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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to violations of orders of protection and temporary orders of protection and probation in family offense cases

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

Section 1. Section 446 of the family court act is amended by adding a new closing paragraph to read as follows:

A VIOLATION OF AN ORDER OF PROTECTION ISSUED PURSUANT TO THIS SECTION SHALL BE DEALT WITH IN ACCORDANCE WITH PART FIVE OF THIS ARTICLE OR SECTIONS EIGHT HUNDRED FORTY-SIX, EIGHT HUNDRED FORTY-SIX-A AND EIGHT HUNDRED FORTY-SEVEN OF THIS ACT.

S 2. Section 551 of the family court act is amended by adding a new closing paragraph to read as follows:

A VIOLATION OF AN ORDER OF PROTECTION ISSUED PURSUANT TO THIS SECTION SHALL BE DEALT WITH IN ACCORDANCE WITH PART FIVE OF ARTICLE FOUR OR SECTIONS EIGHT HUNDRED FORTY-SIX, EIGHT HUNDRED FORTY-SIX-A AND EIGHT HUNDRED FORTY-SEVEN OF THIS ACT.

S 3. Section 656 of the family court act is amended by adding a new closing paragraph to read as follows:

A VIOLATION OF AN ORDER OF PROTECTION ISSUED PURSUANT TO THIS SECTION SHALL BE DEALT WITH IN ACCORDANCE WITH SECTIONS EIGHT HUNDRED FORTY-SIX, EIGHT HUNDRED FORTY-SIX-A AND EIGHT HUNDRED FORTY-SEVEN OF THIS ACT.

S 4. Subdivision (c) of section 841 of the family court act, as amended by chapter 222 of the laws of 1994, is amended to read as follows:

(c) placing the respondent on probation for a period not exceeding [one year, and requiring] TWO YEARS OR, IF AN ORDER OF PROTECTION HAS BEEN ISSUED FOR FIVE YEARS PURSUANT TO SECTION EIGHT HUNDRED FORTY-TWO

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

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OF THIS PART, FIVE YEARS. THE ORDER MAY REQUIRE respondent to participate in a batterer's education program designed to help end violent behavior, which may include referral to drug and alcohol counseling, and to pay the costs thereof if respondent 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; or

S 5. Section 846-a of the family court act, as amended by chapter 597 of the laws of 1998, is amended to read as follows:

S 846-a. Powers on failure to obey order. If a respondent is brought before the court for failure to obey any lawful order issued under this article or an order of protection OR TEMPORARY ORDER OF PROTECTION issued UNDER THIS ACT OR ISSUED by a court of competent jurisdiction of another state, territorial or tribal jurisdiction in a proceeding and if, after hearing, the court is satisfied by competent proof that the respondent has willfully failed to obey [any] such order, the court may DO ONE OR MORE OF THE FOLLOWING:

1. modify an existing order OR TEMPORARY ORDER OF PROTECTION to add reasonable conditions of behavior to the existing order [of protection,] OR TEMPORARY ORDER OR make a new order of protection in accordance with [section eight hundred forty-two, may order the forfeiture of bail in a manner consistent with article five hundred forty of the criminal procedure law if bail has been ordered pursuant to] this act[, may];

2. PLACE THE RESPONDENT ON PROBATION IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION EIGHT HUNDRED FORTY-ONE OF THIS PART UPON SUCH CONDITIONS AS THE COURT SHALL DIRECT, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, A DIRECTION THAT THE RESPONDENT PARTICIPATE IN A BATTERER'S EDUCATION PROGRAM DESIGNED TO HELP END VIOLENT BEHAVIOR, WHICH MAY INCLUDE REFERRAL TO DRUG AND ALCOHOL COUNSELING, AND TO PAY THE COSTS THEREOF IF THE RESPONDENT HAS THE MEANS TO DO SO, PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO REQUIRE PAYMENT OF THE COSTS OF ANY SUCH PROGRAM BY THE PETITIONER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF;

