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SUFFOLK COUNTY CRIME VICTIMS CENTER AT PFML

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IN PARTNERSHIP WITH THE  
SUFFOLK COUNTY POLICE DEPARTMENT



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*LINKING CRIME VICTIMS TO SUPPORT SERVICES*

# How to File for an Order of Protection in Suffolk County Family Court

*The Crime Victims Center is a Program of Parents for Megan's Law and provides support and services to all victims of violent crime.*

*Visit us online at:*

*[www.thecrimevictimcenter.org](http://www.thecrimevictimcenter.org) and*

*[www.parentsformeganslaw.org](http://www.parentsformeganslaw.org) or*

*Call us at (631) 689-2672*

### **What is a Family Court order of protection?**

- A civil order that provides protection from someone you are married to, separated from, divorced from, have a child in common with, are/were in an intimate relationship with (including same sex couple) or are related to by blood or marriage.

### **What is a Criminal Court order of protection?**

- A criminal court order of protection provides protection for alleged victims of crime where an arrest or a criminal charge has been filed against a defendant. In Family Court, there does not need to be an arrest or criminal charge to get an order of protection.

### **Who can apply for an order of protection?**

You can apply for an order of protection against someone who committed a family offense against you or your children:

#### **Who you:**

- Are or were married to
- Are related to by blood or marriage
- Have a child in common with
- Have or had an intimate relationship with

#### **Or:**

- Is your parent or your child

### **What are the family offenses (see Appendix A)?**

- Disorderly conduct
- Harassment in the 1<sup>st</sup> or 2<sup>nd</sup> degree
- Aggravated harassment in the 2<sup>nd</sup> degree
- Assault in the 2<sup>nd</sup> or 3<sup>rd</sup> degree
- Criminal mischief
- Sexual abuse in the 2<sup>nd</sup> or 3<sup>rd</sup> degree
- Strangulation
- Identity theft in 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree
- Coercion in 2<sup>nd</sup> degree [Penal Law §135.60 (1),(2),or (3)]
- Menacing in the 2<sup>nd</sup> or 3<sup>rd</sup> degree
- Reckless endangerment
- Stalking
- Attempted assault
- Sexual misconduct
- Forcible touching
- Criminal obstruction of breathing or circulation
- Grand larceny in 3<sup>rd</sup> or 4<sup>th</sup> degree

### **Do I have to reveal my home address?**

If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at [www.nycourts.gov](http://www.nycourts.gov).

### **How much does it cost to file for an order of protection?**

- There are no filing fees in Family Court.

### What documentation do I need to obtain an order of protection?

- If reported to the police – the police report (if available)
- If not reported to the police - incidents with approximate dates (“on or about” dates)
- Photographs (if available)
- Your identification
- Children’s date of birth
- If known, the address of the person you are seeking protection from (home, work or a temporary address)

### What additional information may be helpful in obtaining an order of protection?

It would be helpful to know the respondent’s:

- Full Name and Date of Birth
- Address
- Home Phone Number
- Cell Phone and Work Number
- If Party Possess Weapons, What Type
- Employer Name and Address
- Race, Ethnicity
- Height, Weight, Hair , Eye Color
- Tattoos/Other Distinguishing Features
- Vehicle Make, Type, Year, Plate, Color

