

4785

2013-2014 Regular Sessions

I N S E N A T E

April 24, 2013

Introduced by Sen. GIPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

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 ASSEMBLY, 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 absence of such language shall
8 not affect the validity of such order. THE ORDER OF PROTECTION SHALL
9 ALSO CONTAIN THE FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN
10 IN EFFECT EVEN IF THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF
11 PROTECTION OR TEMPORARY ORDER OF PROTECTION IS ISSUED HAS, OR CONSENTS
12 TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER
13 IS ISSUED. AN ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY
14 THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR
15 SHALL SUCH PARTY BE ARRESTED FOR VIOLATING THIS ORDER.". The presenta-
16 tion of a copy of such an order to any peace officer acting pursuant to
17 his or her special duties, or police officer, shall constitute authori-
18 ty, for that officer to arrest a person when that person has violated
19 the terms of such an order, and bring such person before the court and,
20 otherwise, so far as lies within the officer's power, to aid in securing
21 the protection such order was intended to afford.
22 I. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
23 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE SUCH

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

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1 AN ORDER NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR VIOLATING SUCH
2 ORDER.

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

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

24 9-A. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
25 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
26 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
27 ARRESTED FOR VIOLATING SUCH ORDER.

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

30 3. 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 4. Subdivision 3 of section 168 of the family court act, as added by
35 chapter 164 of the laws of 1989, is amended to read as follows:

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

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

52 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
53 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
54 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
55 VIOLATING SUCH ORDER.

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

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

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

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

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

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

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

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

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

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

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

33 7. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
34 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
35 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
36 ARRESTED FOR VIOLATING SUCH ORDER.

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

40 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
41 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER
42 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
43 VIOLATING SUCH ORDER.

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

49 6. An order of protection or a temporary order of protection issued
50 pursuant to subdivision one, two, three, four or five of this section
51 shall bear in a conspicuous manner the term "order of protection" or
52 "temporary order of protection" as the case may be and a copy shall be
53 filed by the clerk of the court with the sheriff's office in the county
54 in which the complainant resides, or, if the complainant resides within
55 a city, with the police department of such city. The absence of such
56 language shall not affect the validity of such order. THE ORDER OF

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

17 Such order of protection shall plainly state the date that such order
18 expires.

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

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

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

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