

STATE OF NEW YORK

6288

2023-2024 Regular Sessions

IN SENATE

April 11, 2023

Introduced by Sens. HINCHEY, 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 Assem-
bly, 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

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

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1 between members of the same family or household except that if the
2 respondent would not be criminally responsible by reason of age pursuant
3 to section 30.00 of the penal law, then the family court shall have
4 exclusive jurisdiction over such proceeding. Notwithstanding a
5 complainant's election to proceed in family court, the criminal court
6 shall not be divested of jurisdiction to hear a family offense proceed-
7 ing pursuant to this section. In any proceeding pursuant to this arti-
8 cle, a court shall not deny an order of protection, or dismiss a peti-
9 tion, solely on the basis that the acts or events alleged are not
10 relatively contemporaneous with the date of the petition, the conclusion
11 of the fact-finding or the conclusion of the dispositional hearing. For
12 purposes of this article, "disorderly conduct" includes disorderly
13 conduct not in a public place. For purposes of this article, "members of
14 the same family or household" shall mean the following:

- 15 (a) persons related by consanguinity or affinity;
- 16 (b) persons legally married to one another;
- 17 (c) persons formerly married to one another regardless of whether they
18 still reside in the same household;
- 19 (d) persons who have a child in common regardless of whether such
20 persons have been married or have lived together at any time; [and]
- 21 (e) persons who are not related by consanguinity or affinity and who
22 are or have been in an intimate relationship regardless of whether such
23 persons have lived together at any time. Factors the court may consider
24 in determining whether a relationship is an "intimate relationship"
25 include but are not limited to: the nature or type of relationship,
26 regardless of whether the relationship is sexual in nature; the frequen-
27 cy of interaction between the persons; and the duration of the relation-
28 ship. Neither a casual acquaintance nor ordinary fraternization between
29 two individuals in business or social contexts shall be deemed to
30 constitute an "intimate relationship"; and
- 31 (f) persons who are related by consanguinity or affinity to parties
32 who are or have been in an intimate relationship as defined in paragraph
33 (e) of this subdivision.

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

38 1. Jurisdiction. The family court and the criminal courts shall have
39 concurrent jurisdiction over any proceeding concerning acts which would
40 constitute disorderly conduct, unlawful dissemination or publication of
41 an intimate image, harassment in the first degree, harassment in the
42 second degree, aggravated harassment in the second degree, sexual
43 misconduct, forcible touching, sexual abuse in the third degree, sexual
44 abuse in the second degree as set forth in subdivision one of section
45 130.60 of the penal law, stalking in the first degree, stalking in the
46 second degree, stalking in the third degree, stalking in the fourth
47 degree, criminal mischief, menacing in the second degree, menacing in
48 the third degree, reckless endangerment, strangulation in the first
49 degree, strangulation in the second degree, criminal obstruction of
50 breathing or blood circulation, assault in the second degree, assault in
51 the third degree, an attempted assault, identity theft in the first
52 degree, identity theft in the second degree, identity theft in the third
53 degree, grand larceny in the fourth degree, grand larceny in the third
54 degree, coercion in the second degree or coercion in the third degree as
55 set forth in subdivisions one, two and three of section 135.60 of the
56 penal law between spouses or former spouses, or between parent and child

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