

# PROGRAM BILL #28

S. \_\_\_\_\_  
Senate  
\_\_\_\_\_

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*FAMICOAC\***  
(Establishes a pilot program for the  
filing of petitions for temporary  
orders of protection by electronic  
means)

Fam Ct. pilot prgm; temp orders

## AN ACT

to amend the family court act and  
the judiciary law, in relation to  
establishing a pilot program for the  
filing of petitions for temporary  
orders of protection by electronic  
means and for issuance of such  
orders ex parte by audio-visual  
means and to amend the executive  
law, in relation to review and  
reports by the chief administrator  
of the courts

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s18 Dilan	s36 Hassell-	s43 Marchione	s56 Robach	s53 Valesky
s31 Espaillat	Thompson	s07 Martins	s19 Sampson	s57 Young
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	s03 Zeldin

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a081 Dinowitz	a135 Johns	a133 Nojay	a140 Schimminger
a092 Abinanti	a147 DiPietro	a113 Jordan	a037 Nolan	a087 Sepulveda
a084 Arroyo	a115 Duprey	a094 Katz	a130 Oaks	a065 Silver
a035 Aubry	a004 Englebright	a074 Kavanagh	a069 O'Donnell	a027 Simanowitz
a120 Barclay	a054 Espinal	a142 Kearns	a051 Ortiz	a036 Simotas
a106 Barrett	a109 Fahy	a076 Kellner	a091 Otis	a104 Skartados
a060 Barron	a071 Farrell	a040 Kim	a132 Palmesano	a099 Skouffis
a082 Bonedetto	a126 Finch	a131 Kolb	a088 Paulin	a022 Solages
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a141 Peoples-	a114 Stee
a062 Borelli	a124 Friend	a013 Lavine	Stokes	a110 Steek
a055 Boyland	a143 Gabryszak	a050 Lentol	a058 Perry	a079 Stevenson
a026 Braunstein	a095 Galef	a125 Lifton	a089 Pretlow	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez, P.	a073 Quart	a011 Sweeney
a119 Brindisi	a007 Garbarino	a123 Lupardo	a019 Ra	a112 Tedisco
a138 Bronson	a077 Gibson	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a046 Brook-Krasny	a148 Giglio	a121 Magee	a012 Raia	a001 Thiele
a093 Buchwald	a080 Gjonaj	a129 Magnarelli	a006 Ramos	a061 Titone
a118 Butler	a066 Glick	a059 Maisel	a134 Reilich	a031 Titus
a103 Cahill	a023 Goldfeder	a064 Malliotakis	a078 Rivera	a146 Walter
a043 Camara	a150 Goodell	a030 Markey	a128 Roberts	a041 Weinstein
a145 Ceretto	a075 Gottfried	a090 Mayer	a056 Robinson	a020 Weisenberg
a033 Clark	a005 Graf	a108 McDonald	a068 Rodriguez	a024 Weprin
a047 Colton	a100 Gunther	a014 McDonough	a072 Rosa	a070 Wright
a032 Cook	a139 Hawley	a017 McKeivitt	a067 Rosenthal	a096 Zebrowski
a144 Corwin	a083 Heastie	a107 McLaughlin	a025 Rozic	a002
a085 Crespo	a003 Hennessey	a038 Miller	a116 Russell	a053
a122 Crouch	a028 Hevesi	a052 Millman	a149 Ryan	a086
a021 Curran	a048 Hikind	a015 Montesano	a009 Saladino	
a063 Cusick	a018 Hooper	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a042 Jacobs	a057 Mosley	a029 Scarborough	
a034 DenDekker	a097 Jaffee	a039 Moya	a016 Schimeil	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

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

1 Section 1. Section 153-c of the family court act, as added by chapter  
2 416 of the laws of 1981, is amended to read as follows:

3 § 153-c. Temporary order of protection. (a) Any person appearing at  
4 family court when the court is open requesting a temporary order of  
5 protection under any article of this act shall be entitled to file a  
6 petition without delay on the same day such person first appears at the  
7 family court, and a hearing on that request shall be held on the same  
8 day or the next day that the family court is open following the filing  
9 of such petition.

