STATE OF NEW YORK

7957

2021-2022 Regular Sessions

IN ASSEMBLY

June 3, 2021

Introduced by M. of A. RICHARDSON -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the domestic relations law, in relation to authorizing the court to determine the search and seizure orders of firearms in connection with orders of protection

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

Section 1. Paragraph h of subdivision 3 of section 240 of the domestic relations law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

h. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of [~~firearms~~] **a firearm, rifle or shotgun** in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action. **The court may, where the party against whom the order of protection or temporary order of protection was issued willfully refuses to surrender such firearm, rifle or shotgun pursuant to subdivisions (a) and (b) of section eight hundred forty-two-a of the family court act, or for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in**

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

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accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as said party may derive from this article or the constitution of this state or the United States.

§ 2. Subdivision 9 of section 252 of the domestic relations law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

9. Upon issuance of an order of protection or temporary order of protection or upon a violation of such order, the court shall make a determination regarding the suspension and revocation of a license to carry, possess, repair or dispose of a firearm or firearms, ineligibility for such a license and the surrender of [~~firearms~~] a firearm, rifle or shotgun in accordance with sections eight hundred forty-two-a and eight hundred forty-six-a of the family court act, as applicable. Upon issuance of an order of protection pursuant to this section or upon a finding of a violation thereof, the court also may direct payment of restitution in an amount not to exceed ten thousand dollars in accordance with subdivision (e) of section eight hundred forty-one of such act; provided, however, that in no case shall an order of restitution be issued where the court determines that the party against whom the order would be issued has already compensated the injured party or where such compensation is incorporated in a final judgment or settlement of the action. The court may, where the party against whom the order of protection or temporary order of protection was issued willfully refuses to surrender such firearm, rifle or shotgun pursuant to subdivisions (a) and (b) of section eight hundred forty-two-a of the family court act, or for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of the criminal procedure law, consistent with such rights as said party may derive from this article or the constitution of this state or the United States.

§ 3. This act shall take effect immediately.