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

7400

2013-2014 Regular Sessions

I N A S S E M B L Y

May 15, 2013

Introduced by M. of A. WEINSTEIN, LENTOL -- 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 adding identity theft, larceny and coercion as crimes over which family courts and criminal courts have concurrent jurisdiction in certain circumstances; and to amend the family court act, the domestic relations law and the criminal procedure law, in relation to authorizing courts, upon issuance of an order of protection, to order a respondent to return certain documents, and debit and credit devices to the protected party

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

Section 1. The opening paragraph of subdivision 1 of section 812 of the family court act, as separately amended by chapters 341 and 405 of the laws of 2010, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, assault in the third degree [or], an attempted assault, [criminal obstruction of breathing or blood circulation or strangulation] IDENTITY THEFT IN THE FIRST DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN THE THIRD DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN THE

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

LBD09958-07-3

THIRD DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISIONS ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

S 2. Paragraph (a) of subdivision 1 of section 821 of the family court act, as amended by chapter 309 of the laws of 2011, is amended to read as follows:

(a) An allegation that the respondent assaulted or attempted to assault his or her spouse, or former spouse, parent, child or other member of the same family or household or engaged in disorderly conduct, harassment, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking, criminal mischief, menacing, reckless endangerment, criminal obstruction of breathing or blood circulation [or], strangulation, IDENTITY THEFT IN THE FIRST DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN THE THIRD DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN THE THIRD DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISIONS ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW, toward any such person;

S 3. Section 446 of the family court act, as amended by chapter 948 of the laws of 1984, the opening paragraph as amended by chapter 706 of the laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and subdivision (i) as added by chapter 483 of the laws of 1995, subdivision (h) as added and subdivision (i) as relettered by chapter 253 of the laws of 2006, paragraph 1 of subdivision (h) as amended by chapter 532 of the laws of 2008, the second undesignated paragraph as amended by chapter 326 of the laws of 2008, the third undesignated paragraph as added by chapter 73 of the laws of 2007 and the closing paragraph as added by chapter 341 of the laws of 2010, is amended to read as follows:

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

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

(b) to permit a parent, or a person entitled to visitation by a court 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 participate in an educational program 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 state or any political subdivision thereof;

(g) 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[.];

(h) 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 person protected by the order or a minor child residing in such person's household.

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[.];

(i) 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. 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

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

The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. In making orders of protection, the court shall so act as to

insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.

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

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

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

S 4. Section 551 of the family court act, as amended by chapter 948 of the laws of 1984, the opening paragraph as amended by chapter 706 of the laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and subdivision (j) as added by chapter 483 of the laws of 1995, subdivision (i) as added and subdivision (j) as relettered by chapter 253 of the laws of 2006, paragraph 1 of subdivision (i) as amended by chapter 532 of the laws of 2008, the third undesignated paragraph as amended by chapter 326 of the laws of 2008 and the closing paragraph as added by chapter 341 of the laws of 2010, is amended to read as follows:

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

(a) to stay away from the home, school, business or place of employment of any other party, the other parent, or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court 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 participate in an educational program 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 state or any political subdivision thereof;

(g) 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;

(h) 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, whether or not an order of filiation is made[.];

(i) 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 person protected by the order or a minor child residing in such person's household.

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. 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. 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.

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

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

In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss an application for such an order, solely on the basis that the acts or events alleged are not relatively contem-

poraneous with the date of the application or the conclusion of the action. The duration of any temporary order shall not by itself be a factor in determining the length or issuance of any final order.

S 5. Section 656 of the family court act, as amended by chapter 948 of the laws of 1984, the opening paragraph as amended by chapter 706 of the laws of 1988, subdivisions (a), (b), (c), (d) and (e) as amended and subdivision (j) as added by chapter 483 of the laws of 1995, subdivision (i) as added and subdivision (j) as relettered by chapter 253 of the laws of 2006, the second undesignated paragraph as amended by chapter 326 of the laws of 2008, the third undesignated paragraph as added by chapter 73 of the laws of 2007 and the closing paragraph as added by chapter 341 of the laws of 2010, is amended to read as follows:

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

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

(b) to permit a parent, or a person entitled to visitation by a court 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 participate in an educational program 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 state or any political subdivision thereof;

(g) 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;

(h) 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[.];

(i) 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. "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. 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. 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.

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

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

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

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

S 6. Section 842 of the family court act, as amended by chapter 222 of the laws of 1994, the opening paragraph as separately amended by chapters 325 and 341 of the laws of 2010, subdivisions (a), (b), (c), (d) and (e) as amended and subdivision (j) as added by chapter 483 of the laws of 1995, subdivision (i) as added and subdivision (j) as relettered by chapter 253 of the laws of 2006, the second undesignated paragraph as amended by chapter 325 of the laws of 2010, the third undesignated paragraph as amended by chapter 224 of the laws of 1994, the sixth undesignated paragraph as amended by section 114 of subpart B of part C of chapter 62 of the laws of 2011, the seventh undesignated paragraph as amended by chapter 326 of the laws of 2008 and the closing paragraph as added by chapter 73 of the laws of 2007, is amended to read as follows:

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

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

(b) to permit a parent, or a person entitled to visitation by a court 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; [and]

(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. 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. "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. 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. 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.

