

STATE OF NEW YORK

4474

2023-2024 Regular Sessions

IN SENATE

February 9, 2023

Introduced by Sen. ROLISON -- 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 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

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

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respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing. For purposes of this article, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this article, "members of the same family or household" shall mean the following:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common regardless of whether such persons have been married or have lived together at any time; ~~and~~
- (e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; and
- (f) persons who are related by consanguinity or affinity to parties who are or have been in an intimate relationship as defined in paragraph (e) of this subdivision.

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

1. Jurisdiction. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, unlawful dissemination or publication of an intimate image, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree, coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the

1 respondent would not be criminally responsible by reason of age pursuant
2 to section 30.00 of the penal law, then the family court shall have
3 exclusive jurisdiction over such proceeding. Notwithstanding a
4 complainant's election to proceed in family court, the criminal court
5 shall not be divested of jurisdiction to hear a family offense proceed-
6 ing pursuant to this section. For purposes of this section, "disorderly
7 conduct" includes disorderly conduct not in a public place. For
8 purposes of this section, "members of the same family or household" with
9 respect to a proceeding in the criminal courts shall mean the following:

10 (a) persons related by consanguinity or affinity;

11 (b) persons legally married to one another;

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

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

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

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

29 § 4. This act shall take effect immediately.