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

848

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, ERRIGO -- Multi-Sponsored by -- M. of A. SAYWARD -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to requiring proof of employment search in certain support proceedings

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

Section 1. Section 442 of the family court act, as amended by chapter 281 of the laws of 1980, is amended to read as follows:

S 442. Order of support by a spouse. 1. If the court finds after a hearing that a husband or wife is chargeable under section four hundred twelve OF THIS ARTICLE with the support of his or her spouse and is possessed of sufficient means or able to earn such means, the court shall make an order requiring the husband or wife to pay weekly or at other fixed periods a fair and reasonable sum for or towards the support of the other spouse. The court shall require the spouse chargeable with support to make his or her residence known at all times should he or she move from the address last known to the court by reporting such change to the support collection unit designated by the appropriate social services district. Failure to report such change shall subject him or her to the provisions of section four hundred fifty-four of this [act] ARTICLE.

2. IF THE COURT FINDS THAT A HUSBAND OR WIFE CHARGEABLE UNDER SECTION FOUR HUNDRED TWELVE OF THIS ARTICLE WITH THE SUPPORT OF HIS OR HER SPOUSE AND FINDS THAT HE OR SHE DOES NOT CONTRIBUTE TOWARDS SUCH SUPPORT BECAUSE OF A LACK OF EMPLOYMENT, THE COURT MAY ORDER SUCH PERSON TO SUBMIT TO THE COURT, OR ANY AGENCY DESIGNATED BY THE COURT, ONCE A WEEK, ON A DIFFERENT DAY AND AT A DIFFERENT TIME EACH WEEK OR AT A FREQUENCY DEEMED APPROPRIATE BY THE COURT, PROOF, INCLUDING SIGNATURES OF PERSONS IN CHARGE AND TELEPHONE NUMBERS, OF AT LEAST TEN DIFFERENT PLACES SUCH PERSON HAS APPLIED FOR EMPLOYMENT DURING SUCH PERIOD. FAILURE BY SUCH

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

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PERSON TO SUBMIT SUCH REQUIRED PROOF OF AN EMPLOYMENT SEARCH SHALL BE GROUNDS FOR THE COURT TO HOLD SUCH PERSON IN CONTEMPT AND IMPOSE A PRISON TERM THEREFOR.

S 2. Section 443 of the family court act, as amended by chapter 214 of the laws of 1998, is amended to read as follows:

S 443. Order of support by parent. 1. If the court finds after a hearing that a parent is chargeable under section four hundred thirteen of this [act] ARTICLE with the support of his or her child and is possessed of sufficient means or able to earn such means, the court shall make an order requiring the parent to pay weekly or at other fixed periods a fair and reasonable sum for or towards the support of such child. Where permitted under federal law and where the record of the proceedings contains such information, the court shall also require the social security number of such parent to be affixed to such order; provided, however, that no such order shall be invalid because of the omission of such number. Where the record of the proceedings contains such information, such order shall also include on its face the name and address of the employer, if any, of the person chargeable with support provided, however, that failure to comply with this requirement shall not invalidate such order. Where the order of child support or combined child and [spouse] SPOUSAL support is made on behalf of persons in receipt of public assistance or in receipt of services pursuant to section one hundred eleven-g of the social services law, the court shall require each party to provide, and update upon any change, the following information to the court by reporting such change to the support collection unit designated by the appropriate social services district: social security number, residential and mailing addresses, telephone number, driver's license number; and name, address and telephone number of the parties' employers. Due process requirements for notice and service of process for subsequent hearings are met, with respect to such party, upon sending written notice by first class mail to the most recent residential address on record with the support collection unit; or by sending by first class mail written notice to the most recent employer address on record with the support collection unit, if a true copy thereof also is sent by first class mail to the most recent residential address on record with the support collection unit. Any such order issued on or after the first day of October, nineteen hundred ninety-nine shall also include, where available, the social security number of each child on whose behalf support has been ordered. Failure to report such changes shall subject the parent to the provisions of section four hundred fifty-four of this [act] ARTICLE.

2. IF THE COURT FINDS THAT A PARENT IS CHARGEABLE UNDER SECTION FOUR HUNDRED THIRTEEN OF THIS ARTICLE WITH THE SUPPORT OF HIS OR HER CHILD AND FINDS THAT HE OR SHE DOES NOT CONTRIBUTE TOWARDS SUCH SUPPORT BECAUSE OF A LACK OF EMPLOYMENT, THE COURT MAY ORDER SUCH PERSON TO SUBMIT TO THE COURT, OR ANY AGENCY DESIGNATED BY THE COURT, ONCE A WEEK, ON A DIFFERENT DAY AND AT A DIFFERENT TIME EACH WEEK OR AT A FREQUENCY DEEMED APPROPRIATE BY THE COURT, PROOF, INCLUDING SIGNATURES OF PERSONS IN CHARGE AND TELEPHONE NUMBERS OF AT LEAST TEN DIFFERENT PLACES SUCH PERSON HAS APPLIED FOR EMPLOYMENT DURING SUCH PERIOD. FAILURE BY SUCH PERSON TO SUBMIT SUCH REQUIRED PROOF OF AN EMPLOYMENT SEARCH SHALL BE GROUNDS FOR THE COURT TO HOLD SUCH PERSON IN CONTEMPT AND IMPOSE A PRISON TERM THEREFOR.

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