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

Notwithstanding the provisions of section eight hundred seventeen of this article, where a temporary order of child support has not already been issued, the court may in addition to the issuance of an order of protection pursuant to this section, issue an order for temporary child support in an amount sufficient to meet the needs of the child, without a showing of immediate or emergency need. The court shall make an order for temporary child support notwithstanding that information with respect to income and assets of the respondent may be unavailable. Where such information is available, the court may make an award for temporary child support pursuant to the formula set forth in subdivision one of section four hundred thirteen of this act. Temporary orders of support issued pursuant to this article shall be deemed to have been issued pursuant to section four hundred thirteen of this act.

Upon making an order for temporary child support pursuant to this subdivision, the court shall advise the petitioner of the availability

of child support enforcement services by the support collection unit of the local department of social services, to enforce the temporary order and to assist in securing continued child support, and shall set the support matter down for further proceedings in accordance with article four of this act.

Where the court determines that the respondent has employer-provided medical insurance, the court may further direct, as part of an order of temporary support under this subdivision, that a medical support execution be issued and served upon the respondent's employer as provided for in section fifty-two hundred forty-one of the civil practice law and rules.

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

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

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

S 7. Subdivision 1 of section 1056 of the family court act, as amended by chapter 622 of the laws of 1990, paragraphs (a), (b), (c), (d) and (e) as amended and paragraph (h) as added by chapter 483 of the laws of 1995, paragraph (g) as added and paragraph (h) as relettered by chapter 253 of the laws of 2006 and subparagraph 1 of paragraph (g) as amended by chapter 532 of the laws of 2008, is amended to read as follows:

1. The court may make an order of protection in assistance or as a condition of any other order made under this part. Such order of protection shall remain in effect concurrently with, shall expire no later than the expiration date of, and may be extended concurrently with, such other order made under this part, except as provided in subdivision four of this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or a person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or both. Such an order may require any such person

(a) to stay away from the home, school, business or place of employment of the other spouse, parent or person legally responsible for the child's care or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court 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 and welfare of a child;

(f) 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[.];

(g) 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 person protected by the order or a minor child residing in such person's household.

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[.];

(h) 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. FOR PURPOSES OF THIS PARAGRAPH, "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

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

S 8. Paragraph a of subdivision 3 of section 240 of the domestic relations law, as amended by chapter 597 of the laws of 1998, subparagraph 7 as added and subparagraph 8 as renumbered by chapter 532 of the laws of 2008, is amended to read as follows:

a. The court may make an order of protection in assistance or as a condition of any other order made under this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by any party. Such an order may require any party:

(1) to stay away from the home, school, business or place of employment of the child, other parent or any other party, and to stay away from any other specific location designated by the court;

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

(3) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of the criminal procedure law, 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;

(4) 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 a proceeding or action under this chapter or the family court act; [or]

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

(6) 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[.];

(7) 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 person protected by the order or a minor child residing in such person's household. "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[.];

(8) (I) 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.

(II) FOR PURPOSES OF THIS SUBPARAGRAPH, "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

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

S 9. Subdivision 1 of section 252 of the domestic relations law, as amended by chapter 349 of the laws of 1995, paragraph (g) as added and paragraph (h) as relettered by chapter 532 of the laws of 2008, is amended to read as follows:

1. In an action for divorce, separation or annulment or in an action to declare the nullity of a void marriage in the supreme court, the supreme court or the family court shall entertain an application for an

order of protection or temporary order of protection by either party. Such an order may require any party:

(a) to stay away from the home, school, business or place of employment of the child, other parent or any other party, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court 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 530.11 of the criminal procedure law, or any criminal offense against such 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 a proceeding or action under this chapter or the family court act;

(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; [or]

(g) 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 person protected by the order or a minor child residing in such person's household. "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[.];

(h) (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) FOR PURPOSES OF THIS PARAGRAPH, "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

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

S 10. The opening paragraph of subdivision 1 of section 530.11 of the criminal procedure law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the

second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree [or], an attempted assault, IDENTITY THEFT IN THE FIRST DEGREE, IDENTITY THEFT IN THE SECOND DEGREE, IDENTITY THEFT IN THE THIRD DEGREE, GRAND LARCENY IN THE FOURTH DEGREE, GRAND LARCENY IN THE THIRD DEGREE OR COERCION IN THE SECOND DEGREE AS SET FORTH IN SUBDIVISIONS ONE, TWO AND THREE OF SECTION 135.60 OF THE PENAL LAW between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:

S 11. Subdivision 1 of section 530.12 of the criminal procedure law, as amended by chapter 416 of the laws of 1981, the opening paragraph as amended by chapter 137 of the laws of 2007, paragraph (a) as amended by chapter 702 of the laws of 1988, paragraphs (b), (c) and (d) as amended by chapter 483 of the laws of 1995, paragraph (e) as amended and paragraph (f) as added by chapter 253 of the laws of 2006 and paragraph (g) as added by chapter 73 of the laws of 2007, is amended to read as follows:

1. When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal.

(A) In addition to any other conditions, such an order may require the defendant: [(a)] (1) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons;

[(b)] (2) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

[(c)] (3) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

[(d)] (4) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;

[(e)] (5) 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 chapter, the family court act or the domestic relations law;

[(f) 1.] (6) (A) to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.

[2.] (B) "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[.

(g)];

(7) (A) 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: (I) 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 (II) SPECIFY THE MANNER IN WHICH SUCH RETURN SHALL BE ACCOMPLISHED.

(B) FOR PURPOSES OF THIS SUBPARAGRAPH, "IDENTIFICATION DOCUMENT" SHALL MEAN ANY OF THE FOLLOWING: (I) 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 (II) 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.

(B) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

S 12. This act shall take effect immediately.