### Do I go to the Central Islip or Riverhead court to apply for an order of protection?

#### Communities using Central Islip court:

Amityville	Deer Park	Kings Park	Port Jefferson Station
Babylon	Dix Hills	Lake Grove	Ridge
Bayport	East Moriches	Lake Ronkonkoma	Rocky Point
Bay Shore	East Northport	Lindenhurst	Ronkonkoma
Bellport	East Patchogue	Manorville (Brookhaven Town Residents)	Saint James
Blue Point	East Setauket	Mastic	Saltaire
Bohemia	Eastport (Brookhaven Town Residents)	Mastic Beach	Sayville
Brentwood	Fair Harbor	Medford	Selden
Brightwaters	Farmingdale	Melville	Setauket
Brookhaven	Farmingville	Middle Island	Shirley
Calverton (Brookhaven Town Residents)	Great River	Miller Place	Shoreham
Center Moriches	Greenlawn	Moriches	Smithtown
Centereach	Holbrook	Mount Sinai	Sound Beach
Centerport	Holtsville	Nesconset	Stony Brook
Central Islip	Hauppauge	Northport	Upton
Cold Spring Harbor	Huntington	Oakdale	Wading Rvr. (Brookhaven Town Residents)
Commack	Huntington Station	Ocean Beach	West Islip
Copiague	Islandia	Patchogue	West Sayville
Coram	Islip	Point O’Woods	Wheatley Heights
Davis Park	Islip Terrace	Port Jefferson	Wyandanch
East Islip			Yaphank

## Communities using Riverhead court:

Amagansett	Fishers Island	Orient	Shinnecock Hills
Aquebogue	Greenport	Peconic	Southampton
Bridgehampton	Hampton Bays	Quogue	South Jamesport
Calverton (Riverhead Town Residents)	Jamesport	Remsenburg	Southold
Cutchogue	Laurel	Riverhead	Speonk
East Hampton	Manorville (Riverhead Town Residents)	Sagaponack	Wading River (Riverhead Town Residents)
East Marion	Mattituck	Sag Harbor	Wainscott
Eastport (Southampton Town Residents)	Montauk	Shelter Island	Watermill
East Quogue	New Suffolk	Shelter Island Heights	Westhampton
			Westhampton Beach

## What are the Court's hours and what time should I arrive?

- The court is open **Monday- Friday from 9am-5pm**. It is best to arrive as early as possible for the petition to be heard by the judge that day. A black pen will be needed to complete the petition.

## Once I have arrived at the Court, where do I go to file for an order of protection?

### Central Islip:

Family Court  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11901

First Floor  
Room 134 Window  
631-853-4024

\*Once you have finished completing your application, return to the clerk's window. The clerk will direct you to the appropriate courtroom. Wait outside of the courtroom until a court officer calls your name. It's always a good idea to let a court officer know you are there waiting outside. You will then go before a judge, and the application for a temporary order of protection will be either granted or denied. If granted, you must bring the document to the Domestic Violence Sheriff's Department. The office is located on the first floor in the Criminal Court Building. The court officer will give you directions.

### Riverhead:

Probation Department\*  
Arthur M. Cromarty Court Complex  
300 County Center Drive  
Riverhead, NY 11901

Window located in Probation at  
Lowest Level of Criminal Court Building  
631-852-1939

**Riverhead (cont.):**

\*Once you have finished completing your application, return to the Probation window where a probation officer will type and notarize it. The typed application will then be taken by the petitioner to the Family Court Clerk's Office Window, at 877 East Main St. Riverhead (across from the Social Services Building). The petitioner takes a seat in the waiting area until the court officer calls their name. You will then go before a judge, and the application for a temporary order of protection will be either granted or denied. If granted, a court officer will take your order of protection to the sheriff's department to be served.

**Once I am at the clerk's window what paperwork do I ask for?**

- A Family Offense Petition

**When I go to the clerk's window, what paperwork will I be given?**

- The person requesting an order of protection (petitioner) will be provided a Form 8-2 (Family Offense Petition) to complete.

**What should I know about completing the narrative on Page 2 of the petition?**

Page 2 of the petition is very important and needs to be completed with as many facts as possible, including the incidents being reported and approximate dates ("on or about dates") that they occurred. Use descriptive language and include details about injuries or pain you suffered and the approximate dates of the incidents. Include any property that was damaged or destroyed during the incident and/or if your children were present and if there were any weapons used. Use specific language of any threats made by the respondent.

**In the petition, you may request an order of protection be granted requiring that the respondent:**

- Be removed from the home
- Stay away from you, your home, your school and place of employment
- Stay away from your children, their school, and/or daycare
- Not contact you by phone, mail, email, or any other means
- Refrain from acts/threats of physical violence
- Refrain from such acts of assault, stalking, harassment, menacing, intimidation, criminal mischief and disorderly conduct
- Refrain from the use, consumption, purchase or being under the influence of alcohol/drugs
- You may also request as a condition of the order of protection that you be awarded temporary custody of said child(ren) and/or temporary support, including access to health or medical insurance for necessary medical care following the incident that brought about the need for the order of protection.

