

# STATE OF NEW YORK

9545

## IN SENATE

August 31, 2022

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act and the criminal procedure law, in relation to orders of protection

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

1 Section 1. This act shall be known and may be cited as "Melanie's  
2 law".  
3 § 2. Subdivision 1 of section 812 of the family court act, as amended  
4 by chapter 326 of the laws of 2008, the opening paragraph as amended by  
5 chapter 109 of the laws of 2019, is amended to read as follows:  
6 1. Jurisdiction. The family court and the criminal courts shall have  
7 concurrent jurisdiction over any proceeding concerning acts which would  
8 constitute disorderly conduct, unlawful dissemination or publication of  
9 an intimate image, harassment in the first degree, harassment in the  
10 second degree, aggravated harassment in the second degree, sexual  
11 misconduct, forcible touching, sexual abuse in the third degree, sexual  
12 abuse in the second degree as set forth in subdivision one of section  
13 130.60 of the penal law, stalking in the first degree, stalking in the  
14 second degree, stalking in the third degree, stalking in the fourth  
15 degree, criminal mischief, menacing in the second degree, menacing in  
16 the third degree, reckless endangerment, criminal obstruction of breath-  
17 ing or blood circulation, strangulation in the second degree, strangula-  
18 tion in the first degree, assault in the second degree, assault in the  
19 third degree, an attempted assault, identity theft in the first degree,  
20 identity theft in the second degree, identity theft in the third degree,  
21 grand larceny in the fourth degree, grand larceny in the third degree,  
22 coercion in the second degree or coercion in the third degree as set  
23 forth in subdivisions one, two and three of section 135.60 of the penal  
24 law between spouses or former spouses, or between parent and child or  
25 between members of the same family or household except that if the  
26 respondent would not be criminally responsible by reason of age pursuant  
27 to section 30.00 of the penal law, then the family court shall have  
28 exclusive jurisdiction over such proceeding. Notwithstanding a

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

LBD16184-01-2

1 complainant's election to proceed in family court, the criminal court  
2 shall not be divested of jurisdiction to hear a family offense proceed-  
3 ing pursuant to this section. In any proceeding pursuant to this arti-  
4 cle, a court shall not deny an order of protection, or dismiss a peti-  
5 tion, solely on the basis that the acts or events alleged are not  
6 relatively contemporaneous with the date of the petition, the conclusion  
7 of the fact-finding or the conclusion of the dispositional hearing. For  
8 purposes of this article, "disorderly conduct" includes disorderly  
9 conduct not in a public place. For purposes of this article, "members of  
10 the same family or household" shall mean the following:

11 (a) persons related by consanguinity or affinity;

12 (b) persons legally married to one another;

13 (c) persons formerly married to one another regardless of whether they  
14 still reside in the same household;

15 (d) persons who have a child in common regardless of whether such  
16 persons have been married or have lived together at any time; ~~and~~

17 (e) persons who are not related by consanguinity or affinity and who  
18 are or have been in an intimate relationship regardless of whether such  
19 persons have lived together at any time. Factors the court may consider  
20 in determining whether a relationship is an "intimate relationship"  
21 include but are not limited to: the nature or type of relationship,  
22 regardless of whether the relationship is sexual in nature; the frequen-  
23 cy of interaction between the persons; and the duration of the relation-  
24 ship. Neither a casual acquaintance nor ordinary fraternization between  
25 two individuals in business or social contexts shall be deemed to  
26 constitute an "intimate relationship"; ~~and~~

27 (f) persons who are related by consanguinity or affinity to parties  
28 who are or have been in an intimate relationship as defined in paragraph  
29 (e) of this subdivision.

30 § 3. Subdivision 1 of section 530.11 of the criminal procedure law, as  
31 amended by chapter 326 of the laws of 2008, the opening paragraph as  
32 amended by chapter 109 of the laws of 2019, is amended to read as  
33 follows:

34 1. Jurisdiction. The family court and the criminal courts shall have  
35 concurrent jurisdiction over any proceeding concerning acts which would  
36 constitute disorderly conduct, unlawful dissemination or publication of  
37 an intimate image, harassment in the first degree, harassment in the  
38 second degree, aggravated harassment in the second degree, sexual  
39 misconduct, forcible touching, sexual abuse in the third degree, sexual  
40 abuse in the second degree as set forth in subdivision one of section  
41 130.60 of the penal law, stalking in the first degree, stalking in the  
42 second degree, stalking in the third degree, stalking in the fourth  
43 degree, criminal mischief, menacing in the second degree, menacing in  
44 the third degree, reckless endangerment, strangulation in the first  
45 degree, strangulation in the second degree, criminal obstruction of  
46 breathing or blood circulation, assault in the second degree, assault in  
47 the third degree, an attempted assault, identity theft in the first  
48 degree, identity theft in the second degree, identity theft in the third  
49 degree, grand larceny in the fourth degree, grand larceny in the third  
50 degree, coercion in the second degree or coercion in the third degree as  
51 set forth in subdivisions one, two and three of section 135.60 of the  
52 penal law between spouses or former spouses, or between parent and child  
53 or between members of the same family or household except that if the  
54 respondent would not be criminally responsible by reason of age pursuant  
55 to section 30.00 of the penal law, then the family court shall have  
56 exclusive jurisdiction over such proceeding. Notwithstanding a

1 complainant's election to proceed in family court, the criminal court  
2 shall not be divested of jurisdiction to hear a family offense proceed-  
3 ing pursuant to this section. For purposes of this section, "disorderly  
4 conduct" includes disorderly conduct not in a public place. For  
5 purposes of this section, "members of the same family or household" with  
6 respect to a proceeding in the criminal courts shall mean the following:

7 (a) persons related by consanguinity or affinity;

8 (b) persons legally married to one another;

9 (c) persons formerly married to one another regardless of whether they  
10 still reside in the same household;

11 (d) persons who have a child in common, regardless of whether such  
12 persons have been married or have lived together at any time; ~~and~~

13 (e) persons who are not related by consanguinity or affinity and who  
14 are or have been in an intimate relationship regardless of whether such  
15 persons have lived together at any time. Factors the court may consider  
16 in determining whether a relationship is an "intimate relationship"  
17 include but are not limited to: the nature or type of relationship,  
18 regardless of whether the relationship is sexual in nature; the frequen-  
19 cy of interaction between the persons; and the duration of the relation-  
20 ship. Neither a casual acquaintance nor ordinary fraternization between  
21 two individuals in business or social contexts shall be deemed to  
22 constitute an "intimate relationship"; and

23 (f) persons who are related by consanguinity or affinity to parties  
24 who are or have been in an intimate relationship as defined in paragraph  
25 (e) of this subdivision.

26 § 4. This act shall take effect immediately.