STATE OF NEW YORK

3394--A

Cal. No. 1419

2025-2026 Regular Sessions

IN SENATE

January 27, 2025

Introduced by Sens. GOUNARDES, ADDABBO, COMRIE, FERNANDEZ, HINCHEY, HOYLMAN-SIGAL, JACKSON, LIU, MAY, MAYER, MURRAY, OBERACKER, PALUMBO, RIVERA, ROLISON, C. RYAN, SALAZAR, SCARCELLA-SPANTON, SKOUFIS, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the civil practice law and rules, the penal law, the criminal procedure law, the judiciary law and the executive law, in relation to anti-stalking orders

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

Section 1. This act shall be known and may be cited as the "ceasing repeated and extremely egregious predatory (CREEP) behavior act".

§ 2. The civil practice law and rules is amended by adding a new article 63-B to read as follows:

ARTICLE 63-B
ANTI-STALKING ORDERS

Section 6349. Definitions.
6350. Special proceeding for an anti-stalking order.
6351. Temporary anti-stalking order.
6352. Final anti-stalking order.
6353. Issuance of an anti-stalking order.
6354. Reconsideration and modification of an anti-stalking order.
6355. Enforcement.
6356. Filing and enforcement of out-of-state orders.
6357. Virtual proceedings.

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

LBD06824-06-5

§ 6349. Definitions. For the purposes of this article:

1. "Anti-stalking order" shall mean an order of protection, either temporary or final, that entitles the petitioner to certain protections prescribed in sections sixty-three hundred fifty-one or sixty-three hundred fifty-two of this article. An anti-stalking order shall be a form of an order of protection and the terms "anti-stalking order" and "order of protection" may be used interchangeably throughout this article.

2. "Connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.

3. "Course of conduct" shall mean two or more acts over a period of time, however short, which evidence a continuity of purpose, with at least one act occurring within the ninety days prior to the filing of a petition under section sixty-three hundred fifty of this article. A course of conduct shall not include conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person.

4. "Stalking" and "stalked" shall mean when the respondent purposely or knowingly engages in a course of conduct targeted at the petitioner which would constitute stalking in the first degree, as described in section 120.60 of the penal law, stalking in the second degree, as described in section 120.55 of the penal law, stalking in the third degree, as described in section 120.50 of the penal law, stalking in the fourth degree, as described in section 120.45 of the penal law, menacing in the second degree, as described in section 120.14 of the penal law, menacing in the third degree, as described in section 120.15 of the penal law, assault in the first degree, as described in section 120.10 of the penal law, assault in the second degree, as described in section 120.05 of the penal law, assault in the third degree, as described in section 120.00 of the penal law, an attempted assault, harassment in the first degree, as described in section 240.25 of the penal law, harassment in the second degree, as described in section 240.26 of the penal law, aggravated harassment in the first degree, as described in section 240.31 of the penal law, aggravated harassment in the second degree, as described in section 240.30 of the penal law, unlawful dissemination or publication of an intimate image, as described in section 245.15 of the penal law, reckless endangerment in the first degree, as described in section 120.25 of the penal law, reckless endangerment in the second degree, as described in section 120.20 of the penal law, identity theft in the first degree, as described in section 190.80 of the penal law, identity theft in the second degree, as described in section 190.79 of the penal law, identity theft in the third degree, as described in section 190.78 of the penal law, coercion in the first degree, as described in section 135.65 of the penal law, coercion in the second degree, as described in section 135.61 of the penal law, and/or coercion in the third degree, as described in section 135.60 of the penal law.

§ 6350. Special proceeding for an anti-stalking order. 1. The supreme court shall have jurisdiction over special proceedings under this article.

2. A special proceeding under this article may be commenced in the county in which the acts referred to in the petition allegedly occurred or in which any party resides. If the petitioner fled their original residence to avoid stalking, the special proceeding may be commenced in the county of the petitioner's original residence or in the county of their new residence.

3. No anti-stalking order shall be issued between a petitioner and a respondent who are members of the same family or household, as that term is defined in subdivision one of section eight hundred twelve of the family court act.

4. A petition filed under this article shall contain:

(a) an allegation that the respondent stalked the petitioner;

(b) the relationship of the respondent to the petitioner, if any; and

(c) a request for an order of protection.

