STATE OF NEW YORK

7680

2023-2024 Regular Sessions

IN ASSEMBLY

June 5, 2023

Introduced by M. of A. McMAHON -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to orders of protection in child abuse and neglect proceedings in family court

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

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

The court may [~~make~~] **issue** an order of protection in assistance or as a condition of any other order made under this part. Such order of protection shall remain in effect concurrently with, shall expire no later than the expiration date of, and may be extended concurrently with, such other order made under this part, except as provided in subdivision four **and subdivision four-a** of this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or a person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or both. Such an order may require any such person**:**

§ 2. Section 1056 of the family court act is amended by adding a new subdivision 4-a to read as follows:

4-a. The court may issue an order of protection against a person who was a member of the child's household or a person legally responsible as defined in section one thousand twelve of this article and who is not a parent of the child, independently of any other order made under this part which may contain any provision authorized under subdivision one of this section. Such order of protection issued under this section may remain in effect for a period of up to two years or, if the court finds special circumstances, a period of up to five years. For purposes of

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

LBD08978-01-3

this section, "special circumstances" shall mean physical injury or serious physical injury caused by the respondent to the protected person or persons or any minor child, the use of a dangerous instrument by the respondent against the protected person or persons or any minor child, a history of violations of orders of protection by the respondent, prior convictions for crimes against the protected person or persons or a minor child by the respondent or the exposure by the respondent of the protected person or persons or a minor child or any family or household member to physical injury or acts constituting a sex offense as defined in subdivision (e) of section one thousand twelve of this article and like incidents, behaviors and occurrences which to the court constitute an immediate and ongoing danger to the protected person or persons or a minor child or any family or household member. Such order of protection may be extended independently or concurrently with, any order issued under this article or article ten-A of this chapter. Such order shall be subject to annual review, modification or vacatur by the court, upon motion by any party as provided herein. The total period of such order shall be no more than two years, or if there was a special circumstances finding, five years from the date of the initial order.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.