

STATE OF NEW YORK

3827

2023-2024 Regular Sessions

IN ASSEMBLY

February 8, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Judiciary

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

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

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

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

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

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

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

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