

STATE OF NEW YORK

7653

IN SENATE

February 5, 2018

Introduced by Sens. PHILLIPS, YOUNG -- read twice and ordered printed,
and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the criminal procedure law, in
relation to extensions 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. Subdivision 1 of section 154-c of the family court act, as
2 added by chapter 186 of the laws of 1997, is amended to read as follows:

3 1. Expiration dates and extensions. (a) Any order of protection or
4 temporary order of protection issued under articles four, five, six and
5 eight of this act shall plainly state the date that such order expires.

6 (b) Any order of protection or temporary order of protection issued
7 under this act shall be extended for up to two years past the date that
8 such order expires if the court finds an extreme case for such extension
9 and states on the record the reasons for the extension. For purposes of
10 this paragraph, "extreme case" shall mean a threat of harm to the
11 protected party continues; respondent has been found guilty of repeated
12 criminal contempt due to a violation of an order of protection; respond-
13 ent has continued to express intent to commit harm to, intimidate or
14 threaten the protected party.

15 § 2. The opening paragraph of subdivision 5 of section 530.12 of the
16 criminal procedure law, as amended by chapter 240 of the laws of 2015,
17 is amended to read as follows:

18 Upon sentencing on a conviction for any crime or violation between
19 spouses, between a parent and child, or between members of the same
20 family or household as defined in subdivision one of section 530.11 of
21 this article, the court may in addition to any other disposition,
22 including a conditional discharge or youthful offender adjudication,
23 enter an order of protection. Where a temporary order of protection was
24 issued, the court shall state on the record the reasons for issuing or
25 not issuing an order of protection. The duration of such an order shall
26 be fixed by the court and: (A) in the case of a felony conviction, shall
27 not exceed the greater of: (i) eight years from the date of such
28 sentencing, except where the sentence is or includes a sentence of

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

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1 probation on a conviction for a felony sexual assault, as provided in
2 subparagraph (iii) of paragraph (a) of subdivision three of section
3 65.00 of the penal law, in which case, ten years from the date of such
4 sentencing, or (ii) eight years from the date of the expiration of the
5 maximum term of an indeterminate or the term of a determinate sentence
6 of imprisonment actually imposed; or (B) in the case of a conviction for
7 a class A misdemeanor, shall not exceed the greater of: (i) five years
8 from the date of such sentencing, except where the sentence is or
9 includes a sentence of probation on a conviction for a misdemeanor sexual
10 assault, as provided in subparagraph (ii) of paragraph (b) of subdivi-
11 sion three of section 65.00 of the penal law, in which case, six years
12 from the date of such sentencing, or (ii) five years from the date of
13 the expiration of the maximum term of a definite or intermittent term
14 actually imposed; or (C) in the case of a conviction for any other
15 offense, shall not exceed the greater of: (i) two years from the date of
16 sentencing, or (ii) two years from the date of the expiration of the
17 maximum term of a definite or intermittent term actually imposed. For
18 purposes of determining the duration of an order of protection entered
19 pursuant to this subdivision, a conviction shall be deemed to include a
20 conviction that has been replaced by a youthful offender adjudication.
21 Any order of protection entered pursuant to this section shall be
22 extended for up to two years past the date that such order expires if
23 the court finds an extreme case for such extension and states on the
24 record the reasons for the extension. For purposes of this paragraph,
25 "extreme case" shall mean a threat of harm to the protected party
26 continues; defendant has been found guilty of repeated criminal contempt
27 due to a violation of an order of protection; defendant has continued to
28 express intent to commit harm to, intimidate or threaten the protected
29 party. In addition to any other conditions, such an order may require
30 the defendant:

31 § 3. The opening paragraph of subdivision 5 of section 530.12 of the
32 criminal procedure law, as amended by section 2 of chapter 9 of the laws
33 of 2011, is amended to read as follows:

34 Upon sentencing on a conviction for any crime or violation between
35 spouses, between a parent and child, or between members of the same
36 family or household as defined in subdivision one of section 530.11 of
37 this article, the court may in addition to any other disposition,
38 including a conditional discharge or youthful offender adjudication,
39 enter an order of protection. Where a temporary order of protection was
40 issued, the court shall state on the record the reasons for issuing or
41 not issuing an order of protection. The duration of such an order shall
42 be fixed by the court and, in the case of a felony conviction, shall not
43 exceed the greater of: (i) five years from the date of such sentencing,
44 or (ii) three years from the date of the expiration of the maximum term
45 of an indeterminate sentence of imprisonment actually imposed; or in the
46 case of a conviction for a class A misdemeanor, shall not exceed three
47 years from the date of such sentencing; or in the case of a conviction
48 for any other offense, shall not exceed one year from the date of
49 sentencing. For purposes of determining the duration of an order of
50 protection entered pursuant to this subdivision, a conviction shall be
51 deemed to include a conviction that has been replaced by a youthful
52 offender adjudication. Any order of protection entered pursuant to this
53 section shall be extended for up to two years past the date that such
54 order expires if the court finds an extreme case for such extension and
55 states on the record the reasons for the extension. For purposes of this
56 paragraph, "extreme case" shall mean a threat of harm to the protected