§ 6351. Temporary anti-stalking order. 1. Upon application of a petitioner, and for good cause shown, the court may issue a temporary anti-stalking order without notice to the respondent upon a finding that the respondent likely poses an immediate threat to the safety or welfare of the petitioner, a member of the petitioner's household, or a companion animal, as that term is defined in subdivision five of section three hundred fifty of the agriculture and markets law, that is possessed, kept, or held by the petitioner.

2. The court shall rule on the application for a temporary anti-stalking order in a written decision on the same day that the application is filed or the next day that the court is open.

3. A temporary anti-stalking order issued pursuant to this section may require that the respondent:

(a) cease all contact, by electronic means, telephone, mail, or any other means, with the petitioner and/or another person;

(b) refrain from following, monitoring, or keeping the petitioner under physical or electronic surveillance, or using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of the petitioner and/or another person;

(c) refrain from remotely controlling any connected devices affecting the home, vehicle, or property of the petitioner and/or another person;

(d) stay away from the home, school, business, motor vehicle, or place of employment of the petitioner and/or any other person, or any other specified location as designated by the court; and/or

(e) engage or cease engaging in any other behavior which the court determines will meet the objective of protecting the petitioner, until the date of the hearing on a final anti-stalking order. Such hearing shall be scheduled as soon as practicable. Any requirements in a temporary anti-stalking order imposed on the respondent which involve a person other than the petitioner may only be made if and to the extent that such requirements further the purpose of protecting the petitioner.

§ 6352. Final anti-stalking order. 1. If the court, after notice to the respondent and a hearing, finds that the allegations of the petition are supported by a fair preponderance of the evidence, the court may issue a final anti-stalking order. A final anti-stalking order may require that the respondent:

(a) cease all contact, by electronic means, telephone, mail, or any other means, with the petitioner and/or another person;

(b) refrain from following, monitoring, or keeping the petitioner under physical or electronic surveillance, or using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of the petitioner and/or another person;

(c) refrain from remotely controlling any connected devices affecting the home, vehicle, or property of the petitioner and/or another person;

(d) stay away from the home, school, business, motor vehicle, or place of employment of the petitioner and/or any other person, or any other specified location as designated by the court;

(e) pay the reasonable counsel fees and disbursement involved in obtaining or enforcing the anti-stalking order which the petitioner has sought; and/or

(f) engage or cease engaging in any other behavior which the court determines will meet the objective of protecting the petitioner, for a period of time not in excess of five years. The duration of any temporary anti-stalking order shall not by itself be a factor in determining the length or issuance of any final anti-stalking order. Any requirements in a final anti-stalking order imposed on the respondent which involve a person other than the petitioner may only be made if and to the extent that such requirements further the purpose of protecting the petitioner. The court may, upon motion, extend the order of protection for a reasonable period of time upon a showing of good cause or consent of the parties.

§ 6353. Issuance of an anti-stalking order. 1. An anti-stalking order issued pursuant to this article shall bear in a conspicuous manner the term "order of protection" or "temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the petitioner resides, or, if the petitioner resides within a city, with the police department of such city. The anti-stalking order shall also contain the following notice: "This order of protection will remain in effect even if the protected party has, or consents to have, contact or communication with the party against whom the order is issued. This order of protection can only be modified or terminated by the court. The protected party cannot be held to violate this order nor be arrested for violating this order.". The absence of such language shall not affect the validity of such order. Such anti-stalking order shall plainly state the date that such order expires, if temporary, or, if the order is a final anti-stalking order issued pursuant to section sixty-three hundred fifty-two of this article, the length of such order.

2. The court shall notify the division of state police, any other law enforcement agency with jurisdiction, and the statewide computerized registry of orders of protection and warrants of arrest referred to in section two hundred twenty-one-a of the executive law of the issuance of an anti-stalking order and provide a copy of such order no later than the next business day after issuing the order to such division and agency. The court also shall promptly notify such division and agency and provide a copy of any order modifying or vacating such anti-stalking order no later than the next business day after issuing the order.

3. The chief administrator of the courts shall promulgate appropriate uniform temporary anti-stalking order forms, applicable to proceedings under this article, to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatibility of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law.

§ 6354. Reconsideration and modification of an anti-stalking order. For good cause shown, the court may, after a hearing, reconsider and modify any order issued under section sixty-three hundred fifty-three of this article.

