

4340--B

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 -- 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

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

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1 INCLUDES A SENTENCE OF PROBATION ON A CONVICTION FOR A MISDEMEANOR SEXU-
2 AL ASSAULT, AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDI-
3 VISION THREE OF SECTION 65.00 OF THE PENAL LAW, IN WHICH CASE, SIX YEARS
4 FROM THE DATE OF SUCH SENTENCING, or (ii) five years from the date of
5 the expiration of the maximum term of a definite or intermittent term
6 actually imposed; or (C) in the case of a conviction for any other
7 offense, shall not exceed the greater of: (i) two years from the date of
8 sentencing, or (ii) two years from the date of the expiration of the
9 maximum term of a definite or intermittent term actually imposed. For
10 purposes of determining the duration of an order of protection entered
11 pursuant to this subdivision, a conviction shall be deemed to include a
12 conviction that has been replaced by a youthful offender adjudication.
13 In addition to any other conditions, such an order may require the
14 defendant:

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

18 Upon sentencing on a conviction for any offense, where the court has
19 not issued an order of protection pursuant to section 530.12 of this
20 article, the court may, in addition to any other disposition, including
21 a conditional discharge or youthful offender adjudication, enter an
22 order of protection. Where a temporary order of protection was issued,
23 the court shall state on the record the reasons for issuing or not issu-
24 ing an order of protection. The duration of such an order shall be fixed
25 by the court and; (A) in the case of a felony conviction, shall not
26 exceed the greater of: (i) eight years from the date of such sentencing,
27 EXCEPT WHERE THE SENTENCE IS OR INCLUDES A SENTENCE OF PROBATION ON A
28 CONVICTION FOR A FELONY SEXUAL ASSAULT, AS PROVIDED IN SUBPARAGRAPH
29 (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 65.00 OF THE
30 PENAL LAW, IN WHICH CASE, TEN YEARS FROM THE DATE OF SUCH SENTENCING, or
31 (ii) eight years from the date of the expiration of the maximum term of
32 an indeterminate or the term of a determinate sentence of imprisonment
33 actually imposed; or (B) in the case of a conviction for a class A
34 misdemeanor, shall not exceed the greater of: (i) five years from the
35 date of such sentencing, EXCEPT WHERE THE SENTENCE IS OR INCLUDES A
36 SENTENCE OF PROBATION ON A CONVICTION FOR A MISDEMEANOR SEXUAL ASSAULT,
37 AS PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION THREE
38 OF SECTION 65.00 OF THE PENAL LAW, IN WHICH CASE, SIX YEARS FROM THE
39 DATE OF SUCH SENTENCING or (ii) five years from the date of the expira-
40 tion of the maximum term of a definite or intermittent term actually
41 imposed; or (C) in the case of a conviction for any other offense, shall
42 not exceed the greater of: (i) two years from the date of sentencing, or
43 (ii) two years from the date of the expiration of the maximum term of a
44 definite or intermittent term actually imposed. For purposes of deter-
45 mining the duration of an order of protection entered pursuant to this
46 subdivision, a conviction shall be deemed to include a conviction that
47 has been replaced by a youthful offender adjudication. In addition to
48 any other conditions such an order may require that the 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 offenses committed on or after such
51 effective date; provided, however, that the amendments to the opening
52 paragraph of subdivision 5 of section 530.12 and the opening paragraph
53 of subdivision 4 of section 530.13 of the criminal procedure law made by
54 sections one and two of this act shall not affect the expiration of such
55 paragraphs and shall be deemed to expire therewith.