STATE OF NEW YORK

7926

IN SENATE

March 3, 2020

Introduced by Sen. BAILEY -- 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, the criminal procedure law, and the domestic relations law, in relation to prohibiting a party to an order of protection from remotely controlling any connected devices of a person protected by such order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 352.3 of the family court act, as amended by chapter 532 of the laws of 2008, is amended to read as follows:

(1) Upon the issuance of an order pursuant to section 315.3 or the entry of an order of disposition pursuant to section 352.2, a court may enter an order of protection against any respondent for good cause shown. The order may require that the respondent: (a) stay away from the home, school, business or place of employment of the victims of the alleged offense; or (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the alleged offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order; or (c) 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**; or (d) refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order**. "Companion animal", as used in this subdivision, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law. **"Connected device", as used in this subdivision, shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.**

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

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§ 2. Subdivisions (i) and (j) of section 446 of the family court act, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(i) 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. 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) **1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this subdivision, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 3. Subdivisions (j) and (k) of section 551 of the family court act, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(j) 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. 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) **1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this subdivision, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 4. Subdivisions (j) and (k) of section 656 of the family court act, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(j) 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. 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) **1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this subdivision, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 5. Subdivisions (g), (h) and (i) of section 759 of the family court act, subdivision (g) as amended by chapter 948 of the laws of 1984, subdivision (h) as added by chapter 253 of the laws of 2006, paragraph 1 of subdivision (h) as amended by chapter 532 of the laws of 2008, and subdivision (i) as added by chapter 483 of the laws of 1995 and as relettered by chapter 253 of the laws of 2006, are amended to read as follows:

(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. 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. "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. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this subdivision, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 6. Subdivisions (j) and (k) of section 842 of the family court act, as amended by chapter 335 of the laws of 2019, are amended to read as follows:

(j) 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. 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) **1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this subdivision, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 7. Paragraphs (h) and (i) of subdivision 1 of section 1056 of the family court act, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(h) 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. For purposes of this paragraph, "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~~]

(i) **1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 8. Subparagraph 7 of paragraph (a) of subdivision 1 of section 530.12 of the criminal procedure law, as amended by chapter 526 of the laws of 2013, is amended and a new subparagraph 8 is added to read as follows:

(7) (A) 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: (i) 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 (ii) specify the manner in which such return shall be accomplished.

(B) For purposes of this subparagraph, "identification document" shall mean any of the following: (i) 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 (ii) 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[~~.~~]**;**

(8) (A) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.

(B) For purposes of this subparagraph, "connected device" shall mean any device, or other physical object that is capable of connecting to

the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.

§ 8-a. Paragraphs (c) and (e) of subdivision 5 of section 530.12 of the criminal procedure law, paragraph (c) as amended and paragraph (e) as added by chapter 483 of the laws of 1995, are amended and a new paragraph (f) is added to read as follows:

(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; [~~or~~]

(e) 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 chapter, the family court act or the domestic relations law[~~.~~]; or

(f) (i) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.

(ii) For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.

§ 9. Paragraph (c) of subdivision 1 of section 530.13 of the criminal procedure law, as added by chapter 253 of the laws of 2006, is amended and a new paragraph (d) is added to read as follows:

(c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

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[~~.~~];

(d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.

2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.

§ 9-a. Paragraph (c) of subdivision 4 of section 530.13 of the criminal procedure law, as added by chapter 253 of the laws of 2006, is amended and a new paragraph (d) is added to read as follows:

(c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

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[~~.~~];

(d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.

2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.

§ 10. Subparagraphs 8 and 9 of paragraph a of subdivision 3 of section 240 of the domestic relations law, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(8) (i) 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.

(ii) For purposes of this subparagraph, "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~~]

(9) **(i) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

(ii) For purposes of this subparagraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 11. Paragraphs (h) and (i) of subdivision 1 of section 252 of the domestic relations law, as amended by chapter 526 of the laws of 2013, are amended to read as follows:

(h) (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) For purposes of this paragraph, "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~~]

(i) **(1) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.**

(2) For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address; and

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

§ 12. This act shall take effect immediately.