§ 154-d. Emergency powers; local criminal courts. 1. Issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, certified in accordance with subdivision one of section 100.30 of the criminal procedure law is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of this act or subdivision one of section 530.11 of the criminal procedure law, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or, upon the filing of a local criminal court accusatory instrument, in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision shall immediately forward in a manner designed to ensure arrival before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that if the temporary order of protection and affidavit are transmitted by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of section 530.12 of the criminal procedure law for orders of protection issued pursuant to such section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its

issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of this act on or before the return date in family court and the family court issues a temporary order of protection as authorized under article eight of this act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of this act and section 100.07 of the criminal procedure law.

2. Modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of this act pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of the criminal procedure law, is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The local criminal court shall immediately forward, in a manner designed to ensure arrival before the return date set in the order, a copy of the modified order if any and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the petitioner; provided, however, that if the modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified

temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as provided in subdivisions six and eight of section 530.12 of the criminal procedure law for orders of protection issued pursuant to such section.