The judge may provide such relief that is particular to your situation such as a combination of the above.

You may also request that the respondent be directed to:\*

- Enroll in a batterers program
- Undergo evaluation for drug and alcohol abuse
- Undergo psychiatric evaluation

\*Be advised that this may only be considered during final disposition of your case.

If any one or a combination of the following family offenses were committed, you may be eligible for an order of protection (temporary/permanent). The following definitions of the fifteen family offenses will assist you in completing Page 2 of your petition. **Please refer to Appendix A- Family Offense Definitions.** The following are summaries of common scenarios:

**Disorderly Conduct-** intentionally causing public inconvenience, annoyance or alarm.

**Harassment 1<sup>st</sup> Degree-** intentionally and repeatedly harassing another person by following in or about a public place or by engaging in a course of conduct by repeatedly committing acts that place such person in reasonable fear of physical injury.

**Harassment 2<sup>nd</sup> Degree-** intentionally striking, shoving, kicking or subjecting another person to physical contact or threatening to do same or follows someone around in a public place.

**Assault 2<sup>nd</sup> Degree-** intentionally causing serious physical injury to another person or a third person or intentionally causing physical injury with a deadly weapon or dangerous instrument.

**Assault 3<sup>rd</sup> Degree-** intentionally or recklessly causing physical injury to another person.

**Criminal Mischief-** recklessly and/or intentionally damaging the property of another exceeding the amount of two hundred and fifty dollars or prevents a person from communicating a request for emergency assistance.

**Sexual Abuse 2<sup>nd</sup> Degree-** subjecting another person to sexual contact when such other person is incapable to consent by some factor other than being less than 17 years old.

**Sexual Abuse 3<sup>rd</sup> Degree-** subjecting another person to sexual contact when such other person is incapable to consent by reason of being less than 17 years old and such other person is more than 14 years old and the defendant was less than 5 years older than such other person.

**Menacing 2<sup>nd</sup> Degree-** intentionally placing or attempting to place another person in reasonable fear of physical injury or death by displaying a deadly weapon or dangerous instrument. Repeatedly following a person or engaging in a course of conduct or repeatedly committing acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury or death.

**Menacing 3<sup>rd</sup> Degree-** intentionally placing or attempting to place another person in fear of death, imminent serious physical injury or physical injury.

**Reckless Endangerment-** Recklessly engaging in conduct which creates a substantial risk of serious physical injury or a grave risk of death to another person.

**Stalking-** occurs when anyone repeatedly causes you to fear for your safety. It requires a pattern of repeated acts, for no legitimate purpose, and they do not have to be criminal offenses. It is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business and the respondent was previously clearly informed to cease that conduct.

**Attempted Assault**- attempting to cause physical injury to another person.

**Sexual Misconduct**- engaging in sexual intercourse or oral sexual contact with another person without such person's consent.

**Forcible Touching**- intentionally and for no legitimate purpose, forcibly touching the sexual or other intimate parts of another person.

**Strangulation 1<sup>st</sup> Degree** – when someone commits the crime of criminal obstruction of breathing or blood circulation and causes serious physical injury.

**Strangulation 2<sup>nd</sup> Degree** - when someone commits the crime of criminal obstruction of breathing or blood circulation and causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment.

**Criminal Obstruction of Breathing or Blood Circulation** - when, with intent to impede the normal breathing or circulation of the blood of another person, he or she: applies pressure on the throat or neck of such person; or blocks the nose or mouth of such person.

**Identity Theft 1<sup>st</sup> Degree**- when someone uses another person's personal identification information, such as credit card number or social security number, to obtain something of value and that something is worth more than two thousand dollars, or uses another person's personal information to cause financial loss to that person of more than two thousand dollars.

