

6547--B

Cal. No. 167

2013-2014 Regular Sessions

I N A S S E M B L Y

April 8, 2013

Introduced by M. of A. WEINSTEIN, PAULIN, SCARBOROUGH, WEPRIN, GIBSON --
Multi-Sponsored by -- M. of A. ABBATE, BARRETT, BRENNAN, BUCHWALD,
COOK, FAHY, GABRYSZAK, GALEF, GLICK, HIKIND, JACOBS, JAFFEE, MAGNAREL-
LI, MAISEL, MILLMAN, NOLAN, OTIS, PERRY, RIVERA, ROSA, ROSENTHAL,
STECK, TITONE, TITUS -- read once and referred to the Committee on
Judiciary -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee -- reported and referred to
the Committee on Codes -- passed by Assembly and delivered to the
Senate, recalled from the Senate, vote reconsidered, bill amended,
ordered reprinted, retaining its place on the special order of third
reading

AN ACT to amend the domestic relations law, the family court act and the
criminal procedure law, in relation to the scope of orders of
protection and temporary orders of protection

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

1 Section 1. Paragraph b of subdivision 3 of section 240 of the domestic
2 relations law, as amended by chapter 597 of the laws of 1998, is amended
3 and a new paragraph i is added to read as follows:
4 b. An order of protection entered pursuant to this subdivision shall
5 bear in a conspicuous manner, on the front page of said order, the
6 language "Order of protection issued pursuant to section two hundred
7 forty of the domestic relations law". THE ORDER OF PROTECTION SHALL
8 ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN
9 IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT
10 OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS
11 ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
12 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
13 VIOLATING THIS ORDER.". The absence of such language shall not affect
14 the validity of such order. The presentation of a copy of such an order
15 to any peace officer acting pursuant to his or her special duties, or

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

LBD10169-08-3

1 police officer, shall constitute authority, for that officer to arrest a
2 person when that person has violated the terms of such an order, and
3 bring such person before the court and, otherwise, so far as lies within
4 the officer's power, to aid in securing the protection such order was
5 intended to afford.

6 I. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
7 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE SUCH
8 AN ORDER NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR VIOLATING SUCH
9 ORDER.

10 S 2. Subdivision 2 of section 252 of the domestic relations law, as
11 added by chapter 349 of the laws of 1995, is amended and a new subdivi-
12 sion 9-a is added to read as follows:

13 2. An order of protection entered pursuant to this subdivision shall
14 bear in a conspicuous manner, on the front page of said order, the
15 language "Order of protection issued pursuant to section two hundred
16 fifty-two of the domestic relations law". THE ORDER OF PROTECTION SHALL
17 ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN
18 IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT
19 OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS
20 ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
21 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
22 VIOLATING THIS ORDER.". The absence of such language shall not affect
23 the validity of such order. The presentation of a copy of such an order
24 to any peace officer acting pursuant to his or her special duties, or
25 police officer, shall constitute authority, for that officer to arrest a
26 person when that person has violated the terms of such an order, and
27 bring such person before the court and, otherwise, so far as lies within
28 the officer's power, to aid in securing the protection such order was
29 intended to afford.

30 9-A. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
31 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
32 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
33 ARRESTED FOR VIOLATING SUCH ORDER.

34 S 3. Section 155 of the family court act is amended by adding a new
35 subdivision 3 to read as follows:

36 3. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
37 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
38 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
39 ARRESTED FOR VIOLATING SUCH ORDER.

40 S 4. Subdivision 3 of section 168 of the family court act, as added by
41 chapter 164 of the laws of 1989, is amended to read as follows:

42 3. Any order of protection or temporary order of protection issued by
43 the family court shall bear, in a conspicuous manner, the language, as
44 the case may be, "this order constitutes an order of protection" or
45 "this order constitutes a temporary order of protection", on the front
46 page of said order. THE ORDER OF PROTECTION OR TEMPORARY ORDER OF
47 PROTECTION SHALL ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF
48 PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR
49 CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM
50 THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR
51 TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE
52 THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.". The absence of
53 such language shall not affect the validity of such order.

54 S 5. Section 446 of the family court act is amended by adding a new
55 closing paragraph to read as follows:

1 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
2 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
3 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
4 VIOLATING SUCH ORDER.

5 S 6. Section 551 of the family court act is amended by adding a new
6 closing paragraph to read as follows:

7 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
8 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
9 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
10 VIOLATING SUCH ORDER.

11 S 7. Section 656 of the family court act is amended by adding a new
12 closing paragraph to read as follows:

13 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
14 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
15 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
16 VIOLATING SUCH ORDER.

