STATE OF NEW YORK

10325

IN ASSEMBLY

May 17, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hevesi) -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, the criminal procedure law and the education law, in relation to notifying school districts of orders of protection and temporary orders of protection

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

Section 1. Section 842 of the family court act is amended by adding a new closing paragraph to read as follows:

In any proceeding in which a child is the protected party in whose favor an order of protection or temporary order of protection has been issued, and such child legally attends a school in the state of New York, the court shall notify such school or board of cooperative educational services of such school district on the same day as the issuance, modification, extension, dismissal, or expiration of the order of protection or temporary order of protection, or as soon thereafter as practicable, when such order of protection or temporary order of protection requires the parent or the person legally responsible for such child's care, or the spouse of the parent or other person legally responsible for such child's care, to stay away from such child's school. The presentation of a copy of such order to such school or board of cooperative educational services of such school district shall not impose on such school or board of cooperative educational services of such school district any duty of care greater than what is legally required. The court shall be required to adopt a process by which the school district superintendent, school building principal, or school administrator of the school such child legally attends is confidentially notified by mail, fax, or secure electronic document.

§ 2. Subdivisions 6 and 8 of section 530.12 of the criminal procedure law, as amended by chapter 480 of the laws of 2013, are amended to read as follows:

6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term "order of protection" or

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

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"temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The order of protection or temporary order of protection shall also contain the following notice: "This order of protection will remain in effect even if the protected party has, or consents to have, contact or communication with the party against whom the order is issued. This order of protection can only be modified or terminated by the court. The protected party cannot be held to violate this order nor be arrested for violating this order."[~~.~~] The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. **In any proceeding in which a child is the protected party in whose favor an order of protection or temporary order of protection has been issued, and such child legally attends a public or private elementary, middle, or secondary school in the state of New York, the clerk of the court shall confidentially notify the school superintendent, school district superintendent, building principal, and/or other school administrator of such school or board of cooperative educational services of such school district pursuant to subdivision eight of this section.** A copy of the order may also be filed by the complainant at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

Such order of protection shall plainly state the date that such order expires.

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. **In any proceeding in which a child is the protected party in whose favor an order of protection or temporary order of protection has been issued, and such child legally attends a public or private elementary, middle, or secondary school in the state of New York, the clerk of the court shall confidentially notify the school superintendent, school district superintendent, building principal, and/or other school administrator of such school or board of cooperative educational services of such school district by mail, fax, or secure electronic format on the same day as the issuance, modification, extension, dismissal, or expiration of the order of protection or temporary order of protection, or as soon thereafter as practicable, when such order of protection or temporary order of protection requires the parent or the person legally responsible for such child's care, or the spouse of the parent or other person legally responsible for such child's care, to stay away from such child's school. The presentation of a copy of such order to such school or board of cooperative educational services of such school district shall not**

impose on such school or board of cooperative educational services of such school district any duty of care greater than what is legally required. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to [~~his or her~~] such peace officer's special duties or police officer shall constitute authority for [~~him or her~~] such officer to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within [~~his or her~~] such officer's power, to aid in securing the protection such order was intended to afford. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in [~~his or her~~] such party's favor nor may such protected party be arrested for violating such order.

§ 3. Paragraph e of subdivision 4 of section 2-d of the education law, as added by section 1 of subpart L of part AA of chapter 56 of the laws of 2014, is amended to read as follows:

e. Except as required by law or in the case of educational enrollment data, school districts shall not report to the department the following student data elements:

(1) juvenile delinquency records;

(2) criminal records;

(3) medical and health records; [~~and~~]

(4) student biometric information; and

(5) orders of protection in which the student is the protected party.

§ 4. Paragraph c of subdivision 1 of section 3210 of the education law, as added by chapter 549 of the laws of 1986, is amended to read as follows:

c. In the event that a person requests the release of a minor required by the provisions of part one of this article to attend upon instruction, the identity of such person shall be verified against a list of names provided by the person or persons in parental relation to the minor, as defined in section two of this chapter, at the time of such minor's enrollment. The school district may adopt appropriate procedures for the purpose of submitting a list of names at a later date or updating the list of names provided by the person or persons in parental relation. If such person is identified as one of those persons included on such list, such minor may be released from attendance. If such person is identified as a person not included on such list, such minor may not be released except in the event of an emergency as determined in the sole discretion of the principal of the school, or his designee, provided that the person or persons in parental relation to the minor have been contacted and have agreed to such release. A school district may presume that either parent of the student has authority to obtain the release of said minor unless the school district has been provided with a certified copy of the legally binding instrument, such as the court order or decree of divorce, separation or custody which provides evidence to the contrary, or an order of protection pursuant to section eight hundred forty-two of the family court act or subdivisions six and eight of section 530.12 of the criminal procedure law. No situation shall be deemed an emergency until the facts of such situation have been verified by such principal or [~~his~~] such principal's designee. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph. The foregoing procedure shall not apply to release of a minor

pursuant to the protective custody provisions of the social services law and the family court act.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.