**Identity Theft 2<sup>nd</sup> Degree**- when someone uses another person's personal identification information, such as credit card number or social security number, to obtain something of value and that something is worth more than five hundred dollars, or uses another person's personal information to cause financial loss to that person of more than five hundred dollars.

**Identity Theft 3<sup>rd</sup> Degree**- when someone uses another person's personal identification information, such as a credit card number or social security number, to obtain something of value.

**Grand Larceny 3<sup>rd</sup> Degree**- when a person steals property and when the property exceeds three thousand dollars or is obtained by extortion or instilling fear in the victim.

**Grand Larceny 4<sup>th</sup> Degree**- when a person steals property and the property exceeds one thousand dollars or is an official document, secret scientific material, a credit card, a firearm, a vehicle, an item of religious significance, an item obtained through extortion or is any item taken from another person

**Coercion 2<sup>nd</sup> Degree**- When someone compels another person to engage in activity that they do not wish to engage in out of fear that the first person will cause physical injury, damage property, or make them commit a criminal act.

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**Can I include my pet in my petition for an order of protection?**

Yes. Please include in the narrative names of pets, and type, as well as how respondent tried to threaten or injure said pet.

### **What do I do when I have completed the petition?**

- In Central Islip:
  - Return with the petition to the clerk's window where it will be notarized. You will be directed to a courtroom (Part) by the clerk.
  - Wait outside of the courtroom until the court officer calls your name.
- In Riverhead:
  - Once you have completed your application, return to the Probation window where a probation officer will type and notarize it. The typed application will then be taken by the petitioner to the Family Court Clerk's Office, at 877 East Main St. Riverhead (across from the Social Services Building).
  - You will then go before a judge, and the application for a temporary order of protection will be either be granted or denied. If granted, a court officer will take your order of protection to the sheriff's department to be served.

### **When I enter the courtroom, what should I do?**

- You may be directed to stand at the table before the judge at which time the petition will be reviewed. A temporary order of protection will be granted the same day or in some cases denied. The Court will provide you another date to return to Court, at which time the respondent (person against who a petition is filed) will be present. You must appear on the return date.

### **If I am granted an order of protection what do I do next?**

Wait outside of the courtroom until the court officer calls your name and give you the order of protection. You will receive a slip of paper with a return court date.

- **In Central Islip:** You must bring the document to the Domestic Violence Sheriff's Department. The office is located on the first floor in the Criminal Court Building. The court officer will give you directions. Once submitted you may leave.
- **In Riverhead:** The court officer will take the order of protection to the Sheriff's Department – you may leave.

### **What happens on the return court date?**

- On the return date, the respondent will be given the opportunity to oppose the petition or consent to the order of protection.
- If the respondent does not agree to the order of protection, a hearing will be scheduled and a judge will make a final determination.

### **What if the respondent consents to the order of protection?**

- The order of protection will then be made a permanent order of protection.



### **How long is a permanent order of protection?**

- In Family Court, a final order of protection may last one to five years, depending on the facts of your specific case.

### **What does “refrain from” mean in an order of protection?**

- “Refrain from” means that the respondent must refrain from certain acts, behaviors, or forms of communication (mail, telephone, email, voicemail, electronic or other means) that are harassing, annoying or alarming.

### **What does “stay away” mean in an order of protection?**

- A “stay away” condition will direct the respondent to stay away from the home, work or school of the petitioner.
- Where there is no “stay away” condition the respondent may continue to live in the home if the petitioner and respondent are cohabitating.
- Once the order of protection has been served on the respondent, and if the petitioner resides in the same home, accompanied by law enforcement, the respondent will be permitted to retrieve personal belongings and will be escorted from the home.

