

3099

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sens. KRUEGER, RIVERA -- read twice and ordered printed,
and when printed to be committed to the Committee on Children and
Families

AN ACT to amend the criminal procedure law and the family court act, in
relation to notification to victims of orders of protection

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

1 Section 1. Section 530.12 of the criminal procedure law is amended by
2 adding a new subdivision 16 to read as follows:
3 16. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-
4 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION
5 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH
6 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-
7 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE
8 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-
9 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE
10 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW
11 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR
12 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-
13 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR
14 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE
15 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-
16 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE
17 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS
18 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.
19 S 2. Section 530.13 of the criminal procedure law is amended by adding
20 a new subdivision 6-a to read as follows:
21 6-A. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFOR-
22 MATION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION
23 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH
24 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-

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

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TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICATION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERNMENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

S 3. Section 446 of the family court act, as amended by chapter 526 of the laws of 2013, and the closing paragraph as added by chapter 480 of the laws of 2013, is amended to read as follows:

S 446. Order of protection. 1. 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.] (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.] (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.] (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.] (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.

2. 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.

3. 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.

4. 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.

5. 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.

6. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order.

7. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMATION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGISTERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE

1 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-
2 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE
3 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW
4 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR
5 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-
6 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR
7 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE
8 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-
9 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE
10 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS
11 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

12 S 4. Section 551 of the family court act, as amended by chapter 526 of
13 the laws of 2013, and the closing paragraph as added by chapter 480 of
14 the laws of 2013, is amended to read as follows:

15 S 551. Order of protection. 1. The court may make an order of
16 protection in assistance or as a condition of any other order made under
17 this article. The order of protection may set forth reasonable condi-
18 tions of behavior to be observed for a specified time by the petitioner
19 or respondent or both. No order of protection may direct any party to
20 observe conditions of behavior unless the party requesting the order of
21 protection has served and filed a petition or counter-claim in accord-
22 ance with section one hundred fifty-four-b of this act. Such an order
23 may require the petitioner or the respondent:

24 (a) to stay away from the home, school, business or place of employ-
25 ment of any other party, the other parent, or the child, and to stay
26 away from any other specific location designated by the court;

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

29 (c) to refrain from committing a family offense, as defined in subdi-
30 vision one of section eight hundred twelve of this act, or any criminal
31 offense against the child or against the other parent or against any
32 person to whom custody of the child is awarded, or from harassing,
33 intimidating or threatening such persons;

34 (d) to permit a designated party to enter the residence during a spec-
35 ified period of time in order to remove personal belongings not in issue
36 in this proceeding or in any other proceeding or action under this act
37 or the domestic relations law;

38 (e) to refrain from acts of commission or omission that create an
39 unreasonable risk to the health, safety or welfare of a child;

40 (f) to participate in an educational program and to pay the costs
41 thereof if the person has the means to do so, provided, however, that
42 nothing contained herein shall be deemed to require payment of the costs
43 of any such program by the state or any political subdivision thereof;

44 (g) to provide, either directly or by means of medical and health
45 insurance, for expenses incurred for medical care and treatment arising
46 from the incident or incidents forming the basis for the issuance of the
47 order;

48 (h) to pay the reasonable counsel fees and disbursements involved in
49 obtaining or enforcing the order of the person who is protected by such
50 order if such order is issued or enforced, whether or not an order of
51 filiation is made;

52 (i) [1.] (1) to refrain from intentionally injuring or killing, with-
53 out justification, any companion animal the respondent knows to be
54 owned, possessed, leased, kept or held by the person protected by the
55 order or a minor child residing in such person's household.

1 [2.] (2) "Companion animal", as used in this section, shall have the
2 same meaning as in subdivision five of section three hundred fifty of
3 the agriculture and markets law;

4 (j) [1.] (1) to promptly return specified identification documents to
5 the protected party, in whose favor the order of protection or temporary
6 order of protection is issued; provided, however, that such order may:
7 (A) include any appropriate provision designed to ensure that any such
8 document is available for use as evidence in this proceeding, and avail-
9 able if necessary for legitimate use by the party against whom such
10 order is issued; and (B) specify the manner in which such return shall
11 be accomplished.

