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

6406

2013-2014 Regular Sessions

I N A S S E M B L Y

March 26, 2013

Introduced by M. of A. KATZ -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the criminal procedure law, in relation to preventing intimidation in all order of protection proceedings

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

Section 1. Subdivision 1 of section 821-a of the family court act, as added by chapter 222 of the laws of 1994, is amended to to read as follows:

1. Upon the filing of a petition under this article, the court shall advise the petitioner of the right to retain legal representation [or], if [indigent,] INDIGENT the right to have counsel appointed pursuant to section two hundred sixty-two of this act AND THE RIGHT TO PROVIDE TESTIMONY AGAINST THE RESPONDENT AT ANY HEARING BY VIDEO-CONFERENCE.

S 2. Subdivision (a) of section 823 of the family court act is amended to read as follows:

(a) Rules of court may authorize the probation service

(i) to confer with any person seeking to file a petition, the potential petitioner and other interested persons concerning the advisability of filing a petition under this article, [and]

(ii) to attempt through conciliation and agreement informally to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction, AND

(III) TO ADVISE THE PETITIONER THAT THEY HAVE THE RIGHT TO PROVIDE TESTIMONY AGAINST THE RESPONDENT AT ANY HEARING BY VIDEO-CONFERENCE.

S 3. Section 832 of the family court act, as amended by chapter 529 of the laws of 1963, is amended to read as follows:

S 832. [Definition of "fact-finding hearing"] FACT-FINDING HEARING. When used in this article, "fact-finding hearing" means a hearing to determine whether the allegations of a petition under section eight

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

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hundred twenty-one are supported by a fair preponderance of the evidence. A PETITIONER PROVIDING TESTIMONY PURSUANT TO THIS SECTION MAY ELECT TO PROVIDE SUCH TESTIMONY BY VIDEO-CONFERENCE.

S 4. Section 833 of the family court act is amended to read as follows:

S 833. [Definition of "dispositional hearing"] DISPOSITIONAL HEARING. When used in this article, "dispositional hearing" means in the case of a petition under this article a hearing to determine what order of disposition should be made. A PETITIONER PROVIDING TESTIMONY PURSUANT TO THIS SECTION MAY ELECT TO PROVIDE SUCH TESTIMONY BY VIDEO-CONFERENCE.

S 5. Section 530.12 of the criminal procedure law is amended by adding a new subdivision 8-a to read as follows:

8-A. IN ANY PROCEEDING BROUGHT PURSUANT TO THIS SECTION THE COMPLAINANT SHALL HAVE THE RIGHT TO PROVIDE TESTIMONY AGAINST THE DEFENDANT THROUGH VIDEO-CONFERENCE.

S 6. Paragraphs (h) and (i) of subdivision 2 of section 530.11 of the criminal procedure law are relettered (i) and (j) and a new paragraph (h) is added to read as follows:

(H) THAT THE COMPLAINANT SHALL HAVE THE RIGHT TO PROVIDE TESTIMONY AGAINST THE DEFENDANT THROUGH VIDEO-CONFERENCE.

S 7. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all proceedings commenced or filed after such date.