STATE OF NEW YORK

5905

2023-2024 Regular Sessions

IN SENATE

March 22, 2023

Introduced by Sen. BRISPORT -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the real property actions and proceedings law, in relation to prohibiting naming dependent children under the age of 18 in petitions to recover possession of real property and eviction warrants and sealing any records pertaining to such children

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

Section 1. Section 741 of the real property actions and proceedings law, as added by chapter 312 of the laws of 1962, the opening paragraph as amended by chapter 583 of the laws of 1979, subdivision 5 as amended by chapter 302 of the laws of 1976, and subdivision 6 as added by chapter 615 of the laws of 2022, is amended to read as follows:

§ 741. Contents of petition. **1.** The petition shall be verified by the person authorized by section seven hundred twenty-one **of this article** to maintain the proceeding; or by a legal representative, attorney or agent of such person pursuant to subdivision (d) of section thirty hundred twenty of the civil practice law and rules. An attorney of such person may verify the petition on information and belief notwithstanding the fact that such person is in the county where the attorney has his office. Every petition shall:

[~~1.~~] **(a)** State the interest of the petitioner in the premises from which removal is sought.

[~~2.~~] **(b)** State the respondent's interest in the premises and his relationship to petitioner with regard thereto.

[~~3.~~] **(c)** Describe the premises from which removal is sought.

[~~4.~~] **(d)** State the facts upon which the special proceeding is based.

[~~5.~~] **(e)** State the relief sought. The relief may include a judgment for rent due, and for a period of occupancy during which no rent is due, for the fair value of use and occupancy of the premises if the notice of

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

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petition contains a notice that a demand for such a judgment has been made.

[~~6.~~] **(f)** In the city of Albany, where the premises from which removal is sought is subject to a local law requiring the registration of said premises as a condition of legal rental, allege proof of compliance with such local law.

2. No dependent children under the age of eighteen living in the same household with a parent or guardian shall be named in the petition.

§ 2. Subdivision 1 of section 749 of the real property actions and proceedings law, as amended by section 19 of part M of chapter 36 of the laws of 2019, is amended to read as follows:

1. Upon rendering a final judgment for petitioner, the court shall issue a warrant directed to the sheriff of the county or to any constable or marshal of the city in which the property, or a portion thereof, is situated, or, if it is not situated in a city, to any constable of any town in the county, describing the property, stating the earliest date upon which execution may occur pursuant to the order of the court, and commanding the officer to remove all persons named in the proceeding, provided upon a showing of good cause, the court may issue a stay of re-letting or renovation of the premises for a reasonable period of time**; provided further, however, that no dependent children under the age of eighteen living in the same household with a parent or guardian shall be named in the warrant**.

§ 3. Section 749 of the real property actions and proceedings law is amended by adding a new subdivision 4 to read as follows:

4. In the event that a warrant is issued pursuant to subdivision one of this section and any persons are removed from a property, any records pertaining to dependent children under the age of eighteen living in the same household with a parent or guardian who were residing on or removed from such property shall be sealed and deemed confidential. No disclosure or use of such information relating to dependent children under the age of eighteen who were residing on or removed from such property shall be authorized, and the use of such information shall be prohibited.

§ 4. This act shall take effect immediately; provided, however, that if chapter 615 of the laws of 2022 shall not have taken effect on or before such date then the amendments to subdivision 6 of section 741 of the real property actions and proceedings law made by section one of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2022 takes effect.