obtaining or enforcing the order of the person who is protected by such
56 order if such order is issued or enforced;

1 (i) [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 petitioner or a minor
4 child residing in the 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 (j) [1.] (1) to promptly return specified identification documents to
9 the protected party, in whose favor the order of protection or temporary
10 order of protection is issued; provided, however, that such order may:

11 (A) include any appropriate provision designed to ensure that any such
12 document is available for use as evidence in this proceeding, and avail-
13 able if necessary for legitimate use by the party against whom such
14 order is issued; and (B) specify the manner in which such return shall
15 be accomplished.

16 [2.] (2) For purposes of this subdivision, "identification document"
17 shall mean any of the following: (A) exclusively in the name of the
18 protected party: birth certificate, passport, social security card,
19 health insurance or other benefits card, a card or document used to
20 access bank, credit or other financial accounts or records, tax returns,
21 any driver's license, and immigration documents including but not limit-
22 ed to a United States permanent resident card and employment authori-
23 zation document; and (B) upon motion and after notice and an opportunity
24 to be heard, any of the following, including those that may reflect
25 joint use or ownership, that the court determines are necessary and are
26 appropriately transferred to the protected party: any card or document
27 used to access bank, credit or other financial accounts or records, tax
28 returns, and any other identifying cards and documents; and

29 (k) to observe such other conditions as are necessary to further the
30 purposes of protection.

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

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

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

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

52 6. The protected party in whose favor the order of protection or
53 temporary order of protection is issued may not be held to violate an
54 order issued in his or her favor nor may such protected party be
55 arrested for violating such order.

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

17 S 6. Section 842 of the family court act, as amended by chapter 526 of
18 the laws of 2013, and the closing paragraph as added by chapter 480 of
19 the laws of 2013, is amended to read as follows:

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

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

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

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

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

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

(f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced;

(g) to require the respondent to participate in a batterer's education program designed to help end violent behavior, which may include referral to drug and alcohol counselling, and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the petitioner, the state or any political subdivision thereof;

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

(i) [1.] (1) to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.

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

(j) [1.] (1) to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (A) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (B) specify the manner in which such return shall be accomplished.

[2.] (2) For purposes of this subdivision, "identification document" shall mean any of the following: (A) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver's license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (B) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents; and

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

1 2. The court may also award custody of the child, during the term of
2 the order of protection to either parent, or to an appropriate relative
3 within the second degree. Nothing in this section gives the court power
4 to place or board out any child or to commit a child to an institution
5 or agency.

6 3. Notwithstanding the provisions of section eight hundred seventeen
7 of this article, where a temporary order of child support has not
8 already been issued, the court may in addition to the issuance of an
9 order of protection pursuant to this section, issue an order for tempo-
10 rary child support in an amount sufficient to meet the needs of the
11 child, without a showing of immediate or emergency need. The court shall
12 make an order for temporary child support notwithstanding that informa-
13 tion with respect to income and assets of the respondent may be unavail-
14 able. Where such information is available, the court may make an award
15 for temporary child support pursuant to the formula set forth in subdi-
16 vision one of section four hundred thirteen of this act. Temporary
17 orders of support issued pursuant to this article shall be deemed to
18 have been issued pursuant to section four hundred thirteen of this act.

19 4. Upon making an order for temporary child support pursuant to this
20 subdivision, the court shall advise the petitioner of the availability
21 of child support enforcement services by the support collection unit of
22 the local department of social services, to enforce the temporary order
23 and to assist in securing continued child support, and shall set the
24 support matter down for further proceedings in accordance with article
25 four of this act.

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

32 6. In any proceeding in which an order of protection or temporary
33 order of protection or a warrant has been issued under this section, the
34 clerk of the court shall issue to the petitioner and respondent and his
35 counsel and to any other person affected by the order a copy of the
36 order of protection or temporary order of protection and ensure that a
37 copy of the order of protection or temporary order of protection be
38 transmitted to the local correctional facility where the individual is
39 or will be detained, the state or local correctional facility where the
40 individual is or will be imprisoned, and the supervising probation
41 department or the department of corrections and community supervision
42 where the individual is under probation or parole supervision.

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

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

54 9. The protected party in whose favor the order of protection or
55 temporary order of protection is issued may not be held to violate an

1 order issued in his or her favor nor may such protected party be
2 arrested for violating such order.

3 10. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFOR-
4 MATION 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 7. This act shall take effect immediately.