

STATUS:

A6060-A Weinstein (MS)

Family Court Act

TITLE....Authorizes issuance of an order of protection against any member of the same family or household

02/28/07 referred to judiciary
03/06/07 reported referred to codes
03/13/07 reported
03/15/07 advanced to third reading cal.134
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02/22/08 amend and recommit to judiciary
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BILL TEXT:

STATE OF NEW YORK

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2007-2008 Regular Sessions

IN ASSEMBLY

February 28, 2007

Introduced by M. of A. WEINSTEIN, CLARK, JACOBS, GALEF, PAULIN, BRADLEY, JEFFRIES, HYER-SPENCER, JAFFEE, SCHROEDER, ROSENTHAL, N. RIVERA, ESPAILLAT -- Multi-Sponsored by -- M. of A. ALESSI, BING, BOYLAND, BRODSKY, CHRISTENSEN, R. DIAZ, DINOWITZ, FARRELL, GANTT, GLICK, GOTTFRIED, GREENE, HEVESI, HIKIND, HOOPER, JOHN, KELLNER, LUPARDO, MARKEY, McENENY, O'DONNELL, SAYWARD, SCARBOROUGH, SWEENEY, TITUS, WRIGHT, YOUNG -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the criminal procedure law, in relation to orders of protection and the definition of "members of the same family or household"

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

1 Section 1. The second undesignated paragraph of section 446 of the

2 family court act, as added by chapter 948 of the laws of 1984, is
3 amended to read as follows:

4 Notwithstanding the foregoing provisions, an order of protection, or
5 temporary order of protection where applicable, may be entered against a
6 former spouse and persons who have a child in common, regardless whether
7 such persons have been married or have lived together at any time, or
8 against a member of the same family or household as defined in subdivi-
9 sion one of section eight hundred twelve of this act, or unrelated
10 persons who are or have been in an intimate or dating relationship
11 regardless whether such persons have lived together at any time. For
12 purposes of this article, neither a casual acquaintance nor ordinary
13 fraternization between two individuals in business or social contexts
14 shall be deemed to constitute a "dating relationship".

15 § 2. The closing paragraph of section 550 of the family court act, as
16 added by chapter 948 of the laws of 1984, is amended to read as follows:

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

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1 Notwithstanding the foregoing provisions, an order of protection, or
2 temporary order of protection where applicable, may be entered against a
3 former spouse and persons who have a child in common, regardless whether
4 such persons have been married or have lived together at any time, or
5 against a member of the same family or household as defined in subdivi-
6 sion one of section eight hundred twelve of this act, or unrelated
7 persons who are or have been in an intimate or dating relationship
8 regardless whether such persons have lived together at any time. For
9 purposes of this article, neither a casual acquaintance nor ordinary
10 fraternization between two individuals in business or social contexts
11 shall be deemed to constitute a "dating relationship".

12 § 3. The closing paragraph of section 551 of the family court act, as
13 added by chapter 948 of the laws of 1984, is amended to read as follows:

14 Notwithstanding the foregoing provisions, an order of protection, or
15 temporary order of protection where applicable, may be entered against a
16 former spouse and persons who have a child in common, regardless whether
17 such persons have been married or have lived together at any time, or
18 against a member of the same family or household as defined in subdivi-
19 sion one of section eight hundred twelve of this act, or unrelated
20 persons who are or have been in an intimate or dating relationship
21 regardless whether such persons have lived together at any time. For
22 purposes of this article, neither a casual acquaintance nor ordinary
23 fraternization between two individuals in business or social contexts
24 shall be deemed to constitute a "dating relationship".

25 § 4. The closing paragraph of section 655 of the family court act, as
26 added by chapter 948 of the laws of 1984, is amended to read as follows:

27 Notwithstanding the foregoing provisions, an order of protection, or
28 temporary order of protection where applicable, may be entered against a
29 former spouse and persons who have a child in common, regardless whether
30 such persons have been married or have lived together at any time, or
31 against a member of the same family or household as defined in subdivi-
32 sion one of section eight hundred twelve of this act, or unrelated
33 persons who are or have been in an intimate or dating relationship
34 regardless whether such persons have lived together at any time. For
35 purposes of this article, neither a casual acquaintance nor ordinary
36 fraternization between two individuals in business or social contexts
37 shall be deemed to constitute a "dating relationship".

