

4340--A

2015-2016 Regular Sessions

I N S E N A T E

March 16, 2015

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to determining the expiration date of an order of protection

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

1 Section 1. The opening paragraph of subdivision 5 of section 530.12 of
2 the criminal procedure law, as amended by section 1 of chapter 9 of the
3 laws of 2011, is amended to read as follows:
4 Upon sentencing on a conviction for any crime or violation between
5 spouses, between a parent and child, or between members of the same
6 family or household as defined in subdivision one of section 530.11 of
7 this article, the court may in addition to any other disposition,
8 including a conditional discharge or youthful offender adjudication,
9 enter an order of protection. Where a temporary order of protection was
10 issued, the court shall state on the record the reasons for issuing or
11 not issuing an order of protection. The duration of such an order shall
12 be fixed by the court and: (A) in the case of a felony conviction, shall
13 not exceed the greater of: (i) eight years from the date of such
14 sentencing, EXCEPT WHERE THE SENTENCE IS OR INCLUDES A SENTENCE OF
15 PROBATION ON A CONVICTION FOR A FELONY SEXUAL ASSAULT, AS PROVIDED IN
16 SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
17 65.00 OF THE PENAL LAW, IN WHICH CASE, TEN YEARS FROM THE DATE OF SUCH
18 SENTENCING, or (ii) eight years from the date of the expiration of the
19 maximum term of an indeterminate or the term of a determinate sentence
20 of imprisonment actually imposed; or (B) in the case of a conviction for
21 a class A misdemeanor, shall not exceed the greater of: (i) five years
22 from the date of such sentencing, EXCEPT WHERE THE SENTENCE IS OR
23 INCLUDES A SENTENCE OF PROBATION ON A CONVICTION FOR A CLASS A MISDEMEA-

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

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1 NOR SEXUAL ASSAULT, AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF
2 SUBDIVISION THREE OF SECTION 65.00 OF THE PENAL LAW, IN WHICH CASE, SIX
3 YEARS FROM THE DATE OF SUCH SENTENCING, or (ii) five years from the date
4 of the expiration of the maximum term of a definite or intermittent term
5 actually imposed; or (C) in the case of a conviction for any other
6 offense, shall not exceed the greater of: (i) two years from the date of
7 sentencing, or (ii) two years from the date of the expiration of the
8 maximum term of a definite or intermittent term actually imposed. For
9 purposes of determining the duration of an order of protection entered
10 pursuant to this subdivision, a conviction shall be deemed to include a
11 conviction that has been replaced by a youthful offender adjudication.
12 In addition to any other conditions, such an order may require the
13 defendant:

14 S 2. The opening paragraph of subdivision 4 of section 530.13 of the
15 criminal procedure law, as amended by section 3 of chapter 9 of the laws
16 of 2011, is amended to read as follows:

17 Upon sentencing on a conviction for any offense, where the court has
18 not issued an order of protection pursuant to section 530.12 of this
19 article, the court may, in addition to any other disposition, including
20 a conditional discharge or youthful offender adjudication, enter an
21 order of protection. Where a temporary order of protection was issued,
22 the court shall state on the record the reasons for issuing or not issu-
23 ing an order of protection. The duration of such an order shall be fixed
24 by the court and; (A) in the case of a felony conviction, shall not
25 exceed the greater of: (i) eight years from the date of such sentencing,
26 EXCEPT WHERE THE SENTENCE IS OR INCLUDES A SENTENCE OF PROBATION ON A
27 CONVICTION FOR A FELONY SEXUAL ASSAULT, AS PROVIDED IN SUBPARAGRAPH
28 (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 65.00 OF THE
29 PENAL LAW, IN WHICH CASE, TEN YEARS FROM THE DATE OF SUCH SENTENCING, or
30 (ii) eight years from the date of the expiration of the maximum term of
31 an indeterminate or the term of a determinate sentence of imprisonment
32 actually imposed; or (B) in the case of a conviction for a class A
33 misdemeanor, shall not exceed the greater of: (i) five years from the
34 date of such sentencing, EXCEPT WHERE THE SENTENCE IS OR INCLUDES A
35 SENTENCE OF PROBATION ON A CONVICTION FOR A CLASS A MISDEMEANOR SEXUAL
36 ASSAULT, AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVI-
37 SION THREE OF SECTION 65.00 OF THE PENAL LAW, IN WHICH CASE, SIX YEARS
38 FROM THE DATE OF SUCH SENTENCING or (ii) five years from the date of the
39 expiration of the maximum term of a definite or intermittent term actu-
40 ally imposed; or (C) in the case of a conviction for any other offense,
41 shall not exceed the greater of: (i) two years from the date of sentenc-
42 ing, or (ii) two years from the date of the expiration of the maximum
43 term of a definite or intermittent term actually imposed. For purposes
44 of determining the duration of an order of protection entered pursuant
45 to this subdivision, a conviction shall be deemed to include a
46 conviction that has been replaced by a youthful offender adjudication.
47 In addition to any other conditions such an order may require that the
48 defendant:

49 S 3. This act shall take effect on the thirtieth day after it shall
50 have become a law and shall apply to all convictions entered on or after
51 such effective date; provided, however, that the amendments to the open-
52 ing paragraph of subdivision 5 of section 530.12 and the opening para-
53 graph of subdivision 4 of section 530.13 of the criminal procedure law
54 made by sections one and two of this act shall not affect the expiration
55 of such paragraphs and shall be deemed to expire therewith.