

1402

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, PERKINS, RIVERA --
read twice and ordered printed, and when printed to be committed to
the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, the criminal procedure law and the
domestic relations law, in relation to child support obligations of
inmates; and to amend section 13 of chapter 182 of the laws of 2010
amending the tax law, the family court act, the domestic relations law
and the social services law relating to the modification of child
support orders, employer reporting of new hires and quarterly earn-
ings, work programs and the noncustodial earned income tax credit, in
relation to the effectiveness of certain provisions thereof

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

1 Section 1. The correction law is amended by adding a new section 149-a
2 to read as follows:
3 S 149-A. NOTIFICATION TO INMATES OF THEIR ABILITY TO SEEK MODIFICA-
4 TIONS OF AN ORDER OF CHILD SUPPORT. NOTWITHSTANDING ANY PROVISION OF LAW
5 TO THE CONTRARY, THE DEPARTMENT SHALL NOTIFY ALL INMATES RESIDING IN A
6 CORRECTIONAL FACILITY WITHIN THE STATE OF NEW YORK OF THE POSSIBILITY
7 THAT THEY MAY BE ABLE TO MODIFY AN EXISTING CHILD SUPPORT ORDER BASED ON
8 A "SUBSTANTIAL CHANGE IN CIRCUMSTANCES" IN ACCORDANCE WITH SECTION TWO
9 HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW AND SECTION FOUR
10 HUNDRED FIFTY-ONE OF THE FAMILY COURT ACT.
11 S 2. Subdivision 1 of section 390.30 of the criminal procedure law is
12 amended to read as follows:
13 1. The investigation. The pre-sentence investigation consists of the
14 gathering of information with respect to the circumstances attending the
15 commission of the offense, the defendant's history of delinquency or
16 criminality, and the defendant's social history, employment history,
17 family situation, economic status, INCLUDING CHILD SUPPORT OBLIGATIONS,

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

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1 education, and personal habits. Such investigation may also include any
2 other matter which the agency conducting the investigation deems rele-
3 vant to the question of sentence, and must include any matter the court
4 directs to be included.

5 S 3. Subdivision 9 of part B of section 236 of the domestic relations
6 law is amended by adding a new paragraph e to read as follows:

7 E. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON AN
8 APPLICATION FOR A MODIFICATION OF CHILD SUPPORT PURSUANT TO THIS SUBDI-
9 VISION, THE COURT IN ITS DISCRETION, MAY ISSUE AN ORDER DIRECTING THAT
10 AN ORDER FOR PAYMENT OF CHILD SUPPORT BE STAYED FOR A PERIOD OF UP TO
11 ONE HUNDRED EIGHTY DAYS FOLLOWING THE RELEASE OF A NON-CUSTODIAL PARENT
12 FROM A PERIOD OF INCARCERATION. ARREARS SHALL ACCRUE DURING SUCH PERI-
13 OD. THE ORIGINAL ORDER, OR ANY MODIFIED ORDER SHALL BE ENFORCEABLE AT
14 THE END OF SUCH STAY.

15 S 4. Section 13 of chapter 182 of the laws of 2010 amending the tax
16 law, the family court act, the domestic relations law and the social
17 services law relating to the modification of child support orders,
18 employer reporting of new hires and quarterly earnings, work programs
19 and the noncustodial earned income tax credit is amended to read as
20 follows:

21 S 13. This act shall take effect on the ninetieth day after it shall
22 have become law; provided however, that sections six and seven of this
23 act shall apply to any action or proceeding to modify any order of child
24 support entered on or after the effective date of this act except that
25 if the child support order incorporated without merging a valid agree-
26 ment or stipulation of the parties, the amendments regarding the modifi-
27 cation of a child support order set forth in sections six and seven of
28 this act shall only apply if the incorporated agreement or stipulation
29 was executed on or after this act's effective date, AND EXCEPT THAT
30 SECTIONS SIX AND SEVEN OF THIS ACT SHALL APPLY TO ANY ACTION OR PROCEED-
31 ING TO MODIFY A CHILD SUPPORT ORDER ENTERED AGAINST ANY PERSON WHO IS AN
32 INMATE IN A CORRECTIONAL FACILITY IN THIS STATE WHOSE INCARCERATION
33 BEGAN PRIOR TO THE EFFECTIVE DATE OF THIS ACT; provided however, that
34 sections three and four of this act shall take effect on the three
35 hundred sixty-fifth day after it shall have become a law.

36 S 5. This act shall take effect on the ninetieth day after it shall
37 have become a law.