

STATE OF NEW YORK

4419

2023-2024 Regular Sessions

IN ASSEMBLY

February 14, 2023

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

AN ACT to amend the family court act and the criminal procedure law, in relation to disorderly conduct

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

1 Section 1. The opening paragraph of subdivision 1 of section 812 of
2 the family court act, as amended by chapter 109 of the laws of 2019, is
3 amended to read as follows:

4 The family court and the criminal courts shall have concurrent juris-
5 diction over any proceeding concerning acts which would constitute
6 disorderly conduct as set forth in subdivisions one, three, four, five,
7 six and seven of section 240.20 of the penal law, unlawful dissemination
8 or publication of an intimate image, harassment in the first degree,
9 harassment in the second degree, aggravated harassment in the second
10 degree, sexual misconduct, forcible touching, sexual abuse in the third
11 degree, sexual abuse in the second degree as set forth in subdivision
12 one of section 130.60 of the penal law, stalking in the first degree,
13 stalking in the second degree, stalking in the third degree, stalking in
14 the fourth degree, criminal mischief, menacing in the second degree,
15 menacing in the third degree, reckless endangerment, criminal
16 obstruction of breathing or blood circulation, strangulation in the
17 second degree, strangulation in the first degree, assault in the second
18 degree, assault in the third degree, an attempted assault, identity
19 theft in the first degree, identity theft in the second degree, identity
20 theft in the third degree, grand larceny in the fourth degree, grand
21 larceny in the third degree, coercion in the second degree or coercion
22 in the third degree as set forth in subdivisions one, two and three of
23 section 135.60 of the penal law between spouses or former spouses, or
24 between parent and child or between members of the same family or house-
25 hold except that if the respondent would not be criminally responsible

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

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1 by reason of age pursuant to section 30.00 of the penal law, then the
2 family court shall have exclusive jurisdiction over such proceeding.
3 Notwithstanding a complainant's election to proceed in family court, the
4 criminal court shall not be divested of jurisdiction to hear a family
5 offense proceeding pursuant to this section. In any proceeding pursuant
6 to this article, a court shall not deny an order of protection, or
7 dismiss a petition, solely on the basis that the acts or events alleged
8 are not relatively contemporaneous with the date of the petition, the
9 conclusion of the fact-finding or the conclusion of the dispositional
10 hearing. For purposes of this article, "disorderly conduct" includes
11 disorderly conduct not in a public place and does not require an intent
12 to cause public inconvenience, annoyance or alarm, or recklessly creat-
13 ing a risk thereof, but merely an intent to cause annoyance or alarm, or
14 recklessly creating a risk thereof. For purposes of this article,

15 "members of the same family or household" shall mean the following:
16 § 2. The opening paragraph of subdivision 1 of section 530.11 of the
17 criminal procedure law, as amended by chapter 109 of the laws of 2019,
18 is amended to read as follows:

19 The family court and the criminal courts shall have concurrent juris-
20 diction over any proceeding concerning acts which would constitute
21 disorderly conduct as set forth in subdivisions one, three, four, five,
22 six and seven of section 240.20 of the penal law, unlawful dissemination
23 or publication of an intimate image, harassment in the first degree,
24 harassment in the second degree, aggravated harassment in the second
25 degree, sexual misconduct, forcible touching, sexual abuse in the third
26 degree, sexual abuse in the second degree as set forth in subdivision
27 one of section 130.60 of the penal law, stalking in the first degree,
28 stalking in the second degree, stalking in the third degree, stalking in
29 the fourth degree, criminal mischief, menacing in the second degree,
30 menacing in the third degree, reckless endangerment, strangulation in
31 the first degree, strangulation in the second degree, criminal
32 obstruction of breathing or blood circulation, assault in the second
33 degree, assault in the third degree, an attempted assault, identity
34 theft in the first degree, identity theft in the second degree, identity
35 theft in the third degree, grand larceny in the fourth degree, grand
36 larceny in the third degree, coercion in the second degree or coercion
37 in the third degree as set forth in subdivisions one, two and three of
38 section 135.60 of the penal law between spouses or former spouses, or
39 between parent and child or between members of the same family or house-
40 hold except that if the respondent would not be criminally responsible
41 by reason of age pursuant to section 30.00 of the penal law, then the
42 family court shall have exclusive jurisdiction over such proceeding.
43 Notwithstanding a complainant's election to proceed in family court, the
44 criminal court shall not be divested of jurisdiction to hear a family
45 offense proceeding pursuant to this section. For purposes of this
46 section, "disorderly conduct" includes disorderly conduct not in a
47 public place and does not require an intent to cause public inconven-
48 ience, annoyance or alarm, or recklessly creating a risk thereof, but
49 merely an intent to cause annoyance or alarm, or recklessly creating a
50 risk thereof. For purposes of this section, "members of the same family
51 or household" with respect to a proceeding in the criminal courts shall
52 mean the following:

53 § 3. This act shall take effect immediately.