### **Will an order of protection guarantee my safety?**

An order of protection **cannot guarantee your safety** and it is important that you consistently contact police if the order is violated. If the respondent violates (does not obey) the order, here are some things that can happen to help keep you safer:

- If there is a determination that they have violated the family court order they can go to jail
- He can be charged with a more serious crime such as criminal contempt, and could be prosecuted by the DA and go to jail or prison for more time
- He can have weapons in his possession taken away
- If you have been living together and have left home, the police will go with you to get some of your belongings
- If the abuser stalks you or harasses you at work, you can call the police for protection
- You can request another order of protection that lasts for a longer time and/or further restricts his abusive actions

### **What should I do when I leave the courthouse?**

- If you are concerned that the respondent will harass you when you leave the courthouse, ask the court officer if s/he would escort you to the door of the building or to your car. If you are afraid the respondent may follow you once you leave the courthouse, explain this to the court officer. The court officer may allow you to leave earlier so that you can get a head start. This could be especially important if you are living in a shelter or confidential location and you do not want the respondent to know where you are staying.

- Review the order before you leave the courthouse. **If something is wrong or missing, ask the clerk to correct the order before you leave.**

**What safety precautions can I take after filing for an order of protection?**

- Make several copies of the protective order as soon as possible.
- Keep a copy of the order with you at all times.
- Leave copies of the order at your work place, at your home, at the children’s school or daycare, in your car, with a sympathetic neighbor or with others at locations where you or your children may frequent.
- Give a copy to the security guard or person at the front desk where you live and/or work.
- Give a copy of the order to anyone who is named in and protected by the order.

You may wish to consider changing your home door locks and your phone number. Contact the Crime Victims Center at PFML (631) 689-2672 for help in filing for reimbursement for expenses related to changing the locks with the New York State Office of Victims Services (Crime Victims Board).

Contact your local domestic violence agency if you have any questions, need counseling, or court advocacy. Domestic Violence shelters are available if you fear for your safety and need a place to stay.

**Agencies that provide these services with Hotline contact numbers are (Hablamos Español):**

- Suffolk County Coalition Against Domestic Violence (170 Different Languages) (631) 666-7181/(631) 666-8833
- Suffolk County Crime Victims Center (170 Different Languages) (631) 689-2672/(631) 332-9234
- Centro De Victimas De Crimen (631) 332-9234
- Brighter Tomorrows (631) 395-3116/(631) 395-1800
- Retreat (631) 329-4395/(631) 329-2200
- Suffolk County Crime Victims Center Hate Crime Program (170 Different Languages) (631) 689-2672/(631) 626-3156
- Suffolk County Police Domestic Violence and Elder Abuse (170 Different Languages) (631) 854-7520
- Victims Information Bureau of Suffolk (631) 360-3730/(631) 360-3606
- In Case of Emergency **DIAL 911**

**If you are unrepresented:**

For legal forms, information, legal research and legal referral resources contact:

Nassau Suffolk Law Services: (631) 232-2400  
 The Law Library Resource Program for the Public (LLRP): (631) 853-6064

The **Crime Victims Center** provides free U VISA application assistance for eligible victims of violent crime: (631) 689-2672

**Have a Safety Plan** in place which would include packing a bag (which can be easily accessed and transported) with the following:

- Essentials for you and your children including a change of clothes and any medications
- Copies of any court orders granting custody, visitation, protection or support
- Include any important documents such as birth certificates, school records and immunizations, medical records, address books, social security cards, driver's license, marriage license or divorce papers, custody papers, insurance information
- Social services and/or Medicaid documentation if applicable
- Passports or green cards
- Important phone numbers to contact in an emergency
- Keys to your house and car, and car registration and insurance
- Money, bankbooks, checkbook, credit cards, financial records

**When will the order of protection be served?**

- A deputy from the Sheriff's office will serve the order as soon as possible day or night. The deputy will attempt to serve the order of protection to the respondent's home or place of business, or any valid address provided by the petitioner. The sheriff will continue to make attempts to serve the order of protection, but if the respondent avoids being served the order cannot be enforced.

**What happens on the return court date for the permanent order of protection if the respondent does not appear?**

- If the respondent has not been served with the order of protection, the court date will be adjourned to another date so that he may be served.
- If the respondent has been served with the order of protection and there is no appearance by said respondent, the temporary order of protection may be continued for a year or more, in the judge's discretion. The judge may decide to have a hearing without the respondent to determine whether to grant a permanent order of protection.