§ 6355. Enforcement. 1. Any violations of an anti-stalking order issued by a court under this article shall be subject to the penalties of sections 120.14, 215.50, 215.51, and 215.52 of the penal law, as prescribed by such sections.

2. Any anti-stalking order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law.

3. In any proceeding in which an anti-stalking order has been issued under this article, the clerk of the court shall issue to the petitioner and respondent and respondent's counsel and to any other person affected by the order a copy of the anti-stalking order and ensure that a copy of the anti-stalking order be transmitted, if applicable, to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order to any peace officer acting pursuant to their special duties or police officer shall constitute authority for them to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within their power, to aid in securing the protection such order was intended to afford. The protected party in whose favor the anti-stalking order is issued may not be held to violate an order issued in their favor, nor may such protected party be arrested for violating such order.

§ 6356. Filing and enforcement of out-of-state orders. 1. A valid order of protection or temporary order of protection that is substantially similar to the anti-stalking order described in this article which is issued by court of competent jurisdiction in another state, territorial, or tribal jurisdiction shall be accorded full faith and credit and enforced as if it were issued by a court within the state for as long as the order remains in effect in the issuing jurisdiction in accordance with sections two thousand two hundred sixty-five and two thousand two hundred sixty-six of title eighteen of the United States Code.

2. An order issued by a court of competent jurisdiction in another state, territorial, or tribal jurisdiction shall be deemed valid if:

(a) the issuing court had personal jurisdiction over the parties and over the subject matter under the law of the issuing jurisdiction; and

(b) the person against whom the order was issued had reasonable notice and an opportunity to be heard prior to issuance of the order; provided, however, that if the order was a temporary order of protection issued in the absence of such person, that notice had been given and that an opportunity to be heard had been provided within a reasonable period of time after the issuance of the order.

3. Notwithstanding the provisions of article fifty-four of this chapter, an order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial, or tribal jurisdiction, accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified, may be filed without fee with the clerk of the court.

§ 6357. Virtual proceedings. Any supreme court conducting a proceeding for a temporary or final anti-stalking order under this article may conduct such proceedings virtually, provided that such proceeding is conducted in a manner consistent with any rules and regulations for virtual proceedings promulgated by the chief administrator of the courts under section two hundred twelve of the judiciary law.

§ 3. Paragraph 6 of subdivision (b) of section 8018 of the civil practice law and rules, as amended by chapter 428 of the laws of 2023, is amended and a new paragraph 7 is added to read as follows:

6. upon the filing of an application for an extreme risk protection order pursuant to article [~~sixty-three-a~~] sixty-three-A of this chapter[~~.~~]; or

7. upon the filing of a petition for an anti-stalking order pursuant to article sixty-three-B of this chapter.

§ 4. Section 120.14 of the penal law, as amended by chapter 222 of the laws of 1994, subdivision 3 as amended by chapter 597 of the laws of 1998, is amended to read as follows:

§ 120.14 Menacing in the second degree.

A person is guilty of menacing in the second degree when:

1. [~~He or she~~] such person intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. [~~He or she~~] Such person repeatedly follows a person or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death; or

3. [~~He or she~~] Such person commits the crime of menacing in the third degree in violation of that part of a duly served order of protection, or such order which the defendant has actual knowledge of because [~~he or she~~] such defendant was present in court when such order was issued, pursuant to article eight of the family court act, section 530.12 of the criminal procedure law, article sixty-three-B of the civil practice law and rules, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which directed the respondent or defendant to stay away from the person or persons on whose behalf the order was issued.

Menacing in the second degree is a class A misdemeanor.

§ 5. Section 215.51 of the penal law, as amended by chapter 222 of the laws of 1994, subdivision (b) as added by chapter 353 of the laws of 1996, the opening paragraph of subdivision (b) and subdivision (d) as amended by chapter 597 of the laws of 1998, subdivision (c) as amended by chapter 349 of the laws of 2006, is amended to read as follows:

§ 215.51 Criminal contempt in the first degree.

