

NEW LAWS - 2009

EMPLOYMENT DISCRIMINATION

Chapter 80, effective 7/7/09

Signed 7/7/09

A.755-A Paulin/S.958-B Johnson

AN ACT to amend the executive law, in relation to prohibiting employers from discriminating against victims of domestic violence or stalking based upon status as a domestic violence victim

CUSTODY – REVIEW ORDERS/WARRANTS

Chapter 295, effective 8/11/09

Signed 8/11/09

A.2004-A Weinstein/S.5697 Sampson

AN ACT to amend the domestic relations law and the family court act, in relation to review of reports of the statewide computerized registry of orders of protection and warrants of arrest prior to issuing an order of custody or visitation

CHILD CARE PROVIDERS – PERSONAL INFORMATION ONLINE

Chapter 354 effective 10/25/09

Signed 8/26/09

A.2311-A Lifton/S.3423-A Montgomery

AN ACT to amend the social services law, in relation to allowing child care providers to opt out of providing certain personal information online

MATRIMONIAL ORDERS

Chapter 72, effective 9/1/09

Signed 6/24/2009

A.2574 Weinstein/S.2970 Sampson

AN ACT to amend the domestic relations law, in relation to establishing automatic orders in matrimonial actions

COLLEGE/UNIVERSITY – DOMESTIC VIOLENCE AND STALKING PREVENTION

Chapter 13, effective 4/7/09

Signed 4/7/09

A.2714 Glick/S.2296 Stavisky

AN ACT to amend the education law, in relation to requiring campuses and colleges to provide incoming students with information about domestic violence and stalking prevention

PROVISION OF SEXUAL ASSAULT INFORMATION

Chapter 427, effective 3/15/2010

Signed 9/16/09

A.3378 Rosenthal/S.4077 Squadron

AN ACT to amend the social services law, in relation to offering applicants and recipients of public assistance information regarding sexual assault

NEW LAWS - 2009

SEALING OF COURT RECORDS

Chapter 83, effective 7/7/09

Signed 7/7/09

A.3468 Scarborough/S.4334 Kruger

AN ACT to amend the civil rights law, in relation to sealing certain court papers upon applications for a change of name

ELIGIBILITY FOR CHILD CARE ASSISTANCE

Chapter 233, effective 7/23/06

Signed 7/23/09

A.3657 Scarborough/S.2091 Montgomery

AN ACT to amend the social services law, in relation to eligibility requirements for child care assistance.

PROHIBITS COMPELL TO CONTACT ABUSERS

Chapter 428, effective 12/15/09

Signed 9/16/09

A.3843-A Rosenthal/S.5036 Hassell-Thompson

AN ACT to amend the social services law, in relation to prohibiting the condition of benefits and services received by victims of domestic abuse on the cooperation of the perpetrator of such abuse

DIVORCE – AWARENESS ABOUT HEALTH INSURANCE COVERAGE

Chapter 143, effective 10/9/09 and shall be deemed to apply to all actions in which judgment has not been entered as of such effective date.

Signed 7/11/09

A.7561 Bradley/S.2851-A Sampson

AN ACT to amend the domestic relations law, in relation to certain matrimonial actions; and repealing certain provisions of such law relating thereto

UNEMPLOYMENT INSURANCE BENEFITS

Chapter 35, effective 5/20/09

Signed 5/20/09

A.8273 Meng/S.4110-A Onorato

AN ACT to amend the labor law, in relation to unemployment insurance benefits and part-time work, voluntary separations from employment, and on/off indicators for extended unemployment insurance benefits; and in relation to extended benefits

MILITARY CUSTODY ORDERS

Chapter 473, effective 11/15/09

Signed 9/16/09

A.8789 Ortiz/S.6037 Aubertine

AN ACT to amend the domestic relations law, the family court act and the military law, in relation to orders of custody involving a parent activated, deployed or temporarily assigned to military service

NEW LAWS - 2009

OMNIBUS DOMESTIC VIOLENCE BILL – GOVERNOR’S PROGRAM BILL

Chapter 476 with varying effective dates

Signed 9/16/09

A.9017 Weinstein/ S.55306 Rules/S.5031 Hassell-Thompson

AN ACT to amend the family court act, in relation to requiring attorneys for children to receive training or education in domestic violence prevention; to amend the domestic relations law, in relation to requiring the court to state on the record the domestic violence and child abuse factored into their award of custody or visitation; to amend the criminal procedure law and the family court act, in relation to orders of protection; and to amend the criminal procedure law, in relation to reporting domestic violence incidents to the supervising probation department or the division of parole

Attorneys for Children - effective 12/15/2009, section 249-b of the family court act, as added by chapter 626 of the laws of 2007 is amended to require that new and veteran attorneys for children receive initial and ongoing training as it relates to domestic violence. The chief administrator of the courts shall develop these trainings with the input and consultation of the New York State Office for the Prevention of Domestic Violence. The trainings must include the dynamics of domestic violence and its effect on victims and on children, and the relationship between such dynamics and the issues considered by the court, including, but not limited to, custody, visitation and child support. Such training programs along with the providers of such training must be approved by the office of court administration following consultation with and input from the state office for the prevention of domestic violence

Statements on record - effective 12/15/2009, paragraph (a) of subdivision 1 of section 240 of the domestic relations law, as amended by chapter 538 of the laws of 2008, is amended to require that, in divorce, custody or visitation related cases in which there are allegations of domestic violence or child abuse, the court must and state on the record how findings, facts and circumstances regarding the domestic violence factored into the direction.

Addition of sexual offenses - effective 12/15/09, the opening paragraph of subdivision 1 of section 530.11 of the criminal procedure law and opening paragraph of subdivision 1 of section 812 of the family court act, as amended by chapter 326 of the laws of 2008, as amended by chapter 326 of the laws of 2008, is amended to include sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law to the list of enumerated family offenses. In addition effective 12/15/09, paragraph (a) of subdivision 1 of section 821 of the family court act, as amended by chapter 635 of the laws of 1999, also adds the same sexual offenses as well as criminal mischief.

Transmission of domestic incident reports to community corrections - effective 12/15/09, subdivision 5 of section 140.10 of the criminal procedure law, as amended by chapter 626 of the laws of 1997, is amended to require law enforcement to transmit copies of domestic incident reports in which the perpetrator is known by the law enforcement to be under probation or parole supervision to the supervising probation department or the division of parole.

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Availability of records - Section 7, effective 1/14/2010, amends paragraph (a) of subdivision 1 of section 160.55 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, is amended to exempt the palmprints and fingerprints concerning a disposition of harassment in the second degree¹, committed against a member of the same family or household as the defendant², from being destroyed or returned.

In a similar manner, effective 1/14/10, paragraph (d) of subdivision 1 of section 160.55 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, is amended to require that all official records and papers relating to the arrest or prosecution shall be made available to a police agency, probation department, sheriff's office, district attorney's office, department of correction of any municipality and parole department, for law enforcement purposes, upon arrest in instances in which the individual stands convicted of harassment in the second degree³, committed against a member of the same family or household as the defendant⁴.

In addition, effective 10/16/09, subdivision 4 of section 170.10 of the criminal procedure law adds new paragraph (e) requiring that if there is a judgment of conviction for the following footnoted offenses⁵ and such offense is determined to have been committed against a member of the same family or household as the defendant⁶, accessible for law enforcement purposes and not sealed.

Lastly, effective 1/14/2010, subdivision 2 of section 160.55 of the criminal procedure law, as added by chapter 142 of the laws of 1991 states that when the defendant has been found guilty of a violation of harassment in the second degree and it was determined that such violation was committed against a member of the same family or household as the defendant, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding for purposes of paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of this section.

To enable the process of unsealing these records, effective 10/16/09, section 170.10 of the criminal procedure law is amended to require the court to file notice alleging that the offense⁷ was committed against a member of the same family or household as the defendant⁸ or the defendant to stipulate that the offense was committed against a member of the same family or household as the defendant.

¹ as defined in section 240.26 of the penal law

² as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title

³ as defined in section 240.26 of the penal law

⁴ as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title

⁵ an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree as defined in section 240.26 of the penal law

⁶ as defined in subdivision one of section 530.11 of this chapter

⁷ an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree as defined in section 240.26 of the penal law

⁸ as defined in subdivision one of section 530.11

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Duration of Orders of Protection – Effective December 15, 2009, section 12 of Chapter 476 amends subdivision 5 of section 530.12 of the criminal procedure law and section 13 of Chapter 476 amends the opening paragraph of subdivision 4 of section 530.13 of the criminal procedure law. These changes take into consideration a sentence of imprisonment as it applies to the length of time the order of protection shall be in effect. These sections of the criminal procedure law have been subject to a “sunset” clause therefore these provisions will be in effect December 15, 2009 – September 1, 2011.

VETOED

STATEWIDE CONFIDENTIALITY PROGRAM

A.2858-A Weinstein/S.3580-A Adams

Would have amended the executive law, in relation to authorizing the secretary of state to accept service of process and receipt of mail on behalf of victims of domestic violence for the purpose of maintaining the confidentiality of the location of such victims

LAW ENFORCEMENT TRAINING – SEXUAL ASSAULT

A.4629-B Weinstein/S.5042 Hassell-Thompson

Would have amended the executive law, in relation to requisite training instruction for police officers for crimes involving sexual assaults; and amended the social services law, in relation to training for child protective services workers in certain instances

NECESSARY COURT APPEARANCE – CVB DEFINITION

A.6532-B Ortiz/S.4405-A Hassell-Thompson

Would have amended the executive law, in relation to the definition of necessary court appearances for purposes of determining crime victim's award