

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 Assem-
bly, do enact as follows:

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

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

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

25 6. An order of protection or a temporary order of protection issued
26 pursuant to subdivision one, two, three, four or five of this section
27 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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1 "temporary order of protection" as the case may be and a copy shall be
2 filed by the clerk of the court with the sheriff's office in the county
3 in which the complainant resides, or, if the complainant resides within
4 a city, with the police department of such city. The order of protection
5 or temporary order of protection shall also contain the following
6 notice: "This order of protection will remain in effect even if the
7 protected party has, or consents to have, contact or communication with
8 the party against whom the order is issued. This order of protection can
9 only be modified or terminated by the court. The protected party cannot
10 be held to violate this order nor be arrested for violating this
11 order." [✚] The absence of such language shall not affect the validity of
12 such order. A copy of such order of protection or temporary order of
13 protection may from time to time be filed by the clerk of the court with
14 any other police department or sheriff's office having jurisdiction of
15 the residence, work place, and school of anyone intended to be protected
16 by such order. In any proceeding in which a child is the protected party
17 in whose favor an order of protection or temporary order of protection
18 has been issued, and such child legally attends a public or private
19 elementary, middle, or secondary school in the state of New York, the
20 clerk of the court shall confidentially notify the school superinten-
21 dent, school district superintendent, building principal, and/or other
22 school administrator of such school or board of cooperative educational
23 services of such school district pursuant to subdivision eight of this
24 section. A copy of the order may also be filed by the complainant at the
25 appropriate police department or sheriff's office having jurisdiction.
26 Any subsequent amendment or revocation of such order shall be filed in
27 the same manner as herein provided.

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

30 8. In any proceeding in which an order of protection or temporary
31 order of protection or a warrant has been issued under this section, the
32 clerk of the court shall issue to the complainant and defendant and
33 defense counsel and to any other person affected by the order a copy of
34 the order of protection or temporary order of protection and ensure that
35 a copy of the order of protection or temporary order of protection be
36 transmitted to the local correctional facility where the individual is
37 or will be detained, the state or local correctional facility where the
38 individual is or will be imprisoned, and the supervising probation
39 department or department of corrections and community supervision where
40 the individual is under probation or parole supervision. In any
41 proceeding in which a child is the protected party in whose favor an
42 order of protection or temporary order of protection has been issued,
43 and such child legally attends a public or private elementary, middle,
44 or secondary school in the state of New York, the clerk of the court
45 shall confidentially notify the school superintendent, school district
46 superintendent, building principal, and/or other school administrator of
47 such school or board of cooperative educational services of such school
48 district by mail, fax, or secure electronic format on the same day as
49 the issuance, modification, extension, dismissal, or expiration of the
50 order of protection or temporary order of protection, or as soon there-
51 after as practicable, when such order of protection or temporary order
52 of protection requires the parent or the person legally responsible for
53 such child's care, or the spouse of the parent or other person legally
54 responsible for such child's care, to stay away from such child's
55 school. The presentation of a copy of such order to such school or board
56 of cooperative educational services of such school district shall not

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

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

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

- 20 (1) juvenile delinquency records;
- 21 (2) criminal records;
- 22 (3) medical and health records; [~~and~~]
- 23 (4) student biometric information; and
- 24 (5) orders of protection in which the student is the protected party.

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

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

1 pursuant to the protective custody provisions of the social services law
2 and the family court act.
3 § 5. This act shall take effect on the ninetieth day after it shall
4 have become a law. Effective immediately, the addition, amendment and/or
5 repeal of any rule or regulation necessary for the implementation of
6 this act on its effective date are authorized to be made and completed
7 on or before such effective date.