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I N   A S S E M B L Y

April 11, 2014

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Introduced by M. of A. CUSICK -- read once and referred to the Committee  
on Codes

AN ACT to amend the criminal procedure law, in relation to orders of  
protection for family and non-family offenses

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

1     Section 1. Subdivision 11 of section 530.12 of the criminal procedure  
2     law, as amended by chapter 498 of the laws of 1993, the opening para-  
3     graph as amended by chapter 597 of the laws of 1998, paragraph (a) as  
4     amended by chapter 222 of the laws of 1994 and paragraph (d) as amended  
5     by chapter 644 of the laws of 1996, is amended to read as follows:  
6     11. If a defendant is brought before the court for failure to obey any  
7     lawful order issued under this section, or an order of protection issued  
8     by a court of competent jurisdiction in another state, territorial or  
9     tribal jurisdiction, and if, after hearing, the court is satisfied by  
10    competent proof that the defendant has willfully failed to obey any such  
11    order, the court [may] SHALL:  
12    (a) revoke an order of recognizance or revoke an order of bail or  
13    order forfeiture of such bail and commit the defendant to custody FOR A  
14    MINIMUM PERIOD OF THIRTY DAYS; or  
15    (b) restore the case to the calendar when there has been an adjourn-  
16    ment in contemplation of dismissal and commit the defendant to custody  
17    FOR A MINIMUM PERIOD OF THIRTY DAYS; or  
18    (c) revoke a conditional discharge in accordance with section 410.70  
19    of this chapter and impose probation supervision or impose a sentence of  
20    imprisonment in accordance with the penal law based on the original  
21    conviction FOR A MINIMUM PERIOD OF THIRTY DAYS; or  
22    (d) revoke probation in accordance with section 410.70 of this chapter  
23    and impose a sentence of imprisonment in accordance with the penal law  
24    based on the original conviction FOR A MINIMUM PERIOD OF THIRTY DAYS. In  
25    addition, if the act which constitutes the violation of the order of  
26    protection or temporary order of protection is a crime or a violation  
27    the defendant may be charged with and tried for that crime or violation.

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

LBD03018-01-3

1 S 2. Section 530.12 of the criminal procedure law is amended by adding  
2 a new subdivision 11-a to read as follows:

3 11-A. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION ELEVEN OF  
4 THIS SECTION, IF A DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE  
5 SET FORTH IN TITLE H OF PART THREE OF THE PENAL LAW, THE COURT SHALL  
6 ORDER THAT THE DEFENDANT BE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM  
7 DEVICE WHICH SHALL RELIABLY MONITOR, TRACK AND LOCATE THE POSITION OF  
8 SUCH DEFENDANT. SUCH DEFENDANT SHALL BE EQUIPPED WITH SUCH GLOBAL POSI-  
9 TIONING DEVICE FOR THE DURATION OF SUCH TEMPORARY ORDER OF PROTECTION OR  
10 ANY RENEWAL THEREOF.

11 S 3. Subdivision 8 of section 530.13 of the criminal procedure law, as  
12 added by chapter 388 of the laws of 1984, is amended to read as follows:

13 8. If a defendant is brought before the court for failure to obey any  
14 lawful order issued under this section and if, after hearing, the court  
15 is satisfied by competent proof that the defendant has willfully failed  
16 to obey any such order, the court [may] SHALL:

17 (a) revoke an order of recognizance or bail and commit the defendant  
18 to custody FOR A MINIMUM PERIOD OF THIRTY DAYS; or

19 (b) restore the case to the calendar when there has been an adjourn-  
20 ment in contemplation of dismissal and commit the defendant to custody  
21 [or impose or increase bail pending a trial of the original crime or  
22 violation] FOR A MINIMUM PERIOD OF THIRTY DAYS; or

23 (c) revoke a conditional discharge in accordance with section 410.70  
24 of this chapter and [impose probation supervision or] impose a sentence  
25 of imprisonment in accordance with the penal law based on the original  
26 conviction WHICH SHALL BE FOR A MINIMUM PERIOD OF THIRTY DAYS; or

27 (d) revoke probation in accordance with section 410.70 of this chapter  
28 and impose a sentence of imprisonment in accordance with the penal law  
29 based on the original conviction WHICH SHALL BE FOR A MINIMUM PERIOD OF  
30 THIRTY DAYS. In addition, if the act which constitutes the violation of  
31 the order of protection or temporary order of protection is a crime or a  
32 violation the defendant may be charged with and tried for that crime or  
33 violation.

34 S 4. Subdivision 9 of section 530.13 of the criminal procedure law, as  
35 renumbered by chapter 388 of the laws of 1984, is renumbered subdivision  
36 10 and a new subdivision 9 is added to read as follows:

37 9. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION EIGHT OF THIS  
38 SECTION, IF A DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE SET  
39 FORTH IN TITLE H OF PART THREE OF THE PENAL LAW, THE COURT SHALL ORDER  
40 THAT THE DEFENDANT BE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM DEVICE  
41 WHICH SHALL RELIABLY MONITOR, TRACK AND LOCATE THE POSITION OF SUCH  
42 DEFENDANT. SUCH DEFENDANT SHALL BE EQUIPPED WITH SUCH GLOBAL POSITIONING  
43 DEVICE FOR THE DURATION OF SUCH TEMPORARY ORDER OF PROTECTION OR ANY  
44 RENEWAL THEREOF.

45 S 5. This act shall take effect on the sixtieth day after it shall  
46 have become a law.