3. IF THE RESPONDENT IS ALREADY ON PROBATION PURSUANT TO SUCH SECTION, REVOKE SUCH ORDER OF PROBATION OR MODIFY THE CONDITIONS OF SUCH PROBATION, PROVIDED, HOWEVER, THAT PENDING THE DETERMINATION OF A VIOLATION OF PROBATION, THE PERIOD OF PROBATION SHALL BE TOLLED AS OF THE DATE OF FILING OF THE VIOLATION PETITION OR MOTION;

4. ORDER THE RESPONDENT TO PAY RESTITUTION IN ACCORDANCE WITH SUBDIVISION (E) OF SECTION EIGHT HUNDRED FORTY-ONE OF THIS PART OR, IF THE RESPONDENT HAS ALREADY BEEN SO ORDERED AND HAS VIOLATED SUCH ORDER, MODIFY SUCH ORDER OF RESTITUTION;

5. order the respondent to pay the [petitioner's] reasonable and necessary counsel fees AND DISBURSEMENTS OF ANY OTHER PARTY OR PARTIES AND/OR THE CHILD'S ATTORNEY in connection with the violation petition [where the court finds that the violation of its order was willful, and may];

6. ORDER THE RESPONDENT 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 OR ITS VIOLATION;

7. SUSPEND AN ORDER OF VISITATION BETWEEN RESPONDENT AND HIS OR HER CHILD OR CHILDREN OR DIRECT THAT SUCH VISITATION BE SUPERVISED BY A PERSON OR AGENCY DESIGNATED BY THE COURT AND UNDER CONDITIONS SPECIFIED BY THE COURT;

8. commit the respondent to jail for a term not to exceed six months. Such commitment may be served upon certain specified days or parts of days as the court may direct, and the court may, at any time within the term of such sentence, revoke such [suspension] DIRECTION and commit the respondent for the remainder of the original sentence, or suspend the remainder of such sentence[. If]; AND

9. REVOKE OR, IN THE CASE OF A VIOLATION OF A TEMPORARY ORDER OF PROTECTION, SUSPEND ANY LICENSE OF THE RESPONDENT TO CARRY, POSSESS, REPAIR AND DISPOSE OF FIREARMS PURSUANT TO SECTION 400.00 OF THE PENAL LAW IMMEDIATELY, AND ARRANGE FOR THE IMMEDIATE SURRENDER AND DISPOSAL OF ANY FIREARM SUCH RESPONDENT OWNS OR POSSESSES, IF the court determines that the willful failure to obey such order involves violent behavior constituting the crimes of menacing, reckless endangerment, STALKING, assault or attempted assault [and if such a respondent is licensed to carry, possess, repair and dispose of firearms pursuant to section 400.00 of the penal law, the court may also immediately revoke such license and may arrange for the immediate surrender and disposal of any firearm such respondent owns or possesses]. If the willful failure to obey such order involves the infliction of serious physical injury as defined in subdivision ten of section 10.00 of the penal law or the use or threatened use of a deadly weapon or dangerous instrument, as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, such revocation and immediate surrender and disposal of any firearm owned or possessed by respondent shall be mandatory, pursuant to subdivision eleven of section 400.00 of the penal law.

S 6. The first undesignated paragraph and the closing paragraph of subdivision 3 of section 240 of the domestic relations law, as added by chapter 606 of the laws of 1999, are amended and a new subdivision 3-d is added to read as follows:

G. Any party moving for a temporary order of protection pursuant to this subdivision during hours when the court is open shall be entitled to file such motion or pleading containing such prayer for emergency relief on the same day that such person first appears at such court, and a hearing on the motion or portion of the pleading requesting such emergency relief shall be held on the same day or the next day that the court is in session following the filing of such motion or pleading.

