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

2977

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN, ALFANO -- Multi-Sponsored by -- M. of A. HOOPER, MAYERSOHN, McDONOUGH -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to establishing intentional paternity fraud

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

Section 1. The family court act is amended by adding a new section 439-b to read as follows:

S 439-B. INTENTIONAL PATERNITY FRAUD. 1. FOR THE PURPOSES OF THIS SECTION, "INTENTIONAL PATERNITY FRAUD" MEANS ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DECEIVE ANOTHER PERSON FOR FINANCIAL GAIN OR ANY OTHER FORM OF CONTROL OVER SUCH PERSON, REPRESENTS THAT A CHILD IS THE PRODUCT OF A UNION BETWEEN THE TWO PERSONS.

2. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, EITHER PARTY WITH A CHILD OR CHILDREN IN COMMON MAY REQUEST A HEARING TO DETERMINE WHETHER INTENTIONAL PATERNITY FRAUD EXISTS. THE STANDARD OF PROOF REQUIRED TO ESTABLISH LIABILITY SHALL BE CLEAR AND CONVINCING EVIDENCE. A FINDING OF INTENTIONAL PATERNITY FRAUD AGAINST A PERSON MAY WARRANT AN ADJUSTMENT TO AN ORDER OF SUPPORT IN FAVOR OF THE PREVAILING PARTY IF SUCH ADJUSTMENT IS IN THE BEST INTEREST OF THE CHILD OR CHILDREN IN COMMON.

3. UPON A FINDING OF INTENTIONAL PATERNITY FRAUD, THE COURT SHALL ASSESS A CIVIL PENALTY OF A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS. THE COURT MAY IN ITS DISCRETION ISSUE AN ORDER OF PROTECTION TO THE PREVAILING PARTY, AS PROVIDED IN ARTICLE FIVE HUNDRED THIRTY OF THE CRIMINAL PROCEDURE LAW. THE COURT MAY IN ITS DISCRETION REFER EITHER PARTY OR BOTH FOR COUNSELING IN THE BEST INTEREST OF THE CHILD OR CHILDREN IN COMMON.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

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

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