38 § 5. The second undesignated paragraph of section 656 of the family
39 court act, as added by chapter 948 of the laws of 1984, is amended to
40 read as follows:

41 Notwithstanding the foregoing provisions, an order of protection, or
42 temporary order of protection where applicable, may be entered against a
43 former spouse and persons who have a child in common, regardless whether
44 such persons have been married or have lived together at any time, or
45 against a member of the same family or household as defined in subdivi-
46 sion one of section eight hundred twelve of this act, or unrelated
47 persons who are or have been in an intimate or dating relationship
48 regardless whether such persons have lived together at any time. For
49 purposes of this article, neither a casual acquaintance nor ordinary
50 fraternization between two individuals in business or social contexts
51 shall be deemed to constitute a "dating relationship".

52 § 6. The closing paragraph of section 759 of the family court act, as
53 added by chapter 948 of the laws of 1984, is amended to read as follows:

54 Notwithstanding the foregoing provisions, an order of protection, or
55 temporary order of protection where applicable, may be entered against a
56 former spouse and persons who have a child in common, regardless whether
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1 such persons have been married or have lived together at any time, or
2 against a member of the same family or household as defined in subdivi-
3 sion one of section eight hundred twelve of this act, or unrelated
4 persons who are or have been in an intimate or dating relationship
5 regardless whether such persons have lived together at any time. For
6 purposes of this article, neither a casual acquaintance nor ordinary
7 fraternization between two individuals in business or social contexts
8 shall be deemed to constitute a "dating relationship".

9 § 7. Subdivision 1 of section 812 of the family court act, as amended
10 by chapter 222 of the laws of 1994, the opening paragraph as amended by
11 chapter 541 of the laws of 2007, is amended to read as follows:

12 1. Jurisdiction. The family court and the criminal courts shall have
13 concurrent jurisdiction over any proceeding concerning acts which would
14 constitute disorderly conduct, harassment in the first degree, harass-
15 ment in the second degree, aggravated harassment in the second degree,
16 stalking in the first degree, stalking in the second degree, stalking in
17 the third degree, stalking in the fourth degree, criminal mischief,
18 menacing in the second degree, menacing in the third degree, reckless
19 endangerment, assault in the second degree, assault in the third degree
20 or an attempted assault between spouses or former spouses, or between
21 parent and child or between members of the same family or household, or
22 unrelated persons who are or have been in an intimate or dating
23 relationship regardless of whether such persons have lived together at
24 any time except that if the respondent would not be criminally responsi-
25 ble by reason of age pursuant to section 30.00 of the penal law, then
26 the family court shall have exclusive jurisdiction over such proceeding.
27 Notwithstanding a complainant's election to proceed in family court, the
28 criminal court shall not be divested of jurisdiction to hear a family
29 offense proceeding pursuant to this section. For purposes of this arti-
30 cle, "disorderly conduct" includes disorderly conduct not in a public
31 place. For purposes of this article, neither a casual acquaintance nor
32 ordinary fraternization between two individuals in business or social
33 contexts shall be deemed to constitute a "dating relationship". For
34 purposes of this article, "members of the same family or household"
35 shall mean the following:

36 (a) persons related by consanguinity or affinity;

37 (b) persons legally married to one another;

38 (c) persons formerly married to one another regardless of whether they
39 still reside in the same household; [and]

40 (d) persons who have a child in common regardless whether such persons
41 have been married or have lived together at any time; and

42 (e) unrelated persons who are continually or at regular intervals
43 living in the same household or who have in the past continually or at

44 regular intervals lived in the same household.

45 § 8. The closing paragraph of section 841 of the family court act, as
46 amended by chapter 706 of the laws of 1988, is amended to read as
47 follows:

48 Notwithstanding the foregoing provisions, an order of protection, or
49 temporary order of protection where applicable, may be entered against a
50 former spouse and persons who have a child in common, regardless whether
51 such persons have been married or have lived together at any time, or
52 against a member of the same family or household as defined in subdivi-
53 sion one of section eight hundred twelve of this article, or unrelated
54 persons who are or have been in an intimate or dating relationship
55 regardless whether such persons have lived together at any time. For
56 purposes of this article, neither a casual acquaintance nor ordinary

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1 fraternization between two individuals in business or social contexts
2 shall be deemed to constitute a "dating relationship".