**What if the respondent disobeys the order of protection?**

- If the respondent violates the order of protection, contact the police by calling 911. If it is determined by the police that the order of protection was violated there will be a mandatory arrest. If there is an arrest for a violation of the Family Court order of protection, the respondent will be charged with Criminal Contempt, a crime. You may be issued an order of protection by the criminal court judge. Contact the District Attorney's office and ask to obtain a copy of the criminal court order of protection. You are encouraged to file another petition in Family Court as instructed below.
- If the respondent violated a Family Court order of protection, you may also file a petition claiming a violation in Family Court. The violation petition and a summons must be served upon the respondent, or the court may issue a warrant for his arrest. (To file this petition, go to the clerk of

court where you originally got your order.) When you are both before the Family Court, the court holds a hearing to determine whether the respondent disobeyed the order of protection and to determine what action should be taken against the respondent. The Probation Department may be asked to investigate and make a recommendation to the court. The judge may order a period of incarceration for up to 6 months, a change in the conditions in your order of protection (such as an extension of the order for longer than the initial time period) and that the respondent pay your attorney's fees for the violation case.

- If the respondent is arrested and charged in criminal court with violating the order of protection, and you still have an active Family Court case (for an order of protection, custody or visitation) or Supreme Court case (for a divorce), both cases (the criminal case and the civil case) may be transferred to what is called the Integrated Domestic Violence Court (IDV Court). This court was designed under the "one family-one judge" model so that both the criminal case and the civil case would be heard by the same judge. You would likely be notified by the court if your case was transferred to IDV.

#### **What happens if I move or need to change my order?**

- Your order of protection is enforceable in all states. If a person obtains an order of protection in one state and leaves that state, the law requires that all other states give "full faith and credit" to the order. Each state has its own laws and procedures. Some, like New York, have a computer system into which orders are entered and registered.
- Any person with a valid order of protection who relocates to another state should inquire as soon as possible at a court or law enforcement agency for instructions on the registration and enforcement of orders in that state. One thing to find out before you register your order in another state is whether or not that state will notify the respondent that you have re-located to that state.
- Moving within New York, your order should be enforced wherever you go. You should check with court or law enforcement in your new area to find out if you need to register it again.

## **Glossary**

**Adjournment-** a temporary postponement (rescheduling) of the proceedings of a case until a specified future time.

**Arraignment-** the court proceeding during which a person is informed of the charges against him or her.

**Conviction-** when the court enters a plea of guilty or a finding of guilt by a jury or the court.

**Court Clerk-** employees of the court who maintain court records for the court.

**Court Officer-**law enforcement professionals responsible for the security and protection of judges, court employees, and the public in courthouses.

**Crime-** an offense against the authority of the state in violation of the penal code which can result in a sentence of probation or imprisonment.

**Criminal Contempt-**a respondent can be charged with this offense if the order of protection is violated.

**Defendant-** in criminal cases, the person accused of a crime.

**Ex-parte-** the respondent is not present in court. When a judge grants a temporary order of protection ex-parte, another court date will be scheduled for both parties to be heard by the judge.

**Part-** a courtroom.

**Petition-** a formal written request to a court, which initiates a special proceeding.

**Petitioner-** the person completing the family offense petition for an order of protection.

**Respondent-** one who formally answers the allegations stated in a petition which has been filed with the court.

## Abbreviations

**ADA-** assistant district attorney

**CC#-** central complaint number found on police report

**DA-** district attorney

**DV-** domestic violence

**IDV-** integrated domestic violence (court)

**OP-** order of protection

## Appendix A – Family Offense Definitions

### § 240.30 Aggravated harassment in the second degree.

A person is guilty of aggravated harassment in the second degree when:

1. With intent to harass another person, the actor either:

(a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, or a member of such person's same family or household as defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or

(b) causes a communication to be initiated anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, a member of such person's same family or household as

defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or

2. With intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or

3. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

4. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to a family or household member of such person as defined in section 530.11 of the criminal procedure law; or

5. He or she commits the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years. Aggravated harassment in the second degree is a class A misdemeanor.