17 S 8. Section 759 of the family court act is amended by adding a new
18 closing paragraph to read as follows:

19 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
20 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
21 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
22 VIOLATING SUCH ORDER.

23 S 9. Section 842 of the family court act is amended by adding a new
24 closing paragraph to read as follows:

25 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
26 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
27 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
28 VIOLATING SUCH ORDER.

29 S 10. Section 846 of the family court act is amended by adding a new
30 subdivision (a-1) to read as follows:

31 (A-1) THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
32 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
33 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
34 ARRESTED FOR VIOLATING SUCH ORDER.

35 S 11. Section 1056 of the family court act is amended by adding a new
36 subdivision 7 to read as follows:

37 7. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
38 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
39 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
40 ARRESTED FOR VIOLATING SUCH ORDER.

41 S 12. Subdivision 4 of section 140.10 of the criminal procedure law is
42 amended by adding a new second undesignated paragraph to read as
43 follows:

44 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
45 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
46 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
47 VIOLATING SUCH ORDER.

48 S 13. Subdivisions 6 and 8 of section 530.12 of the criminal procedure
49 law, subdivision 6 as amended by chapter 164 of the laws of 1989, the
50 closing paragraph of subdivision 6 as added by chapter 222 of the laws
51 of 1994 and subdivision 8 as amended by section 81 of subpart B of part
52 C of chapter 62 of the laws of 2011, are amended to read as follows:

53 6. An order of protection or a temporary order of protection issued
54 pursuant to subdivision one, two, three, four or five of this section
55 shall bear in a conspicuous manner the term "order of protection" or
56 "temporary order of protection" as the case may be and a copy shall be

1 filed by the clerk of the court with the sheriff's office in the county
2 in which the complainant resides, or, if the complainant resides within
3 a city, with the police department of such city. THE ORDER OF
4 PROTECTION OR TEMPORARY ORDER OF PROTECTION SHALL ALSO CONTAIN THE
5 FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN
6 IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNI-
7 CATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF
8 PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE
9 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
10 VIOLATING THIS ORDER.". The absence of such language shall not affect
11 the validity of such order. A copy of such order of protection or
12 temporary order of protection may from time to time be filed by the
13 clerk of the court with any other police department or sheriff's office
14 having jurisdiction of the residence, work place, and school of anyone
15 intended to be protected by such order. A copy of the order may also be
16 filed by the complainant at the appropriate police department or sher-
17 iff's office having jurisdiction. Any subsequent amendment or revocation
18 of such order shall be filed in the same manner as herein provided.

19 Such order of protection shall plainly state the date that such order
20 expires.

21 8. In any proceeding in which an order of protection or temporary
22 order of protection or a warrant has been issued under this section, the
23 clerk of the court shall issue to the complainant and defendant and
24 defense counsel and to any other person affected by the order a copy of
25 the order of protection or temporary order of protection and ensure that
26 a copy of the order of protection or temporary order of protection be
27 transmitted to the local correctional facility where the individual is
28 or will be detained, the state or local correctional facility where the
29 individual is or will be imprisoned, and the supervising probation
30 department or department of corrections and community supervision where
31 the individual is under probation or parole supervision. The presenta-
32 tion of a copy of such order or a warrant to any peace officer acting
33 pursuant to his or her special duties or police officer shall constitute
34 authority for him or her to arrest a person who has violated the terms
35 of such order and bring such person before the court and, otherwise, so
36 far as lies within his or her power, to aid in securing the protection
37 such order was intended to afford. THE PROTECTED PARTY IN WHOSE FAVOR
38 THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IS ISSUED MAY
39 NOT BE HELD TO VIOLATE AN ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH
40 PROTECTED PARTY BE ARRESTED FOR VIOLATING SUCH ORDER.

41 S 14. This act shall take effect immediately and shall apply to all
42 orders of protection regardless of when such orders were issued, except
43 that:

44 (a) the amendments to paragraph b of subdivision 3 of section 240 of
45 the domestic relations law made by section one of this act, the amend-
46 ments to subdivision 2 of section 252 of the domestic relations law made
47 by section two of this act, the amendments to subdivision 3 of section
48 168 of the family court act made by section four of this act, and the
49 amendments to subdivision 6 of section 530.12 of the criminal procedure
50 law made by section thirteen of this act shall take effect on the sixti-
51 eth day after this act shall have become a law, and shall apply to
52 orders of protection issued on or after such effective date; and

53 (b) the amendments to subdivision 4 of section 140.10 of the criminal
54 procedure law, made by section twelve of this act, shall not affect the
55 repeal of such subdivision, and shall be deemed repealed therewith.