3 § 9. The fifth undesignated paragraph of section 842 of the family
4 court act, as amended by chapter 222 of the laws of 1994, is amended to
5 read as follows:

6 Notwithstanding the foregoing provisions, an order of protection, or
7 temporary order of protection where applicable, may be entered against a
8 former spouse and persons who have a child in common, regardless whether
9 such persons have been married or have lived together at any time, or
10 against a member of the same family or household as defined in subdivi-
11 sion one of section eight hundred twelve of this article, or unrelated
12 persons who are or have been in an intimate or dating relationship
13 regardless whether such persons have lived together at any time. For
14 purposes of this article, neither a casual acquaintance nor ordinary
15 fraternization between two individuals in business or social contexts
16 shall be deemed to constitute a "dating relationship".

17 § 10. Subdivision 3 of section 1056 of the family court act, as
18 amended by chapter 220 of the laws of 1989, is amended to read as
19 follows:

20 3. Notwithstanding the foregoing provisions, an order of protection,
21 or temporary order of protection where applicable, may be entered
22 against a former spouse and persons who have a child in common, regard-
23 less whether such persons have been married or have lived together at
24 any time, or against a member of the same family or household as defined
25 in subdivision one of section eight hundred twelve of this act, or unre-
26 lated persons who are or have been in an intimate or dating relationship
27 regardless whether such persons have lived together at any time. For
28 purposes of this article, neither a casual acquaintance nor ordinary
29 fraternization between two individuals in business or social contexts
30 shall be deemed to constitute a "dating relationship".

31 § 11. Subdivision 1 of section 530.11 of the criminal procedure law,
32 as amended by chapter 222 of the laws of 1994, the opening paragraph as
33 amended by chapter 541 of the laws of 2007, is amended to read as
34 follows:

35 1. Jurisdiction. The family court and the criminal courts shall have
36 concurrent jurisdiction over any proceeding concerning acts which would
37 constitute disorderly conduct, harassment in the first degree, harass-
38 ment in the second degree, aggravated harassment in the second degree,
39 stalking in the first degree, stalking in the second degree, stalking in
40 the third degree, stalking in the fourth degree, criminal mischief,
41 menacing in the second degree, menacing in the third degree, reckless
42 endangerment, assault in the second degree, assault in the third degree
43 or an attempted assault between spouses or former spouses, or between
44 parent and child or between members of the same family or household, or
45 unrelated persons who are or have been in an intimate or dating
46 relationship regardless of whether such persons have lived together at

47 any time except that if the respondent would not be criminally responsi-
48 ble by reason of age pursuant to section 30.00 of the penal law, then
49 the family court shall have exclusive jurisdiction over such proceeding.
50 Notwithstanding a complainant's election to proceed in family court, the
51 criminal court shall not be divested of jurisdiction to hear a family
52 offense proceeding pursuant to this section. For purposes of this
53 section, "disorderly conduct" includes disorderly conduct not in a
54 public place. For purposes of this article, neither a casual acquaint-
55 ance nor ordinary fraternization between two individuals in business or
56 social contexts shall be deemed to constitute a "dating relationship".

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1 For purposes of this section, "members of the same family or household"
2 with respect to a proceeding in the criminal courts shall mean the
3 following:

- 4 (a) persons related by consanguinity or affinity;
- 5 (b) persons legally married to one another;
- 6 (c) persons formerly married to one another regardless of whether they
7 still reside in the same household; [and]
- 8 (d) persons who have a child in common, regardless whether such
9 persons have been married or have lived together at any time; and
10 (e) unrelated persons who are continually or at regular intervals
11 living in the same household or who have in the past continually or at
12 regular intervals lived in the same household.

13 § 12. Subdivision 13 of section 530.12 of the criminal procedure law,
14 as added by chapter 948 of the laws of 1984, is amended to read as
15 follows:

16 13. Notwithstanding the foregoing provisions, an order of protection,
17 or temporary order of protection when applicable, may be entered against
18 a former spouse and persons who have a child in common, regardless
19 whether such persons have been married or have lived together at any
20 time, or against a member of the same family or household as defined in
21 subdivision one of section 530.11 of this article, or unrelated persons
22 who are or have been in an intimate or dating relationship regardless
23 whether such persons have lived together at any time. For purposes of
24 this article, neither a casual acquaintance nor ordinary fraternization
25 between two individuals in business or social contexts shall be deemed
26 to constitute a "dating relationship".

27 § 13. This act shall take effect immediately and shall apply to orders
28 of protection currently pending or entered on or after such date.
