

5877

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

Introduced by Sens. YOUNG, SAVINO, LITTLE, RITCHIE, MARCHIONE, ROBACH,
HANNON -- (at request of the Governor) -- read twice and ordered
printed, and when printed to be committed to the Committee on Rules

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

23 9-A. THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR
24 TEMPORARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN
25 ORDER ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE
26 ARRESTED FOR VIOLATING SUCH ORDER.

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

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

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

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

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

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

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

55 THE PROTECTED PARTY IN WHOSE FAVOR THE ORDER OF PROTECTION OR TEMPO-
56 RARY ORDER OF PROTECTION IS ISSUED MAY NOT BE HELD TO VIOLATE AN ORDER

1 ISSUED IN HIS OR HER FAVOR NOR MAY SUCH PROTECTED PARTY BE ARRESTED FOR
2 VIOLATING SUCH ORDER.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 6. An order of protection or a temporary order of protection issued
46 pursuant to subdivision one, two, three, four or five of this section
47 shall bear in a conspicuous manner the term "order of protection" or
48 "temporary order of protection" as the case may be and a copy shall be
49 filed by the clerk of the court with the sheriff's office in the county
50 in which the complainant resides, or, if the complainant resides within
51 a city, with the police department of such city. THE ORDER OF
52 PROTECTION OR TEMPORARY ORDER OF PROTECTION SHALL ALSO CONTAIN THE
53 FOLLOWING NOTICE: "THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN
54 IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNI-
55 CATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF
56 PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE

1 PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR
2 VIOLATING THIS ORDER.". The absence of such language shall not affect
3 the validity of such order. A copy of such order of protection or
4 temporary order of protection may from time to time be filed by the
5 clerk of the court with any other police department or sheriff's office
6 having jurisdiction of the residence, work place, and school of anyone
7 intended to be protected by such order. A copy of the order may also be
8 filed by the complainant at the appropriate police department or sher-
9 iff's office having jurisdiction. Any subsequent amendment or revocation
10 of such order shall be filed in the same manner as herein provided.

11 Such order of protection shall plainly state the date that such order
12 expires.

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

33 S 14. Severability clause. If any clause, sentence, paragraph, subdi-
34 vision, section or part of this act shall be adjudged by a court of
35 competent jurisdiction to be invalid, such judgment shall not affect,
36 impair or invalidate the remainder thereof, but shall be confined in its
37 operation to the clause, sentence, paragraph, subdivision, section or
38 part thereof directly involved in the controversy in which such judgment
39 shall have been rendered. It is hereby declared to be the intent of the
40 legislature that this act would have been enacted even if such invalid
41 provisions had not been included herein.

42 S 15. This act shall take effect immediately and shall apply to all
43 orders of protection regardless of when such orders were issued, except
44 that:

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

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