

# STATE OF NEW YORK

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7231

2023-2024 Regular Sessions

## IN ASSEMBLY

May 15, 2023

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Introduced by M. of A. SIMON -- Multi-Sponsored by -- M. of A. AUBRY,  
COOK, GUNTHER, MAGNARELLI, RA, WEPRIN, ZEBROWSKI -- read once and  
referred to the Committee on Judiciary

AN ACT to amend the family court act, the domestic relations law and the  
criminal procedure law, in relation to orders of protection in cases  
involving domestic violence

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

1 Section 1. The opening paragraph of section 842 of the family court  
2 act, as amended by chapter 335 of the laws of 2019, is amended to read  
3 as follows:

4 An order of protection under section eight hundred forty-one of this  
5 part shall set forth reasonable conditions of behavior to be observed  
6 for a period not in excess of two years by the petitioner or respondent  
7 or for a period not in excess of five years upon (i) a finding by the  
8 court on the record of the existence of aggravating circumstances as  
9 defined in paragraph (vii) of subdivision (a) of section eight hundred  
10 twenty-seven of this article; or (ii) a finding by the court on the  
11 record that the conduct alleged in the petition is in violation of a  
12 valid order of protection.

13 In cases involving domestic violence, an  
14 order of protection shall be observed by the petitioner or respondent  
15 for a period of no less than five years.

16 Any finding of aggravating  
17 circumstances pursuant to this section shall be stated on the record and  
18 upon the order of protection. The court may also, upon motion, extend  
19 the order of protection for a reasonable period of time upon a showing  
20 of good cause or consent of the parties. The fact that abuse has not  
21 occurred during the pendency of an order shall not, in itself, consti-  
22 tute sufficient ground for denying or failing to extend the order. The  
23 court must articulate a basis for its decision on the record. The dura-  
tion of any temporary order shall not by itself be a factor in determin-  
ing the length or issuance of any final order. Any order of protection

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

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1 issued pursuant to this section shall specify if an order of probation  
2 is in effect. Any order of protection issued pursuant to this section  
3 may require the petitioner or the respondent:

4 § 2. The opening paragraph of subdivision 1 of section 1056 of the  
5 family court act, as amended by chapter 526 of the laws of 2013, is  
6 amended to read as follows:

7 The court may make an order of protection in assistance or as a condi-  
8 tion of any other order made under this part. Such order of protection  
9 shall remain in effect concurrently with, shall expire no later than the  
10 expiration date of, and may be extended concurrently with, such other  
11 order made under this part, except as provided in subdivision four of  
12 this section. The order of protection may set forth reasonable condi-  
13 tions of behavior to be observed for a specified time by a person who is  
14 before the court and is a parent or a person legally responsible for the  
15 child's care or the spouse of the parent or other person legally respon-  
16 sible for the child's care, or both. In cases involving domestic  
17 violence, an order of protection shall be observed by the petitioner or  
18 respondent for a period of no less than five years. Such an order may  
19 require any such person

20 § 3. The opening paragraph of paragraph a of subdivision 3 of section  
21 240 of the domestic relations law, as amended by chapter 526 of the laws  
22 of 2013, is amended to read as follows:

23 The court may make an order of protection in assistance or as a condi-  
24 tion of any other order made under this section. The order of  
25 protection may set forth reasonable conditions of behavior to be  
26 observed for a specified time by any party. In cases involving domestic  
27 violence, an order of protection shall be observed for a period of no  
28 less than five years. Such an order may require any party:

29 § 4. The opening paragraph of subdivision 5 of section 530.12 of the  
30 criminal procedure law, as amended by chapter 240 of the laws of 2015,  
31 is amended to read as follows:

32 Upon sentencing on a conviction for any crime or violation between  
33 spouses, between a parent and child, or between members of the same  
34 family or household as defined in subdivision one of section 530.11 of  
35 this article, the court may in addition to any other disposition,  
36 including a conditional discharge or youthful offender adjudication,  
37 enter an order of protection. Where a temporary order of protection was  
38 issued, the court shall state on the record the reasons for issuing or  
39 not issuing an order of protection. The duration of such an order shall  
40 be fixed by the court and: (A) in the case of a felony conviction,  
41 ~~[shall not exceed the greater of]~~ be no less than: (i) ~~[eight]~~ ten  
42 years from the date of such sentencing, ~~[except]~~ including where the  
43 sentence is or includes a sentence of probation on a conviction for a  
44 felony sexual assault, as provided in subparagraph (iii) of paragraph  
45 (a) of subdivision three of section 65.00 of the penal law~~[, in which~~  
46 ~~case, ten years from the date of such sentencing]~~, or (ii) ~~[eight]~~ ten  
47 years from the date of the expiration of the maximum term of an indeter-  
48minate or the term of a determinate sentence of imprisonment actually  
49 imposed; or (B) in the case of a conviction for a class A misdemeanor,  
50 shall not exceed the greater of: (i) five years from the date of such  
51 sentencing, except where the sentence is or includes a sentence of  
52 probation on a conviction for a misdemeanor sexual assault, as provided  
53 in subparagraph (ii) of paragraph (b) of subdivision three of section  
54 65.00 of the penal law, in which case, six years from the date of such  
55 sentencing, or (ii) five years from the date of the expiration of the  
56 maximum term of a definite or intermittent term actually imposed; or (C)

1 in the case of a conviction for any other offense, shall not exceed the  
2 greater of: (i) two years from the date of sentencing, or (ii) two years  
3 from the date of the expiration of the maximum term of a definite or  
4 intermittent term actually imposed. For purposes of determining the  
5 duration of an order of protection entered pursuant to this subdivision,  
6 a conviction shall be deemed to include a conviction that has been  
7 replaced by a youthful offender adjudication. In addition to any other  
8 conditions, such an order may require the defendant:

9 § 5. The opening paragraph of subdivision 5 of section 530.12 of the  
10 criminal procedure law, as amended by chapter 9 of the laws of 2011, is  
11 amended to read as follows:

12 Upon sentencing on a conviction for any crime or violation between  
13 spouses, between a parent and child, or between members of the same  
14 family or household as defined in subdivision one of section 530.11 of  
15 this article, the court may in addition to any other disposition,  
16 including a conditional discharge or youthful offender adjudication,  
17 enter an order of protection. Where a temporary order of protection was  
18 issued, the court shall state on the record the reasons for issuing or  
19 not issuing an order of protection. The duration of such an order shall  
20 be fixed by the court and, in the case of a felony conviction, shall  
21 ~~[not exceed the greater of]~~ be no less than: (i) ~~[five]~~ ten years from  
22 the date of such sentencing, or (ii) ~~[three]~~ ten years from the date of  
23 the expiration of the maximum term of an indeterminate sentence of  
24 imprisonment actually imposed; or in the case of a conviction for a  
25 class A misdemeanor, shall not exceed three years from the date of such  
26 sentencing; or in the case of a conviction for any other offense, shall  
27 not exceed one year from the date of sentencing. For purposes of deter-  
28 mining the duration of an order of protection entered pursuant to this  
29 subdivision, a conviction shall be deemed to include a conviction that  
30 has been replaced by a youthful offender adjudication. In addition to  
31 any other conditions, such an order may require the defendant:

32 § 6. This act shall take effect immediately, provided that the amend-  
33 ments to the opening paragraph of subdivision 5 of section 530.12 of the  
34 criminal procedure law made by section four of this act shall be subject  
35 to the expiration and reversion of such opening paragraph pursuant to  
36 section 74 of chapter 3 of the laws of 1995, as amended, when upon such  
37 date the provisions of section five of this act shall take effect.