

# STATE OF NEW YORK

8324

2021-2022 Regular Sessions

## IN ASSEMBLY

October 20, 2021

Introduced by M. of A. J. M. GIGLIO -- read once and referred to the  
Committee on Codes

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

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

1 Section 1. Subdivision 1 of section 154-c of the family court act, as  
2 added by chapter 186 of the laws of 1997, is amended to read as follows:

3 1. Expiration dates and extensions. (a) Any order of protection or  
4 temporary order of protection issued under articles four, five, six and  
5 eight of this act shall plainly state the date that such order expires.

6 (b) Any order of protection or temporary order of protection issued  
7 under this act shall be extended for up to two years past the date that  
8 such order expires if the court finds an extreme case for such extension  
9 and states on the record the reasons for the extension. For purposes of  
10 this paragraph, "extreme case" shall mean a threat of harm to the  
11 protected party continues; respondent has been found guilty of repeated  
12 criminal contempt due to a violation of an order of protection; respond-  
13 ent has continued to express intent to commit harm to, intimidate or  
14 threaten the protected party.

15 § 2. The opening paragraph of subdivision 5 of section 530.12 of the  
16 criminal procedure law, as amended by chapter 240 of the laws of 2015,  
17 is amended to read as follows:

18 Upon sentencing on a conviction for any crime or violation between  
19 spouses, between a parent and child, or between members of the same  
20 family or household as defined in subdivision one of section 530.11 of  
21 this article, the court may in addition to any other disposition,  
22 including a conditional discharge or youthful offender adjudication,  
23 enter an order of protection. Where a temporary order of protection was  
24 issued, the court shall state on the record the reasons for issuing or  
25 not issuing an order of protection. The duration of such an order shall

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

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1 be fixed by the court and: (A) in the case of a felony conviction, shall  
2 not exceed the greater of: (i) eight years from the date of such  
3 sentencing, except where the sentence is or includes a sentence of  
4 probation on a conviction for a felony sexual assault, as provided in  
5 subparagraph (iii) of paragraph (a) of subdivision three of section  
6 65.00 of the penal law, in which case, ten years from the date of such  
7 sentencing, or (ii) eight years from the date of the expiration of the  
8 maximum term of an indeterminate or the term of a determinate sentence  
9 of imprisonment actually imposed; or (B) in the case of a conviction for  
10 a class A misdemeanor, shall not exceed the greater of: (i) five years  
11 from the date of such sentencing, except where the sentence is or  
12 includes a sentence of probation on a conviction for a misdemeanor sexu-  
13 al assault, as provided in subparagraph (ii) of paragraph (b) of subdi-  
14 vision three of section 65.00 of the penal law, in which case, six years  
15 from the date of such sentencing, or (ii) five years from the date of  
16 the expiration of the maximum term of a definite or intermittent term  
17 actually imposed; or (C) in the case of a conviction for any other  
18 offense, shall not exceed the greater of: (i) two years from the date of  
19 sentencing, or (ii) two years from the date of the expiration of the  
20 maximum term of a definite or intermittent term actually imposed. For  
21 purposes of determining the duration of an order of protection entered  
22 pursuant to this subdivision, a conviction shall be deemed to include a  
23 conviction that has been replaced by a youthful offender adjudication.  
24 Any order of protection entered pursuant to this section shall be  
25 extended for up to two years past the date that such order expires if  
26 the court finds an extreme case for such extension and states on the  
27 record the reasons for the extension. For purposes of this paragraph,  
28 "extreme case" shall mean a threat of harm to the protected party  
29 continues; defendant has been found guilty of repeated criminal contempt  
30 due to a violation of an order of protection; defendant has continued to  
31 express intent to commit harm to, intimidate or threaten the protected  
32 party. In addition to any other conditions, such an order may require  
33 the defendant:

34 § 3. The opening paragraph of subdivision 5 of section 530.12 of the  
35 criminal procedure law, as amended by section 2 of chapter 9 of the laws  
36 of 2011, is amended to read as follows:

37 Upon sentencing on a conviction for any crime or violation between  
38 spouses, between a parent and child, or between members of the same  
39 family or household as defined in subdivision one of section 530.11 of  
40 this article, the court may in addition to any other disposition,  
41 including a conditional discharge or youthful offender adjudication,  
42 enter an order of protection. Where a temporary order of protection was  
43 issued, the court shall state on the record the reasons for issuing or  
44 not issuing an order of protection. The duration of such an order shall  
45 be fixed by the court and, in the case of a felony conviction, shall not  
46 exceed the greater of: (i) five years from the date of such sentencing,  
47 or (ii) three years from the date of the expiration of the maximum term  
48 of an indeterminate sentence of imprisonment actually imposed; or in the  
49 case of a conviction for a class A misdemeanor, shall not exceed three  
50 years from the date of such sentencing; or in the case of a conviction  
51 for any other offense, shall not exceed one year from the date of  
52 sentencing. For purposes of determining the duration of an order of  
53 protection entered pursuant to this subdivision, a conviction shall be  
54 deemed to include a conviction that has been replaced by a youthful  
55 offender adjudication. Any order of protection entered pursuant to this  
56 section shall be extended for up to two years past the date that such