10 (b) As provided in this section, the chief administrator of the  
11 courts, with the approval of the administrative board of the courts, may  
12 promulgate rules to establish and implement a pilot program for the  
13 filing of petitions for temporary orders of protection by electronic  
14 means and for the issuance of such orders ex parte by audio-visual means  
15 in order to accommodate litigants for whom attendance at court to file  
16 for, and obtain, emergency relief would constitute an undue hardship or  
17 to accommodate litigants, for whom traveling to and appearing in the  
18 courthouse to obtain emergency relief, creates a risk of harm to such  
19 litigant.

20 (1) Definitions. As used in this section:

21 (i) "Electronic means" means any method of transmission of information  
22 between computers or other machines designed for the purpose of sending  
23 and receiving such transmissions, and which allows the recipient to  
24 reproduce the information transmitted in a tangible medium of  
25 expression.

26 (ii) "Independent audio-visual system" means an electronic system for  
27 the transmission and receiving of audio and visual signals, encompassing  
28 encoded signals, frequency domain multiplexing or other suitable means

1 to preclude the unauthorized reception and decoding of the signals by  
2 commercially available television receivers, channel converters, or  
3 other available receiving devices.

4 (iii) "Electronic appearance" means an appearance in which one or more  
5 of the parties are not present in the court, but in which, by means of  
6 an independent audio-visual system, all of the participants are simul-  
7 taneously able to see and hear reproductions of the voices and images of  
8 the judge, counsel, parties, witnesses, if any and other participants.

9 (2) Development of a pilot program. A plan for a pilot program pursu-  
10 ant to this section shall be developed by the chief administrator of the  
11 courts or his or her delegate in consultation with one or more local  
12 programs providing assistance to victims of domestic violence, the  
13 office for the prevention of domestic violence, and attorneys who repre-  
14 sent family offense petitions. The plan shall include, but is not  
15 limited to:

16 (i) identification of one or more family justice centers or organiza-  
17 tions or agencies or other sites outside of the local family court that  
18 are equipped with, or have access to, an independent audio-visual system  
19 and electronic means for filing documents that are compatible with the  
20 equipment in the local family court, with consideration given to the  
21 location of such site or sites and available resources; and

22 (ii) identification of one or more licensed and certified organiza-  
23 tions, agencies or entities with advocates for victims of domestic  
24 violence who are trained, and available to assist petitioners in prepar-  
25 ing and filing petitions for temporary orders of protection and in their  
26 electronic appearances before the family court to obtain such orders;  
27 and

1 (iii) identification of the existing resources available in local  
2 family courts for the implementation and oversight of the pilot program;  
3 and

4 (iv) delineation of procedures for filing of the petitions and docu-  
5 ments, if any, by electronic means, swearing in the petitioners and any  
6 witnesses, preparation of a verbatim transcription of testimony  
7 presented and a record of evidence adduced and prompt transmission of  
8 any orders issued to the petitioners; and

9 (v) a timetable for implementation of the pilot program and plan for  
10 informing the public of its availability; and

11 (vi) a description of data to be collected in order to evaluate and,  
12 if necessary, make recommendations for improvements to the pilot  
13 program.

14 (3) Filing by electronic means. In conjunction with an electronic  
15 appearance under this section, petitioners for ex parte temporary orders  
16 of protection may, with the assistance of trained advocates, commence  
17 the proceedings by filing petitions by electronic means.

