

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:

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

4 h. Upon issuance of an order of protection or temporary order of
5 protection or upon a violation of such order, the court shall make a
6 determination regarding the suspension and revocation of a license to
7 carry, possess, repair or dispose of a firearm or firearms, ineligibil-
8 ity for such a license and the surrender of [~~firearms~~ a firearm, rifle
9 or shotgun in accordance with sections eight hundred forty-two-a and
10 eight hundred forty-six-a of the family court act, as applicable. Upon
11 issuance of an order of protection pursuant to this section or upon a
12 finding of a violation thereof, the court also may direct payment of
13 restitution in an amount not to exceed ten thousand dollars in accord-
14 ance with subdivision (e) of section eight hundred forty-one of such
15 act; provided, however, that in no case shall an order of restitution be
16 issued where the court determines that the party against whom the order
17 would be issued has already compensated the injured party or where such
18 compensation is incorporated in a final judgment or settlement of the
19 action. The court may, where the party against whom the order of
20 protection or temporary order of protection was issued willfully refuses
21 to surrender such firearm, rifle or shotgun pursuant to subdivisions (a)
22 and (b) of section eight hundred forty-two-a of the family court act, or
23 for other good cause shown, order the immediate seizure of such firearm,
24 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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1 accordance with article six hundred ninety of the criminal procedure
2 law, consistent with such rights as said party may derive from this
3 article or the constitution of this state or the United States.

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

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

30 § 3. This act shall take effect immediately.