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Chief Administrative Judge

JUDY HARRIS KLUGER
Deputy Chief Administrative Judge
Court Operations & Planning

MEMORANDUM

To: Administrative Judges
IDV Judges

From: Judy Harris Kluger

Date: July 17, 2008

Re: Impact of Amendments to the Family Court Act's Definition of "Members of the Same Family or Household" in FCA § 812 on Integrated Domestic Violence (IDV) Court Case Eligibility

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As you know, Governor David Paterson is preparing to sign into law a bill passed by the New York State legislature on June 24, 2008 amending the Family Court Act (S.8665/A.11707). That bill amends the definition of "member of the same family or household" in Family Court Act section 812[1] to allow individuals who are or have been in an intimate relationship but are not married and have no child in common to be parties to a family offense case. This amendment, which will take effect immediately, will make Family Court available to victims of domestic violence who formerly were not able to obtain a civil order of protection because they did not have the requisite relationship under the Family Court Act.

For purposes of IDV eligibility, family offense cases involving intimate partners should

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[1]The bill adds to the definition of "member of the same family or household" persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship."

be treated as any other family offense cases: If one or both of the parties to a family offense case is a party to a simultaneously-pending criminal case in the county involving domestic violence, the cases are considered for transfer to IDV Court. The spirit of the IDV Courts - which is to provide a one family-one judge model to litigants with multiple cases where domestic violence is an issue – is served by incorporating the expanded definition of "member of the same family or household."

The IDV rules and administrative orders as written cover Family Court cases brought under the expanded definition. The Rules of the Chief Judge and the Chief Administrator set forth as IDV-eligible the following cases when they are pending in a county at the same time: "a domestic violence case commenced in a criminal court and a case commenced in Supreme or Family Court that involves a party or witness in the domestic violence case." Or, as generally stated in IDV Administrative Orders, "(i) a criminal case involving domestic violence and (ii) a case in Supreme Court or a case in Family Court or both, in which the defendant or complaining witness in the criminal case or both is a party thereto."

In sum, if you identify a set of potentially-eligible cases – through the Automated Case Identification System or as the result of a referral or other means – that includes a family offense case where the parties are or have been in an intimate relationship, the IDV rules and administrative orders permit you to consider those cases for possible transfer to IDV Court.

Note that this will potentially require some additional data tracking in the UCMS - Family/Supreme and the IDV Application. Further information regarding this will be sent out shortly.

Please contact my office with any questions you may have.

Cc: Hon. Ann Pfau
Hon. Joan B. Carey
Hon. Jan H. Plumadore
Janet Fink
Chiefs of Staff
District Executives
NYC Chief Clerks