18 (i) A petitioner who seeks a temporary order of protection ex parte by  
19 use of an electronic appearance must file a petition in advance of such  
20 appearance and may do so by electronic means. The petitioner shall set  
21 forth the circumstances in which traveling to or appearing in the court-  
22 house would constitute an undue hardship, or create a risk of harm to  
23 the petitioner. In granting or denying the relief sought by the peti-  
24 tioner, the court shall state the names of all participants, and whether  
25 it is granting or denying an appearance by electronic means and the  
26 basis for such determination; provided, however, that nothing in this  
27 section shall be construed to compel a party to file a petition or other

1 document by electronic means or to testify by means of an electronic  
2 appearance.

3 (ii) Nothing in this section shall affect or change any existing laws  
4 governing the service of process, including requirements for personal  
5 service, or the sealing and confidentiality of court records in family  
6 court proceedings, or access to court records by the parties to such  
7 proceedings.

8 (4) (i) All electronic appearances by petitioners seeking temporary  
9 orders of protection ex parte under this section shall be strictly  
10 voluntary and the consent of such petitioners shall be given on the  
11 record at the commencement of each appearance.

12 (ii) Appearances taken through the use of an electronic appearance  
13 under this section shall be recorded and preserved for transcription.  
14 Documentary evidence, if any, referred to by a party or witness or the  
15 court may be transmitted and submitted and introduced by electronic  
16 means.

17 § 2. Subdivision 2 of section 212 of the judiciary law is amended by  
18 adding a new paragraph (s) to read as follows:

19 (s) Have the power to establish pilot programs for the filing of  
20 petitions for temporary orders of protection by electronic means and for  
21 the issuance of such orders by audio-visual means pursuant to subdivi-  
22 sion (b) of section one hundred fifty-three-c of the family court act.  
23 The chief administrator shall maintain an up-to-date and publicly-avail-  
24 able listing of the sites, if any, at which such applications for ex  
25 parte temporary orders of protection may be filed, and at which elec-  
26 tronic appearances in support of such applications may be sought, in  
27 accordance with such section one hundred fifty-three-c of the family  
28 court act. In developing such pilot program, the chief administrator

1 shall strive for a program that is regionally diverse, and takes into  
2 consideration, among other things, the availability of public transpor-  
3 tation, population density and the availability of facilities for  
4 conducting such program.

5 § 3. Section 648 of the executive law, as added by chapter 893 of the  
6 laws of 1986, is amended to read as follows:

7 § 648. Review; report and implementation. 1. The chief administrator  
8 of the unified court system shall review court practices, procedures,  
9 services, regulations and laws to determine the adequacy and appropri-  
10 ateness of its services with respect to crime victims, including victims  
11 with special needs, particularly the elderly, disabled or victims of  
12 child abuse, domestic violence, sex trafficking or sex-related offenses.  
13 Such review shall include reasonable opportunity for public comment and  
14 consultation with crime victims or their representatives, and may  
15 include public hearings.

16 2. After the review, and not later than two hundred seventy days after  
17 the effective date of this section, and no later than two hundred seven-  
18 ty days after the effective date of the chapter of the laws of two thou-  
19 sand thirteen which amended this section, and every five years thereaft-  
20 er, the chief administrator of the unified court system shall submit a  
21 report to the governor and the legislature, setting forth the findings  
22 of the review, including a description of the services provided by the  
23 components of the unified court system and recommendations for changes  
24 in its procedures, services, regulations and laws to improve its  
25 services to crime victims and to establish and implement fair treatment  
26 standards for crime victims.

1 3. Subject to the direction of the chief administrator, the components  
2 of the unified court system shall expeditiously implement the recommen-  
3 dations of its report.

4 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-  
5 sion, section or part of this act shall be adjudged by a court of compe-  
6 tent jurisdiction to be invalid, such judgment shall not affect, impair  
7 or invalidate the remainder thereof, but shall be confined in its opera-  
8 tion to the clause, sentence, paragraph, subdivision, section or part  
9 thereof directly involved in the controversy in which such judgment  
10 shall have been rendered. It is hereby declared to be the intent of the  
11 legislature that this act would have been enacted even if such invalid  
12 provisions had not been included herein.

13 § 5. This act shall take effect April 1, 2014.