1 order expires if the court finds an extreme case for such extension and  
2 states on the record the reasons for the extension. For purposes of this  
3 paragraph, "extreme case" shall mean a threat of harm to the protected  
4 party continues; defendant has been found guilty of repeated criminal  
5 contempt due to a violation of an order of protection; defendant has  
6 continued to express intent to commit harm to, intimidate or threaten  
7 the protected party. In addition to any other conditions, such an order  
8 may require the defendant:

9 § 4. The opening paragraph of subdivision 4 of section 530.13 of the  
10 criminal procedure law, as amended by chapter 240 of the laws of 2015,  
11 is amended to read as follows:

12 Upon sentencing on a conviction for any offense, where the court has  
13 not issued an order of protection pursuant to section 530.12 of this  
14 article, the court may, in addition to any other disposition, including  
15 a conditional discharge or youthful offender adjudication, enter an  
16 order of protection. Where a temporary order of protection was issued,  
17 the court shall state on the record the reasons for issuing or not issu-  
18 ing an order of protection. The duration of such an order shall be fixed  
19 by the court and; (A) in the case of a felony conviction, shall not  
20 exceed the greater of: (i) eight years from the date of such sentencing,  
21 except where the sentence is or includes a sentence of probation on a  
22 conviction for a felony sexual assault, as provided in subparagraph  
23 (iii) of paragraph (a) of subdivision three of section 65.00 of the  
24 penal law, in which case, ten years from the date of such sentencing, or  
25 (ii) eight years from the date of the expiration of the maximum term of  
26 an indeterminate or the term of a determinate sentence of imprisonment  
27 actually imposed; or (B) in the case of a conviction for a class A  
28 misdemeanor, shall not exceed the greater of: (i) five years from the  
29 date of such sentencing, except where the sentence is or includes a  
30 sentence of probation on a conviction for a misdemeanor sexual assault,  
31 as provided in subparagraph (ii) of paragraph (b) of subdivision three  
32 of section 65.00 of the penal law, in which case, six years from the  
33 date of such sentencing or (ii) five years from the date of the expira-  
34 tion of the maximum term of a definite or intermittent term actually  
35 imposed; or (C) in the case of a conviction for any other offense, shall  
36 not exceed the greater of: (i) two years from the date of sentencing, or  
37 (ii) two years from the date of the expiration of the maximum term of a  
38 definite or intermittent term actually imposed. For purposes of deter-  
39 mining the duration of an order of protection entered pursuant to this  
40 subdivision, a conviction shall be deemed to include a conviction that  
41 has been replaced by a youthful offender adjudication. Any order of  
42 protection entered pursuant to this section shall be extended for up to  
43 two years past the date that such order expires if the court finds an  
44 extreme case for such extension and states on the record the reasons for  
45 the extension. For purposes of this paragraph, "extreme case" shall mean  
46 a threat of harm to the protected party continues; defendant has been  
47 found guilty of repeated criminal contempt due to a violation of an  
48 order of protection; defendant has continued to express intent to commit  
49 harm to, intimidate or threaten the protected party. In addition to any  
50 other conditions such an order may require that the defendant:

51 § 5. The opening paragraph of subdivision 4 of section 530.13 of the  
52 criminal procedure law, as amended by section 4 of chapter 9 of the laws  
53 of 2011, is amended to read as follows:

54 Upon sentencing on a conviction for any offense, where the court has  
55 not issued an order of protection pursuant to section 530.12 of this  
56 article, the court may, in addition to any other disposition, including

1 a conditional discharge or youthful offender adjudication, enter an  
2 order of protection. Where a temporary order of protection was issued,  
3 the court shall state on the record the reasons for issuing or not issu-  
4 ing an order of protection. The duration of such an order shall be fixed  
5 by the court and, in the case of a felony conviction, shall not exceed  
6 the greater of: (i) five years from the date of such sentencing, or (ii)  
7 three years from the date of the expiration of the maximum term of an  
8 indeterminate sentence of imprisonment actually imposed; or in the case  
9 of a conviction for a class A misdemeanor, shall not exceed three years  
10 from the date of such sentencing; or in the case of a conviction for any  
11 other offense, shall not exceed one year from the date of sentencing.  
12 For purposes of determining the duration of an order of protection  
13 entered pursuant to this subdivision, a conviction shall be deemed to  
14 include a conviction that has been replaced by a youthful offender adju-  
15 dication. Any order of protection entered pursuant to this section shall  
16 be extended for up to two years past the date that such order expires if  
17 the court finds an extreme case for such extension and states on the  
18 record the reasons for the extension. For purposes of this paragraph,  
19 "extreme case" shall mean a threat of harm to the protected party  
20 continues; defendant has been found guilty of repeated criminal contempt  
21 due to a violation of an order of protection; defendant has continued to  
22 express intent to commit harm to, intimidate or threaten the protected  
23 party. In addition to any other conditions such an order may require  
24 that the defendant:

25 § 6. This act shall take effect on the ninetieth day after it shall  
26 have become a law; provided that the amendments to the opening paragraph  
27 of subdivision 5 of section 530.12 of the criminal procedure law, made  
28 by section two of this act, and the amendments to the opening paragraph  
29 of subdivision 4 of section 530.13 of the criminal procedure law, made  
30 by section four of this act, shall be subject to the expiration and  
31 reversion of such paragraphs pursuant to subdivision d of section 74 of  
32 chapter 3 of the laws of 1995, as amended, when upon such date the  
33 provisions of sections three and five of this act shall take effect.