**§ 240.25 Harassment in the first degree.**

A person is guilty of harassment in the first degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury. This section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended. Harassment in the first degree is a class B misdemeanor.

**§ 240.26 Harassment in the second degree.**

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person:

1. He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same; or
2. He or she follows a person in or about a public place or places; or
3. He or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose. Subdivisions two and three of this section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended. Harassment in the second degree is a violation.

**§ 240.20 Disorderly conduct.**

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

1. He engages in fighting or in violent, tumultuous or threatening behavior; or
2. He makes unreasonable noise; or
3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or
4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or
5. He obstructs vehicular or pedestrian traffic; or
6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose. Disorderly conduct is a violation.

**§ 145.12 Criminal mischief in the first degree.**

A person is guilty of criminal mischief in the first degree when with intent to damage property of another

person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person by means of an explosive. Criminal mischief in the first degree is a class B felony.

**§ 145.10 Criminal mischief in the second degree.**

A person is guilty of criminal mischief in the second degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person in an amount exceeding one thousand five hundred dollars. Criminal mischief in the second degree is a class D felony.

**§ 145.05 Criminal mischief in the third degree.**

A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person in an amount exceeding two hundred fifty dollars. Criminal mischief in the third degree is a class E felony.

**§ 145.00 Criminal mischief in the fourth degree.**

A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

1. Intentionally damages property of another person; or
2. Intentionally participates in the destruction of an abandoned building as defined in section one thousand nine hundred seventy-one-a of the real property actions and proceedings law; or
3. Recklessly damages property of another person in an amount exceeding two hundred fifty dollars; or
4. With intent to prevent a person from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person: (a) is attempting to seek or is engaged in the process of seeking emergency assistance from police, law enforcement, fire or emergency medical services personnel; or (b) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision. Criminal mischief in the fourth degree is a class A misdemeanor.

**§ 130.60 Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old.

Sexual abuse in the second degree is a class A misdemeanor.

**§ 130.55 Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person. Sexual abuse in the third degree is a class B misdemeanor.

**§ 130.52 Forcible touching.**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person:

1. for the purpose of degrading or abusing such person; or
2. for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes the squeezing, grabbing or pinching of such other person's sexual or other intimate parts. Forcible touching is a class A misdemeanor.

**§ 130.20 Sexual misconduct.**

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body. Sexual misconduct is a class A misdemeanor.

**§ 120.60 Stalking in the first degree.**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter. Stalking in the first degree is a class D felony.

**§ 120.55 Stalking in the second degree.**

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle,

shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slingshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or

4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death. Stalking in the second degree is a class E felony.

**§ 120.50 Stalking in the third degree.**

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or

2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or

4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree. Stalking in the third degree is a class A misdemeanor.

**§ 120.45 Stalking in the fourth degree.**

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose,

engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or

2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or

3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct. Stalking in the fourth degree is a class B misdemeanor.

#### **§ 120.25 Reckless endangerment in the first degree.**

A person is guilty of reckless endangerment in the first degree when, under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person. Reckless endangerment in the first degree is a class D felony.

#### **§ 120.20 Reckless endangerment in the second degree.**

A person is guilty of reckless endangerment in the second degree when he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person. Reckless endangerment in the second degree is a class A misdemeanor.

#### **§ 120.14 Menacing in the second degree.**

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

1. He or she 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 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 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 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, 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.

#### **§ 120.15 Menacing in the third degree.**

A person is guilty of menacing in the third degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury. Menacing in the third degree is a class B misdemeanor.

#### **§ 120.05 Assault in the second degree.**

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

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or

2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or

3. With intent to prevent a peace officer, police officer, a fireman, including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, fireman, paramedic or technician, he causes physical injury to such peace officer, police officer, fireman, paramedic, technician or medical or related personnel in a hospital emergency department; or

4. He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

5. For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or

6. In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight there from, he, or another participant if there be any, causes physical injury to a person other than one of the participants; or

7. Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or



8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or 9. Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person; or 10. Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:

(a) causes such injury to an employee of a school or public school district; or

(b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter.

11. With intent to cause physical injury to a train operator, ticket inspector, conductor or bus operator employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, he or she causes physical injury to such train operator, ticket inspector, conductor or bus operator while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus.

12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person. Assault in the second degree is a class D felony.

#### **§ 120.00 Assault in the third degree.**

A person is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or
2. He recklessly causes physical injury to another person; or
3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument. Assault in the third degree is a class A misdemeanor.

#### **§ 121.11 Criminal obstruction of breathing or blood circulation.**

A person is guilty of criminal obstruction of breathing or blood circulation when, with intent to impede the normal breathing or circulation of the blood of another person, he or she:

- a. applies pressure on the throat or neck of such person; or
- b. blocks the nose or mouth of such person.

Criminal obstruction of breathing or blood circulation is a class A misdemeanor.

#### **§ 121.13 Strangulation in the first degree.**

A person is guilty of strangulation in the first degree when he or she commits the crime of criminal

obstruction of breathing or blood circulation, as defined in section 121.11 of this article, and thereby causes serious physical injury to such other person. Strangulation in the first degree is a class C felony.

#### **§ 121.12 Strangulation in the second degree.**

A person is guilty of strangulation in the second degree when he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, and thereby causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment. Strangulation in the second degree is a class D felony.

#### **§ 190.80 Identity theft in the first degree.**

A person is guilty of identity theft in the first degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds two thousand dollars; or
2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds two thousand dollars; or
3. commits or attempts to commit a class D felony or higher level crime or acts as an accessory in the commission of a class D or higher level felony; or

4. commits the crime of identity theft in the second degree as defined in section 190.79 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in this section, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the first degree is a class D felony.

#### **§ 190.79 Identity theft in the second degree.**

A person is guilty of identity theft in the second degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or

by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or
2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred dollars; or
3. commits or attempts to commit a felony or acts as an accessory to the commission of a felony; or
4. commits the crime of identity theft in the third degree as defined in section 190.78 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the second degree is a class E felony.

#### **§ 190.78 Identity theft in the third degree.**

A person is guilty of identity theft in the third degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or
2. commits a class A misdemeanor or higher level crime. Identity theft in the third degree is a class A misdemeanor.

#### **§ 155.35 Grand larceny in the third degree.**

A person is guilty of grand larceny in the third degree when he or she steals property and:

1. The value of the property exceeds three thousand dollars, or
2. The property is an automated teller machine or the contents of an automated teller machine. Grand larceny in the third degree is a class D felony

#### **§ 155.30 Grand Larceny in the fourth degree.**

A person is guilty of grand larceny in the fourth degree when he steals property and when:

1. The value of the property exceeds one thousand dollars; or
2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or
3. The property consists of secret scientific material; or
4. The property consists of a credit card or debit card; or
5. The property, regardless of its nature and value, is taken from the person of another; or
6. The property, regardless of its nature and value, is obtained by extortion; or
7. The property consists of one or more firearms, rifles or shotguns, as such terms are defined in section 265.00 of this chapter; or
8. The value of the property exceeds one hundred dollars and the property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than a motorcycle, as defined in section one hundred twenty-three of such law; or
9. The property consists of a scroll, religious vestment, a vessel, an item comprising a display of religious symbols which forms a representative expression of faith, or other miscellaneous item of property which: (a) has a value of at least one hundred dollars; and (b) is kept for or used in connection with religious worship in any building, structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law.
10. The property consists of an access device which the person intends to use unlawfully to obtain telephone service.
11. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine. Grand larceny in the fourth degree is a class E felony.

#### **§ 135.60 Coercion in the second degree.**

A person is guilty of coercion in the second degree when he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which he or she has a legal right to engage, or compels or induces a person to join a group, organization or criminal enterprise which such latter person has a right to abstain from joining, by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will:

1. Cause physical injury to a person; or
  2. Cause damage to property; or
  3. Engage in other conduct constituting a crime
- Coercion in the second degree is a class A misdemeanor