12 [2.] (2) For purposes of this subdivision, "identification document"
13 shall mean any of the following: (A) exclusively in the name of the
14 protected party: birth certificate, passport, social security card,
15 health insurance or other benefits card, a card or document used to
16 access bank, credit or other financial accounts or records, tax returns,
17 any driver's license, and immigration documents including but not limit-
18 ed to a United States permanent resident card and employment authori-
19 zation document; and (B) upon motion and after notice and an opportunity
20 to be heard, any of the following, including those that may reflect
21 joint use or ownership, that the court determines are necessary and are
22 appropriately transferred to the protected party: any card or document
23 used to access bank, credit or other financial accounts or records, tax
24 returns, and any other identifying cards and documents; and

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

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

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

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

46 5. The protected party in whose favor the order of protection or
47 temporary order of protection is issued may not be held to violate an
48 order issued in his or her favor nor may such protected party be
49 arrested for violating such order.

50 6. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMA-
51 TION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION
52 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH
53 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-
54 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE
55 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-
56 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE

RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERNMENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

S 5. Section 656 of the family court act, as amended by chapter 526 of the laws of 2013, and the closing paragraph as added by chapter 480 of the laws of 2013, is amended to read as follows:

S 656. Order of protection. 1. 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.] (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.] (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.] (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.] (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.

2. 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.

3. 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.

4. 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.

5. 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.

6. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order.

7. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFORMATION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGISTERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICATION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW

1 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR
2 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-
3 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR
4 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE
5 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-
6 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE
7 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS
8 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

9 S 6. Section 842 of the family court act, as amended by chapter 526 of
10 the laws of 2013, and the closing paragraph as added by chapter 480 of
11 the laws of 2013, is amended to read as follows:

12 S 842. Order of protection. 1. An order of protection under section
13 eight hundred forty-one of this part shall set forth reasonable condi-
14 tions of behavior to be observed for a period not in excess of two years
15 by the petitioner or respondent or for a period not in excess of five
16 years upon (i) a finding by the court on the record of the existence of
17 aggravating circumstances as defined in paragraph (vii) of subdivision
18 (a) of section eight hundred twenty-seven of this article; or (ii) a
19 finding by the court on the record that the conduct alleged in the peti-
20 tion is in violation of a valid order of protection. Any finding of
21 aggravating circumstances pursuant to this section shall be stated on
22 the record and upon the order of protection. The court may also, upon
23 motion, extend the order of protection for a reasonable period of time
24 upon a showing of good cause or consent of the parties. The fact that
25 abuse has not occurred during the pendency of an order shall not, in
26 itself, constitute sufficient ground for denying or failing to extend
27 the order. The court must articulate a basis for its decision on the
28 record. The duration of any temporary order shall not by itself be a
29 factor in determining the length or issuance of any final order. Any
30 order of protection issued pursuant to this section shall specify if an
31 order of probation is in effect. Any order of protection issued pursuant
32 to this section may require the petitioner or the respondent:

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

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

48 (c) to refrain from committing a family offense, as defined in subdi-
49 vision one of section eight hundred twelve of this act, or any criminal
50 offense against the child or against the other parent or against any
51 person to whom custody of the child is awarded, or from harassing,
52 intimidating or threatening such persons;

53 (d) to permit a designated party to enter the residence during a spec-
54 ified period of time in order to remove personal belongings not in issue
55 in this proceeding or in any other proceeding or action under this act
56 or the domestic relations law;

1 (e) to refrain from acts of commission or omission that create an
2 unreasonable risk to the health, safety or welfare of a child;

3 (f) to pay the reasonable counsel fees and disbursements involved in
4 obtaining or enforcing the order of the person who is protected by such
5 order if such order is issued or enforced;

6 (g) to require the respondent to participate in a batterer's education
7 program designed to help end violent behavior, which may include refer-
8 ral to drug and alcohol counselling, and to pay the costs thereof if the
9 person has the means to do so, provided however that nothing contained
10 herein shall be deemed to require payment of the costs of any such
11 program by the petitioner, the state or any political subdivision there-
12 of;

13 (h) to provide, either directly or by means of medical and health
14 insurance, for expenses incurred for medical care and treatment arising
15 from the incident or incidents forming the basis for the issuance of the
16 order;

17 (i) [1.] (1) to refrain from intentionally injuring or killing, with-
18 out justification, any companion animal the respondent knows to be
19 owned, possessed, leased, kept or held by the petitioner or a minor
20 child residing in the household.

21 [2.] (2) "Companion animal", as used in this section, shall have the
22 same meaning as in subdivision five of section three hundred fifty of
23 the agriculture and markets law;

24 (j) [1.] (1) to promptly return specified identification documents to
25 the protected party, in whose favor the order of protection or temporary
26 order of protection is issued; provided, however, that such order may:
27 (A) include any appropriate provision designed to ensure that any such
28 document is available for use as evidence in this proceeding, and avail-
29 able if necessary for legitimate use by the party against whom such
30 order is issued; and (B) specify the manner in which such return shall
31 be accomplished.

32 [2.] (2) For purposes of this subdivision, "identification document"
33 shall mean any of the following: (A) exclusively in the name of the
34 protected party: birth certificate, passport, social security card,
35 health insurance or other benefits card, a card or document used to
36 access bank, credit or other financial accounts or records, tax returns,
37 any driver's license, and immigration documents including but not limit-
38 ed to a United States permanent resident card and employment authori-
39 zation document; and (B) upon motion and after notice and an opportunity
40 to be heard, any of the following, including those that may reflect
41 joint use or ownership, that the court determines are necessary and are
42 appropriately transferred to the protected party: any card or document
43 used to access bank, credit or other financial accounts or records, tax
44 returns, and any other identifying cards and documents; and

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

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

52 3. Notwithstanding the provisions of section eight hundred seventeen
53 of this article, where a temporary order of child support has not
54 already been issued, the court may in addition to the issuance of an
55 order of protection pursuant to this section, issue an order for tempo-
56 rary child support in an amount sufficient to meet the needs of the

1 child, without a showing of immediate or emergency need. The court shall
2 make an order for temporary child support notwithstanding that informa-
3 tion with respect to income and assets of the respondent may be unavail-
4 able. Where such information is available, the court may make an award
5 for temporary child support pursuant to the formula set forth in subdi-
6 vision one of section four hundred thirteen of this act. Temporary
7 orders of support issued pursuant to this article shall be deemed to
8 have been issued pursuant to section four hundred thirteen of this act.

9 4. Upon making an order for temporary child support pursuant to this
10 subdivision, the court shall advise the petitioner of the availability
11 of child support enforcement services by the support collection unit of
12 the local department of social services, to enforce the temporary order
13 and to assist in securing continued child support, and shall set the
14 support matter down for further proceedings in accordance with article
15 four of this act.

16 5. Where the court determines that the respondent has employer-provid-
17 ed medical insurance, the court may further direct, as part of an order
18 of temporary support under this subdivision, that a medical support
19 execution be issued and served upon the respondent's employer as
20 provided for in section fifty-two hundred forty-one of the civil prac-
21 tice law and rules.

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

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

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

44 9. The protected party in whose favor the order of protection or
45 temporary order of protection is issued may not be held to violate an
46 order issued in his or her favor nor may such protected party be
47 arrested for violating such order.

48 10. THE CLERK OF THE COURT SHALL BE RESPONSIBLE FOR PROVIDING INFOR-
49 MATION TO INDIVIDUALS PETITIONING FOR EX PARTE ORDERS OF PROTECTION
50 REGARDING NOTIFICATION OF SERVICE OF AN ORDER OF PROTECTION. SUCH
51 NOTIFICATION TO THE PETITIONER IS REQUIRED IF THE PETITIONER HAS REGIS-
52 TERED A TELEPHONE NUMBER WITH THE STATE VICTIM NOTIFICATION SYSTEM. THE
53 PETITIONER SHALL BE INFORMED OF HIS OR HER OPTION TO RECEIVE NOTIFICA-
54 TION OF SERVICE OF AN EX PARTE ORDER OF PROTECTION OR SUMMONS ON THE
55 RESPONDENT BY THE COURT CLERK AND SHALL BE PROVIDED INFORMATION ON HOW
56 TO RECEIVE NOTIFICATION OF SERVICE OF EX PARTE ORDERS OF PROTECTION OR

1 SUMMONS TO COURT. THE LOCAL LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERN-
2 MENT AGENCY RESPONSIBLE FOR SERVING EX PARTE ORDERS OF PROTECTION OR
3 SUMMONS TO COURT SHALL RECORD THE SERVICE OF ORDERS OF PROTECTION ON THE
4 COMPUTERIZED REGISTRY ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWEN-
5 TY-ONE-A OF THE EXECUTIVE LAW AT THE TIME WHEN SERVICE OCCURS. THE
6 PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO THOSE COURT CLERKS
7 ABLE TO ACCESS A STATEWIDE VICTIM NOTIFICATION SYSTEM.

8 S 7. This act shall take effect immediately.