S T A T E O F N E W Y O R K

4051--A

2011-2012 Regular Sessions

I N S E N A T E

March 15, 2011

Introduced by Sens. GALLIVAN, AVELLA -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the domestic relations law, in relation to recoupment of overpayments of child support in family and supreme court

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 451 of the family court act is amended by adding a new subdivision 3 to read as follows:

3. THE COURT THAT ISSUED A CHILD SUPPORT ORDER OR AN ORDER OF MODIFICATION UNDER THIS ACT HAS CONTINUING JURISDICTION OVER MOTIONS SEEKING RECOUPMENT OF OVERPAYMENTS OF CHILD SUPPORT. WHERE AN ORDER WAS ISSUED BY THE SUPREME COURT WITHOUT A RESERVATION OF JURISDICTION OR WAS TRANSFERRED OR REFERRED TO THE FAMILY COURT, THE FAMILY COURT MAY EXERCISE JURISDICTION OVER AN APPLICATION FOR RECOUPMENT. WHERE THE INTERESTS OF JUSTICE REQUIRE, THE COURT MAY ALLOW RECOUPMENT OF ALL OR PART OF THE OVERPAYMENT OF A CHILD SUPPORT OBLIGATION UPON PROOF OF THE OVERPAYMENT AND UPON PROOF THAT THE AMOUNT OF THE RECOUPMENT AND THE METHOD AND RATE OF ITS COLLECTION WILL NOT SUBSTANTIALLY IMPAIR THE CUSTODIAL PARENT'S ABILITY TO MEET THE FINANCIAL NEEDS OF THE CHILD OR CHILDREN. THE COURT SHALL STATE ITS REASONS ON THE RECORD FOR ANY ORDER ISSUED UNDER THIS SUBDIVISION.

S 2. Section 240 of the domestic relations law is amended by adding a new subdivision 6 to read as follows:

6. THE COURT THAT ISSUED A CHILD SUPPORT ORDER OR AN ORDER OF MODIFICATION HAS CONTINUING JURISDICTION OVER MOTIONS SEEKING RECOUPMENT OF OVERPAYMENTS OF CHILD SUPPORT. WHERE AN ORDER WAS ISSUED BY THE SUPREME

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

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COURT WITHOUT A RESERVATION OF JURISDICTION OR WAS TRANSFERRED OR REFERRED TO THE FAMILY COURT, THE FAMILY COURT MAY EXERCISE JURISDICTION OVER AN APPLICATION FOR RECOUPMENT. WHERE THE INTERESTS OF JUSTICE REQUIRE, THE COURT MAY ALLOW RECOUPMENT OF ALL OR PART OF THE OVERPAYMENT OF A CHILD SUPPORT OBLIGATION UPON PROOF OF THE OVERPAYMENT AND UPON PROOF THAT THE AMOUNT OF THE RECOUPMENT AND THE METHOD AND RATE OF ITS COLLECTION WILL NOT SUBSTANTIALLY IMPAIR THE CUSTODIAL PARENT'S ABILITY TO MEET THE FINANCIAL NEEDS OF THE CHILD OR CHILDREN. THE COURT SHALL STATE ITS REASONS ON THE RECORD FOR ANY ORDER ISSUED UNDER THIS SUBDIVISION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.