1 party continues; defendant has been found guilty of repeated criminal
2 contempt due to a violation of an order of protection; defendant has
3 continued to express intent to commit harm to, intimidate or threaten
4 the protected party. In addition to any other conditions, such an order
5 may require the defendant:

6 § 4. The opening paragraph of subdivision 4 of section 530.13 of the
7 criminal procedure law, as amended by chapter 240 of the laws of 2015,
8 is amended to read as follows:

9 Upon sentencing on a conviction for any offense, where the court has
10 not issued an order of protection pursuant to section 530.12 of this
11 article, the court may, in addition to any other disposition, including
12 a conditional discharge or youthful offender adjudication, enter an
13 order of protection. Where a temporary order of protection was issued,
14 the court shall state on the record the reasons for issuing or not issu-
15 ing an order of protection. The duration of such an order shall be fixed
16 by the court and; (A) in the case of a felony conviction, shall not
17 exceed the greater of: (i) eight years from the date of such sentencing,
18 except where the sentence is or includes a sentence of probation on a
19 conviction for a felony sexual assault, as provided in subparagraph
20 (iii) of paragraph (a) of subdivision three of section 65.00 of the
21 penal law, in which case, ten years from the date of such sentencing, or
22 (ii) eight years from the date of the expiration of the maximum term of
23 an indeterminate or the term of a determinate sentence of imprisonment
24 actually imposed; or (B) in the case of a conviction for a class A
25 misdemeanor, shall not exceed the greater of: (i) five years from the
26 date of such sentencing, except where the sentence is or includes a
27 sentence of probation on a conviction for a misdemeanor sexual assault,
28 as provided in subparagraph (ii) of paragraph (b) of subdivision three
29 of section 65.00 of the penal law, in which case, six years from the
30 date of such sentencing or (ii) five years from the date of the expira-
31 tion of the maximum term of a definite or intermittent term actually
32 imposed; or (C) in the case of a conviction for any other offense, shall
33 not exceed the greater of: (i) two years from the date of sentencing, or
34 (ii) two years from the date of the expiration of the maximum term of a
35 definite or intermittent term actually imposed. For purposes of deter-
36 mining the duration of an order of protection entered pursuant to this
37 subdivision, a conviction shall be deemed to include a conviction that
38 has been replaced by a youthful offender adjudication. Any order of
39 protection entered pursuant to this section shall be extended for up to
40 two years past the date that such order expires if the court finds an
41 extreme case for such extension and states on the record the reasons for
42 the extension. For purposes of this paragraph, "extreme case" shall mean
43 a threat of harm to the protected party continues; defendant has been
44 found guilty of repeated criminal contempt due to a violation of an
45 order of protection; defendant has continued to express intent to commit
46 harm to, intimidate or threaten the protected party. In addition to any
47 other conditions such an order may require that the defendant:

48 § 5. The opening paragraph of subdivision 4 of section 530.13 of the
49 criminal procedure law, as amended by section 4 of chapter 9 of the laws
50 of 2011, is amended to read as follows:

51 Upon sentencing on a conviction for any offense, where the court has
52 not issued an order of protection pursuant to section 530.12 of this
53 article, the court may, in addition to any other disposition, including
54 a conditional discharge or youthful offender adjudication, enter an
55 order of protection. Where a temporary order of protection was issued,
56 the court shall state on the record the reasons for issuing or not issu-

1 ing an order of protection. The duration of such an order shall be fixed
2 by the court and, in the case of a felony conviction, shall not exceed
3 the greater of: (i) five years from the date of such sentencing, or (ii)
4 three years from the date of the expiration of the maximum term of an
5 indeterminate sentence of imprisonment actually imposed; or in the case
6 of a conviction for a class A misdemeanor, shall not exceed three years
7 from the date of such sentencing; or in the case of a conviction for any
8 other offense, shall not exceed one year from the date of sentencing.
9 For purposes of determining the duration of an order of protection
10 entered pursuant to this subdivision, a conviction shall be deemed to
11 include a conviction that has been replaced by a youthful offender adju-
12 dication. Any order of protection entered pursuant to this section shall
13 be extended for up to two years past the date that such order expires if
14 the court finds an extreme case for such extension and states on the
15 record the reasons for the extension. For purposes of this paragraph,
16 "extreme case" shall mean a threat of harm to the protected party
17 continues; defendant has been found guilty of repeated criminal contempt
18 due to a violation of an order of protection; defendant has continued to
19 express intent to commit harm to, intimidate or threaten the protected
20 party. In addition to any other conditions such an order may require
21 that the defendant:

22 § 6. This act shall take effect on the ninetieth day after it shall
23 have become a law; provided that the amendments to the opening paragraph
24 of subdivision 5 of section 530.12 of the criminal procedure law, made
25 by section two of this act, and the amendments to the opening paragraph
26 of subdivision 4 of section 530.13 of the criminal procedure law, made
27 by section four of this act, shall be subject to the expiration and
28 reversion of such paragraphs pursuant to subdivision d of section 74 of
29 chapter 3 of the laws of 1995, as amended, when upon such date the
30 provisions of sections three and five of this act shall take effect.