H. Upon issuance of an order of protection or temporary order of protection [or upon a violation of such order], the court may make an order in accordance with section eight hundred forty-two-a of the family court act directing the surrender of firearms, revoking or suspending a party's firearms license, and/or directing that such party be ineligible to receive a firearms license. Upon issuance of an order of protection pursuant to this section [or upon a finding of a violation thereof], the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action. UPON A FINDING OF A WILLFUL VIOLATION OF AN ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION, THE COURT MAY MAKE AN ORDER IN ACCORDANCE WITH SUBDIVISION THREE-D OF THIS SECTION.

3-D. IF A PARTY IS BROUGHT BEFORE THE COURT FOR FAILURE TO OBEY AN ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ISSUED BY THE COURT OR BY A COURT OF COMPETENT JURISDICTION OF ANOTHER STATE, TERRITORIAL OR

TRIBAL JURISDICTION IN A PROCEEDING AND IF, AFTER HEARING, THE COURT IS SATISFIED BY COMPETENT PROOF THAT SUCH PARTY HAS WILLFULLY FAILED TO OBEY SUCH ORDER, THE COURT MAY DO ONE OR MORE OF THE FOLLOWING:

A. MODIFY AN EXISTING ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO ADD REASONABLE CONDITIONS OF BEHAVIOR TO THE EXISTING ORDER OR TEMPORARY ORDER OR MAKE A NEW ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION;

B. PLACE THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ON PROBATION IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION EIGHT HUNDRED FORTY-ONE OF THE FAMILY COURT ACT UPON SUCH CONDITIONS AS THE COURT SHALL DIRECT, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, A DIRECTION THAT THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION PARTICIPATE IN A BATTERER'S EDUCATION PROGRAM DESIGNED TO HELP END VIOLENT BEHAVIOR, WHICH MAY INCLUDE REFERRAL TO DRUG AND ALCOHOL COUNSELING, AND TO PAY THE COSTS THEREOF IF THE PARTY HAS THE MEANS TO DO SO; PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO REQUIRE PAYMENT OF THE COSTS OF ANY SUCH PROGRAM BY ANY OTHER PARTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF;

C. IF THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IS ALREADY ON PROBATION PURSUANT TO SECTION EIGHT HUNDRED FORTY-ONE OF THE FAMILY COURT ACT REVOKE SUCH ORDER OF PROBATION OR MODIFY THE CONDITIONS OF SUCH PROBATION, PROVIDED, HOWEVER, THAT PENDING THE DETERMINATION OF A VIOLATION OF PROBATION, THE PERIOD OF PROBATION SHALL BE TOLLED AS OF THE DATE OF FILING OF THE VIOLATION PETITION OR MOTION;

D. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO PAY RESTITUTION IN ACCORDANCE WITH PARAGRAPH H OF SUBDIVISION THREE OF THIS SECTION OR, IF SUCH PARTY HAS ALREADY BEEN SO ORDERED AND HAS VIOLATED SUCH ORDER, MODIFY SUCH ORDER;

E. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO PAY THE REASONABLE AND NECESSARY COUNSEL FEES AND DISBURSEMENTS OF ANY OTHER PARTY OR PARTIES AND/OR THE CHILD'S ATTORNEY IN CONNECTION WITH THE VIOLATION PETITION;

F. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION 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 OR ITS VIOLATION;

G. SUSPEND AN ORDER OF VISITATION BETWEEN THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION AND HIS OR HER CHILD OR CHILDREN OR DIRECT THAT SUCH VISITATION BE SUPERVISED BY A PERSON OR AGENCY DESIGNATED BY THE COURT AND UNDER CONDITIONS SPECIFIED BY THE COURT;

H. COMMIT THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS. SUCH COMMITMENT MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT, AND THE COURT MAY, AT ANY TIME WITHIN THE TERM OF SUCH SENTENCE, REVOKE SUCH DIRECTION AND COMMIT SUCH PARTY FOR THE REMAINDER OF THE ORIGINAL SENTENCE, OR SUSPEND THE REMAINDER OF SUCH SENTENCE; AND

I. IN ACCORDANCE WITH PARAGRAPH H OF SUBDIVISION THREE OF THIS SECTION AND SECTION EIGHT HUNDRED FORTY-SIX-A OF THE FAMILY COURT ACT, IMMEDIATELY REVOKE OR, IN THE CASE OF A VIOLATION OF A TEMPORARY ORDER OF PROTECTION, SUSPEND ANY LICENSE TO CARRY, POSSESS, REPAIR AND DISPOSE OF

FIREARMS PURSUANT TO SECTION 400.00 OF THE PENAL LAW OF THE PARTY FOUND TO HAVE VIOLATED THE ORDER, AND ARRANGE FOR THE IMMEDIATE SURRENDER AND DISPOSAL OF ANY FIREARM SUCH PARTY OWNS OR POSSESSES, IF THE COURT DETERMINES THAT THE WILLFUL FAILURE TO OBEY SUCH ORDER INVOLVES VIOLENT BEHAVIOR CONSTITUTING THE CRIMES OF MENACING, RECKLESS ENDANGERMENT, STALKING, ASSAULT OR ATTEMPTED ASSAULT. IF THE WILLFUL FAILURE TO OBEY SUCH ORDER INVOLVES THE INFLICTION OF SERIOUS PHYSICAL INJURY AS DEFINED IN SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW OR THE USE OR THREATENED USE OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT, AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS TWELVE AND THIRTEEN OF SECTION 10.00 OF THE PENAL LAW, SUCH REVOCATION AND IMMEDIATE SURRENDER AND DISPOSAL OF ANY FIREARM OWNED OR POSSESSED BY SUCH PARTY SHALL BE MANDATORY, PURSUANT TO SUBDIVISION ELEVEN OF SECTION 400.00 OF THE PENAL LAW.

S 7. Subdivision 9 of section 252 of the domestic relations law, as added by chapter 606 of the laws of 1999, is amended and a new subdivision 11 is added to read as follows:

9. Upon issuance of an order of protection or temporary order of protection [or upon a violation of such order], the court may [take] MAKE an order in accordance with section eight hundred forty-two-a of the family court act directing the surrender of firearms, revoking or suspending a party's firearms license, and/or directing that such party be ineligible to receive a firearms license. Upon issuance of an order of protection pursuant to this section [or upon a finding of a violation thereof], the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgement or settlement of the action. UPON A FINDING OF A WILLFUL VIOLATION OF AN ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION, THE COURT MAY MAKE AN ORDER IN ACCORDANCE WITH SUBDIVISION TEN OF THIS SECTION.

11. IF A PARTY IS BROUGHT BEFORE THE COURT FOR FAILURE TO OBEY AN ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ISSUED BY THE COURT OR BY A COURT OF COMPETENT JURISDICTION OF ANOTHER STATE, TERRITORIAL OR TRIBAL JURISDICTION IN A PROCEEDING AND IF, AFTER HEARING, THE COURT IS SATISFIED BY COMPETENT PROOF THAT SUCH PARTY HAS WILLFULLY FAILED TO OBEY ANY SUCH ORDER, THE COURT MAY DO ONE OR MORE OF THE FOLLOWING:

A. MODIFY AN EXISTING ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO ADD REASONABLE CONDITIONS OF BEHAVIOR TO THE EXISTING ORDER OR TEMPORARY ORDER OR MAKE A NEW ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IN ACCORDANCE WITH THIS SECTION;

B. PLACE THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ON PROBATION IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION EIGHT HUNDRED FORTY-ONE OF THE FAMILY COURT ACT UPON SUCH CONDITIONS AS THE COURT SHALL DIRECT, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, A DIRECTION THAT THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION PARTICIPATE IN A BATTERER'S EDUCATION PROGRAM DESIGNED TO HELP END VIOLENT BEHAVIOR, WHICH MAY INCLUDE REFERRAL TO DRUG AND ALCOHOL COUNSELING, AND TO PAY THE COSTS THEREOF IF THE PARTY HAS THE MEANS TO DO SO; PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO REQUIRE PAYMENT OF THE COSTS OF ANY SUCH PROGRAM BY ANY OTHER PARTY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF;