A person is guilty of criminal contempt in the first degree when:

(a) [~~he~~] such person contumaciously and unlawfully refuses to be sworn as a witness before a grand jury, or, when after having been sworn as a witness before a grand jury, [~~he~~] such person refuses to answer any legal and proper interrogatory; or

(b) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because [~~he or she~~] such defendant was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, [~~he or she~~] such defendant:

(i) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm or by means of a threat or threats; or

(ii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury, or death by repeatedly following such person or

engaging in a course of conduct or repeatedly committing acts over a period of time; or

(iii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury, or death when [~~he or she~~] **such defendant** communicates or causes a communication to be initiated with such person by mechanical or electronic means or otherwise, anonymously or otherwise, by telephone, or by telegraph, mail, or any other form of written communication; or

(iv) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, repeatedly makes telephone calls to such person, whether or not a conversation ensues, with no purpose of legitimate communication; or

(v) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, strikes, shoves, kicks or otherwise subjects such other person to physical contact or attempts or threatens to do the same; or

(vi) by physical menace, intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of death, imminent serious physical injury, or physical injury.

(c) [~~he or she~~] **such defendant** commits the crime of criminal contempt in the second degree as defined in subdivision three of section 215.50 of this article by violating that part of a duly served order of protection, or such order of which the defendant has actual knowledge because [~~he or she~~] **such defendant** was present in court when such order was issued, under sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act, [~~and~~] section 530.12 of the criminal procedure law, **and article sixty-three-B of the civil practice law and rules,** or an order of protection issued by a court of competent jurisdiction in another state, territorial, or tribal jurisdiction, which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued, and where the defendant has been previously convicted of the crime of aggravated criminal contempt or criminal contempt in the first or second degree for violating an order of protection as described herein within the preceding five years; or

(d) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because [~~he or she~~] **such defendant** was present in court when such order was issued, or an order issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, [~~he or she~~] **such defendant** intentionally or recklessly damages the property of a person for whose protection such order was issued in an amount exceeding two hundred fifty dollars.

Criminal contempt in the first degree is a class E felony.

§ 6. Subdivision 4 of section 140.10 of the criminal procedure law, as added by chapter 222 of the laws of 1994, paragraph (a) as amended by chapter 511 of the laws of 1996, paragraph (b) as amended by chapter 107 of the laws of 2004, paragraph (c) and the third undesignated paragraph as amended by chapter 4 of the laws of 1997, the second undesignated paragraph as added by chapter 480 of the laws of 2013, and the closing paragraph as amended by chapter 224 of the laws of 1994, is amended to read as follows:

4. Notwithstanding any other provisions of this section, a police officer shall arrest a person, and shall not attempt to reconcile the

parties or mediate, where such officer has reasonable cause to believe that:

(a) a felony, other than subdivision three, four, nine or ten of section 155.30 of the penal law, has been committed by such person against a member of the same family or household, as member of the same family or household is defined in subdivision one of section 530.11 of this chapter; or

(b) a duly served order of protection**, anti-stalking order,** or special order of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of this chapter is in effect, or an order of which the respondent or defendant has actual knowledge because [~~he or she~~] **the defendant** was present in court when such order was issued, where the order appears to have been issued by a court of competent jurisdiction of this or another state, territorial or tribal jurisdiction; and

(i) Such order directs that the respondent or defendant stay away from persons on whose behalf the order of protection or special order of conditions has been issued and the respondent or defendant committed an act or acts in violation of such "stay away" provision of such order; or

(ii) The respondent or defendant commits a family offense as defined in subdivision one of section eight hundred twelve of the family court act or subdivision one of section 530.11 of this chapter in violation of such order of protection or special order of conditions.

The provisions of this subdivision shall apply only to orders of protection issued pursuant to sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of this chapter, special orders of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of this chapter insofar as they involve a victim or victims of domestic violence as defined by subdivision one of section four hundred fifty-nine-a of the social services law or a designated witness or witnesses to such domestic violence, **anti-stalking orders issued pursuant to article sixty-three-B of the civil practice law and rules,** and to orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction. In determining whether reasonable cause exists to make an arrest for a violation of an order issued by a court of another state, territorial or tribal jurisdiction, the officer shall consider, among other factors, whether the order, if available, appears to be valid on its face or whether a record of the order exists on the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law or the protection order file maintained by the national crime information center; provided, however, that entry of the order of protection or special order of conditions into the statewide registry or the national protection order file shall not be required for enforcement of the order. When a special order of conditions is in effect and a defendant or respondent has been taken into custody pursuant to this paragraph, nothing contained in this paragraph shall restrict or impair a police officer from acting pursuant to section 9.41 of the mental hygiene law; or

