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

6135

2009-2010 Regular Sessions

I N A S S E M B L Y

February 25, 2009

Introduced by M. of A. WEINSTEIN, CLARK, PAULIN, JACOBS, ORTIZ, GLICK, LANCMAN -- Multi-Sponsored by -- M. of A. CHRISTENSEN, COLTON, DINOWITZ, GALEF, GOTTFRIED, HIKIND, HOOPER, JOHN, KAVANAGH, McENENY, PERALTA, ROSENTHAL -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, the domestic relations law and the civil practice law and rules, in relation to the payment of compensatory damages for willful violation of an order of support and authorizing the imposition of prejudgment interest in certain cases of nonpayment of support

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

Section 1. Subdivision 3 of section 454 of the family court act is amended by adding a new paragraph (d) to read as follows:

(D) ORDER THE RESPONDENT TO PAY COMPENSATION FOR DAMAGES DIRECTLY RESULTING FROM SUCH WILLFUL VIOLATION, INCLUDING, BUT NOT LIMITED TO, LOST WAGES, INTEREST, LATE CHARGES OR PENALTIES INCURRED BY THE CUSTODIAL PARENT OR RECIPIENT OF SPOUSAL SUPPORT.

S 2. The section heading of section 237 of the domestic relations law, as amended by chapter 287 of the laws of 1983, is amended and a new subdivision (e) is added to read as follows:

Counsel fees, COMPENSATORY DAMAGES, and expenses.

(E) IN ANY ACTION OR PROCEEDING FOR FAILURE TO OBEY ANY LAWFUL ORDER COMPELLING PAYMENT OF SUPPORT OR MAINTENANCE OR DISTRIBUTIVE AWARD, THE COURT MAY, UPON A FINDING THAT SUCH FAILURE WAS WILLFUL, ORDER THE RESPONDENT TO PAY COMPENSATION FOR DAMAGES DIRECTLY RESULTING FROM SUCH WILLFUL VIOLATION, INCLUDING, BUT NOT LIMITED TO, LOST WAGES, INTEREST, LATE CHARGES OR PENALTIES INCURRED BY THE CUSTODIAL PARENT OR RECIPIENT OF SPOUSAL SUPPORT.

S 3. Subdivision (a) of section 5001 of the civil practice law and rules is amended to read as follows:

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

LBD01557-01-9

(a) Actions in which recoverable. Interest shall be recovered upon a sum awarded because of a breach of performance of a contract, [or] because of an act or omission depriving or otherwise interfering with title to, or possession or enjoyment of, property, OR BECAUSE OF A FAILURE TO PAY CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO A COURT ORDER, except that in an action of an equitable nature, interest and the rate and date from which it shall be computed shall be in the court's discretion.

S 4. This act shall take effect immediately and shall apply to actions and proceedings commenced on or after such effective date.