C. IF THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IS ALREADY ON PROBATION PURSUANT TO SUCH SECTION, REVOKE SUCH ORDER OF PROBATION OR MODIFY THE CONDITIONS OF SUCH PROBATION, PROVIDED, HOWEVER, THAT PENDING THE DETERMINATION OF A VIOLATION OF PROBATION, THE PERIOD OF PROBATION SHALL BE TOLLED AS OF THE DATE OF FILING OF THE VIOLATION PETITION OR MOTION;

D. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO PAY RESTITUTION IN ACCORDANCE WITH SUBDIVISION NINE OF THIS SECTION OR, IF SUCH PARTY HAS ALREADY BEEN SO ORDERED AND HAS WILLFULLY VIOLATED SUCH ORDER, MODIFY SUCH ORDER;

E. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO PAY THE REASONABLE AND NECESSARY COUNSEL FEES AND DISBURSEMENTS OF ANY OTHER PARTY OR PARTIES AND/OR THE CHILD'S ATTORNEY IN CONNECTION WITH THE VIOLATION PETITION;

F. ORDER THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION 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 OR ITS VIOLATION;

G. SUSPEND AN ORDER OF VISITATION BETWEEN THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION AND HIS OR HER CHILD OR CHILDREN OR DIRECT THAT SUCH VISITATION BE SUPERVISED BY A PERSON OR AGENCY DESIGNATED BY THE COURT AND UNDER CONDITIONS SPECIFIED BY THE COURT;

H. COMMIT THE PARTY FOUND TO HAVE VIOLATED THE ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS. SUCH COMMITMENT MAY BE SERVED UPON CERTAIN SPECIFIED DAYS OR PARTS OF DAYS AS THE COURT MAY DIRECT, AND THE COURT MAY, AT ANY TIME WITHIN THE TERM OF SUCH SENTENCE, REVOKE SUCH DIRECTION AND COMMIT SUCH PARTY FOR THE REMAINDER OF THE ORIGINAL SENTENCE, OR SUSPEND THE REMAINDER OF SUCH SENTENCE; AND

I. IN ACCORDANCE WITH SUBDIVISION NINE OF THIS SECTION AND SECTION EIGHT HUNDRED FORTY-SIX-A OF THE FAMILY COURT ACT, IMMEDIATELY REVOKE, OR IN THE CASE OF A VIOLATION OF A TEMPORARY ORDER OF PROTECTION, SUSPEND ANY LICENSE TO CARRY, POSSESS, REPAIR AND DISPOSE OF FIREARMS PURSUANT TO SECTION 400.00 OF THE PENAL LAW OF THE PARTY FOUND TO HAVE VIOLATED THE ORDER, AND ARRANGE FOR THE IMMEDIATE SURRENDER AND DISPOSAL OF ANY FIREARM SUCH PARTY OWNS OR POSSESSES, IF THE COURT DETERMINES THAT THE WILLFUL FAILURE TO OBEY SUCH ORDER INVOLVES VIOLENT BEHAVIOR CONSTITUTING THE CRIMES OF MENACING, RECKLESS ENDANGERMENT, STALKING, ASSAULT OR ATTEMPTED ASSAULT. IF THE WILLFUL FAILURE TO OBEY SUCH ORDER INVOLVES THE INFLICTION OF SERIOUS PHYSICAL INJURY AS DEFINED IN SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW OR THE USE OR THREATENED USE OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT, AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS TWELVE AND THIRTEEN OF SECTION 10.00 OF THE PENAL LAW, SUCH REVOCATION AND IMMEDIATE SURRENDER AND DISPOSAL OF ANY FIREARM OWNED OR POSSESSED BY SUCH PARTY SHALL BE MANDATORY, PURSUANT TO SUBDIVISION ELEVEN OF SECTION 400.00 OF THE PENAL LAW.

S 8. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that section four of this act shall apply to family offenses committed on or after such date.