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

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I N S E N A T E

March 9, 2016

Introduced by Sen. SERINO -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the criminal procedure law, in relation to notification of rights of victims of domestic violence in criminal and family court proceedings

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

Section 1. Subdivision 5 of section 812 of the family court act, as amended by chapter 224 of the laws of 1994, is amended to read as follows:

5. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of THIS ACT, the criminal procedure law[, the family court act] and the domestic relations law. Such notice shall be available, AT MINIMUM, in PLAIN English and Spanish and, if necessary, shall be delivered orally and shall include but not be limited to SUBSTANTIALLY the following statement:

["If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangement to take you, and your children to a safe place within such officer's jurisdiction, including but not limited to a domestic violence program, a family member's or a friend's residence, or a similar place of safety. When the officer's jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist

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

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you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection.

The forms you need to obtain an order of protection are available from the family court and the local criminal court (the addresses and telephone numbers shall be listed). The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following 800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers).

Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime."] "ARE YOU THE VICTIM OF DOMESTIC VIOLENCE? IF YOU NEED HELP NOW, CALL 911. THE POLICE WILL COME RIGHT AWAY. THIS IS WHAT THE POLICE CAN DO:

THEY CAN PROTECT YOU AND YOUR CHILDREN.

THEY CAN GET YOU AND YOUR CHILDREN TO A SAFE PLACE SUCH AS A FAMILY OR FRIEND'S HOUSE OR A SHELTER IN YOUR COMMUNITY.

THEY CAN HELP YOU GET TO A HOSPITAL OR CLINIC FOR MEDICAL CARE.

THEY CAN HELP YOU GET YOUR PERSONAL BELONGINGS.

THEY CAN GET YOU A COPY OF THE POLICE REPORT FOR FREE.

THEY MAY AND SOMETIMES MUST ARREST THE PERSON WHO HARMED YOU IF YOU ARE THE VICTIM OF A CRIME.

IF YOU HAVE BEEN ABUSED OR THREATENED, THIS IS WHAT YOU CAN ASK FOR:

YOU CAN ASK THE COURT FOR AN ORDER OF PROTECTION.

YOU CAN ASK THE DISTRICT ATTORNEY OR THE POLICE OFFICER TO FILE A CRIMINAL COMPLAINT.

YOU CAN FILE A PETITION IN FAMILY COURT AND ASK FOR AN ORDER OF PROTECTION THERE.

IF YOU GO TO FAMILY COURT, YOU HAVE THESE RIGHTS:

TO HAVE YOUR FAMILY COURT PETITION FILED THE SAME DAY YOU GO TO COURT.

TO HAVE YOUR REQUEST HEARD IN COURT THE SAME DAY YOU FILE OR THE NEXT DAY COURT IS OPEN.

YOU CAN ASK FOR AN ORDER OF PROTECTION IN CRIMINAL COURT OR FAMILY COURT. (INSERT ADDRESSES AND CONTACT INFORMATION FOR COURTS). THAT ORDER MAY INCLUDE THESE THINGS:

THAT THE OTHER PERSON STAY AWAY FROM YOU AND YOUR CHILDREN.

THAT YOU HAVE CUSTODY OF YOUR CHILDREN.

THAT THE OTHER PERSON PAY CHILD SUPPORT FOR NOW.

YOU CAN GO RIGHT NOW TO A CRIMINAL COURT TO ASK FOR AN ORDER OF PROTECTION IF THE FAMILY COURT IS CLOSED BECAUSE IT IS NIGHTTIME, A WEEKEND, OR A HOLIDAY.
YOU DO NOT NEED A LAWYER TO ASK FOR AN ORDER OF PROTECTION. BUT IT IS A GOOD IDEA, ESPECIALLY IF YOU HAVE CHILDREN. IF YOU CANNOT PAY FOR A LAWYER, THE FAMILY COURT MAY APPOINT ONE FOR YOU.
YOU CAN GET THE FORMS YOU NEED TO ASK FOR AN ORDER OF PROTECTION AT FAMILY COURT AND AT YOUR LOCAL CRIMINAL COURT. YOU CAN ALSO GET THEM ONLINE: WWW.NYCOURTS.GOV/FORMS.
YOU CAN CALL A HOT-LINE FOR HELP (INSERT HOT-LINE NUMBERS).
IT IS A CRIME TO FILE A CRIMINAL COMPLAINT OR A FAMILY COURT PETITION WHICH SAYS THINGS THAT YOU KNOW ARE FALSE."

The division of criminal justice services in consultation with the state office for the prevention of domestic violence shall prepare the form of such written notice consistent with the provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law. Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the family court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.

S 2. Subdivision 6 of section 530.11 of the criminal procedure law, as amended by chapter 224 of the laws of 1994, is amended to read as follows:

6. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of [the criminal procedure law] THIS CHAPTER, the family court act and the domestic relations law. Such notice shall be prepared, AT MINIMUM, in PLAIN ENGLISH AND Spanish [and English] and if necessary, shall be delivered orally, and shall include but not be limited to SUBSTANTIALLY the following statement:

["If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangements to take you, and your children to a safe place within such officer's jurisdiction, including but not limited to a domestic violence program, a family member's or a friend's residence, or a similar place of safety. When the officer's jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed

in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you.

You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection.

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Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the criminal court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.