(c) a misdemeanor constituting a family offense, as described in subdivision one of section 530.11 of this chapter and section eight hundred twelve of the family court act, has been committed by such person against such family or household member, unless the victim requests otherwise. The officer shall neither inquire as to whether the

victim seeks an arrest of such person nor threaten the arrest of any person for the purpose of discouraging requests for police intervention. Notwithstanding the foregoing, when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor after considering: (i) the comparative extent of any injuries inflicted by and between the parties; (ii) whether any such person is threatening or has threatened future harm against another party or another family or household member; (iii) whether any such person has a prior history of domestic violence that the officer can reasonably ascertain; and (iv) whether any such person acted defensively to protect [~~himself or herself~~] themself from injury. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

The protected party in whose favor the order of protection [~~or~~], temporary order of protection, or anti-stalking order is issued may not be held to violate an order issued in [~~his or her~~] their favor nor may such protected party be arrested for violating such order.

Nothing contained in this subdivision shall be deemed to (a) require the arrest of any person when the officer reasonably believes the person's conduct is justifiable under article thirty-five of title C of the penal law; or (b) restrict or impair the authority of any municipality, political subdivision, or the division of state police from promulgating rules, regulations and policies requiring the arrest of persons in additional circumstances where domestic violence has allegedly occurred.

No cause of action for damages shall arise in favor of any person by reason of any arrest made by a police officer pursuant to this subdivision, except as provided in sections seventeen and eighteen of the public officers law and sections fifty-k, fifty-l, fifty-m and fifty-n of the general municipal law, as appropriate.

§ 7. The opening paragraphs of paragraphs (t) and (t-1) of subdivision 2 of section 212 of the judiciary law, as added by section 2 of part BB of chapter 55 of the laws of 2017, are amended to read as follows:

Make available translation services to all family and supreme courts to assist in the translation of orders of protection and temporary orders of protection, including a temporary or final anti-stalking order issued pursuant to article sixty-three-B of the civil practice law and rules, as provided in this paragraph, where the person protected by and/or the person subject to the order of protection has limited English proficiency or has a limited ability to read English:

Issue reports concerning the availability of translation services where orders of protection and temporary orders of protection, including a temporary or final anti-stalking order issued pursuant to article sixty-three-B of the civil practice law and rules, are issued; special pilot programs.

§ 8. Subdivision 1 of section 221-a of the executive law, as amended by chapter 427 of the laws of 2024, is amended to read as follows:

1. The superintendent, in consultation with the division of criminal justice services, office of court administration, and the office for the prevention of domestic violence, shall develop a comprehensive plan for the establishment and maintenance of a statewide computerized registry of all orders of protection issued pursuant to articles four, five, six,

eight and ten of the family court act, section 530.12 of the criminal procedure law and, insofar as they involve victims of domestic violence as defined by section four hundred fifty-nine-a of the social services law, section 530.13 of the criminal procedure law and sections two hundred forty and two hundred fifty-two of the domestic relations law, extreme risk protection orders issued pursuant to article sixty-three-A of the civil practice law and rules, **anti-stalking orders issued pursuant to article sixty-three-B of the civil practice law and rules,** and orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction, special orders of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of the criminal procedure law insofar as they involve a victim or victims of domestic violence as defined by subdivision one of section four hundred fifty-nine-a of the social services law or a designated witness or witnesses to such domestic violence, and all warrants issued pursuant to sections one hundred fifty-three and eight hundred twenty-seven of the family court act, and arrest and bench warrants as defined in subdivisions twenty-eight, twenty-nine and thirty of section 1.20 of the criminal procedure law, insofar as such warrants pertain to orders of protection or temporary orders of protection; provided, however, that warrants issued pursuant to section one hundred fifty-three of the family court act pertaining to articles three and seven of such act and section 530.13 of the criminal procedure law shall not be included in the registry. The superintendent shall establish and maintain such registry for the purposes of ascertaining the existence of orders of protection, temporary orders of protection, warrants and special orders of conditions, and for enforcing the provisions of paragraph (b) of subdivision four of section 140.10 of the criminal procedure law.

§ 9. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 4 of section 140.10 of the criminal procedure law made by section six of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith.