

# STATE OF NEW YORK

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1562

2021-2022 Regular Sessions

## IN SENATE

January 13, 2021

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Introduced by Sen. MAY -- 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 and the criminal procedure law, in relation to disorderly conduct

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 1 of section 812 of  
2 the family court act, as amended by chapter 109 of the laws of 2019, is  
3 amended to read as follows:

4 The family court and the criminal courts shall have concurrent juris-  
5 diction over any proceeding concerning acts which would constitute  
6 disorderly conduct as set forth in subdivisions one, three, four, five,  
7 six and seven of section 240.20 of the penal law, unlawful dissemination  
8 or publication of an intimate image, harassment in the first degree,  
9 harassment in the second degree, aggravated harassment in the second  
10 degree, sexual misconduct, forcible touching, sexual abuse in the third  
11 degree, sexual abuse in the second degree as set forth in subdivision  
12 one of section 130.60 of the penal law, stalking in the first degree,  
13 stalking in the second degree, stalking in the third degree, stalking in  
14 the fourth degree, criminal mischief, menacing in the second degree,  
15 menacing in the third degree, reckless endangerment, criminal  
16 obstruction of breathing or blood circulation, strangulation in the  
17 second degree, strangulation in the first degree, assault in the second  
18 degree, assault in the third degree, an attempted assault, identity  
19 theft in the first degree, identity theft in the second degree, identity  
20 theft in the third degree, grand larceny in the fourth degree, grand  
21 larceny in the third degree, coercion in the second degree or coercion  
22 in the third degree as set forth in subdivisions one, two and three of  
23 section 135.60 of the penal law between spouses or former spouses, or  
24 between parent and child or between members of the same family or house-  
25 hold except that if the respondent would not be criminally responsible

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

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1 by reason of age pursuant to section 30.00 of the penal law, then the  
2 family court shall have exclusive jurisdiction over such proceeding.  
3 Notwithstanding a complainant's election to proceed in family court, the  
4 criminal court shall not be divested of jurisdiction to hear a family  
5 offense proceeding pursuant to this section. In any proceeding pursuant  
6 to this article, a court shall not deny an order of protection, or  
7 dismiss a petition, solely on the basis that the acts or events alleged  
8 are not relatively contemporaneous with the date of the petition, the  
9 conclusion of the fact-finding or the conclusion of the dispositional  
10 hearing. For purposes of this article, "disorderly conduct" includes  
11 disorderly conduct not in a public place and does not require an intent  
12 to cause public inconvenience, annoyance or alarm, or recklessly creat-  
13 ing a risk thereof, but merely an intent to cause annoyance or alarm, or  
14 recklessly creating a risk thereof. For purposes of this article,  
15 "members of the same family or household" shall mean the following:

16 § 2. The opening paragraph of subdivision 1 of section 530.11 of the  
17 criminal procedure law, as amended by chapter 109 of the laws of 2019,  
18 is amended to read as follows:

19 The family court and the criminal courts shall have concurrent juris-  
20 diction over any proceeding concerning acts which would constitute  
21 disorderly conduct as set forth in subdivisions one, three, four, five,  
22 six and seven of section 240.20 of the penal law, unlawful dissemination  
23 or publication of an intimate image, harassment in the first degree,  
24 harassment in the second degree, aggravated harassment in the second  
25 degree, sexual misconduct, forcible touching, sexual abuse in the third  
26 degree, sexual abuse in the second degree as set forth in subdivision  
27 one of section 130.60 of the penal law, stalking in the first degree,  
28 stalking in the second degree, stalking in the third degree, stalking in  
29 the fourth degree, criminal mischief, menacing in the second degree,  
30 menacing in the third degree, reckless endangerment, strangulation in  
31 the first degree, strangulation in the second degree, criminal  
32 obstruction of breathing or blood circulation, assault in the second  
33 degree, assault in the third degree, an attempted assault, identity  
34 theft in the first degree, identity theft in the second degree, identity  
35 theft in the third degree, grand larceny in the fourth degree, grand  
36 larceny in the third degree, coercion in the second degree or coercion  
37 in the third degree as set forth in subdivisions one, two and three of  
38 section 135.60 of the penal law between spouses or former spouses, or  
39 between parent and child or between members of the same family or house-  
40 hold except that if the respondent would not be criminally responsible  
41 by reason of age pursuant to section 30.00 of the penal law, then the  
42 family court shall have exclusive jurisdiction over such proceeding.  
43 Notwithstanding a complainant's election to proceed in family court, the  
44 criminal court shall not be divested of jurisdiction to hear a family  
45 offense proceeding pursuant to this section. For purposes of this  
46 section, "disorderly conduct" includes disorderly conduct not in a  
47 public place and does not require an intent to cause public inconven-  
48 ience, annoyance or alarm, or recklessly creating a risk thereof, but  
49 merely an intent to cause annoyance or alarm, or recklessly creating a  
50 risk thereof. For purposes of this section, "members of the same family  
51 or household" with respect to a proceeding in the criminal courts shall  
52 mean the following:

53 § 3. This act shall take effect immediately.