

S. 1170

A. 3333

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 27, 2009

IN SENATE -- Introduced by Sen. ADAMS -- read twice and ordered printed,
and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. CAMARA, ROBINSON, BENJAMIN, REIL-
LY, WRIGHT, COOK, MAISEL, PRETLOW -- read once and referred to the
Committee on Judiciary

AN ACT to amend the general obligations law, the family court act, the
domestic relations law and the social services law, in relation to
granting a person with child support obligations, who involuntarily
had his or her employment terminated, with a temporary stay of crimi-
nal, civil and administrative penalties for nonpayment of such obli-
gations

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

1 Section 1. The opening paragraph of subdivision 3 of section 3-503 of
2 the general obligations law, as amended by chapter 398 of the laws of
3 1997, is amended to read as follows:
4 If the applicant is not under an obligation to pay child support, the
5 agency may issue or renew such license. If the applicant is under an
6 obligation to pay child support and is not four months or more in
7 arrears in the payment of child support, or meets the conditions of
8 paragraphs b, c and d of this subdivision, the agency may issue or renew
9 such license. [If] EXCEPT AS OTHERWISE PROVIDED IN SECTION FOUR HUNDRED
10 FIFTY OF THE FAMILY COURT ACT, IF the applicant does not meet one of the
11 above requirements, the agency may issue or renew such license but such
12 license shall expire in six months unless before that time the applicant
13 submits a written certification under oath, duly sworn and subscribed
14 that he or she:
15 S 2. Part 5 of article 4 of the family court act is amended by adding
16 a new section 450 to read as follows:

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

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1 S 450. TEMPORARY STAY OF AN ORDER OF SUPPORT; INVOLUNTARY LOSS OF
2 EMPLOYMENT. 1. ANY PERSON UNDER AN OBLIGATION TO PAY CHILD SUPPORT, WHO
3 INVOLUNTARILY HAS HIS OR HER EMPLOYMENT TERMINATED, MAY, WITHIN THIRTY
4 DAYS OF SUCH INVOLUNTARY TERMINATION OF EMPLOYMENT, PETITION THE COURT
5 FOR A STAY OF THE ENFORCEMENT OF THE OBLIGATION TO PAY CHILD SUPPORT AND
6 THE ENFORCEMENT OF ANY AND ALL CIVIL, CRIMINAL AND ADMINISTRATIVE PENAL-
7 TIES FOR THE FAILURE TO PAY CHILD SUPPORT FOR A PERIOD OF SIX MONTHS.
8 THE COURT SHALL GRANT SUCH A PETITION TO ANY PERSON ONLY ONCE AND FOR
9 GOOD CAUSE SHOWN. ANY PETITIONER WHO FAILS TO SUBMIT HIS OR HER PETITION
10 IN A TIMELY MANNER SHALL FORFEIT HIS OR HER RIGHT TO APPLY THEREFOR
11 PURSUANT TO THIS SECTION.

12 2. UPON THE GRANTING OF A TEMPORARY STAY PURSUANT TO THIS SECTION AND
13 DURING THE DURATION OF SUCH STAY:

14 (A) ANY CRIMINAL PROCEEDING COMMENCED PURSUANT TO SECTION 260.05 OR
15 260.06 OF THE PENAL LAW SHALL BE DISMISSED;

16 (B) NO LICENSE SHALL BE DENIED PURSUANT TO SECTION 3-503 OF THE GENER-
17 AL OBLIGATIONS LAW;

18 (C) THE OBLIGATION TO PAY CHILD SUPPORT PURSUANT TO A PREEXISTING
19 COURT ORDER SHALL BE STAYED, AND NO INTEREST OR PENALTY FOR FAILURE TO
20 PAY SUCH SUPPORT SHALL ACCRUE. HOWEVER, UPON EXPIRATION OF A STAY GRANT-
21 ED PURSUANT TO THIS SECTION, THE CHILD SUPPORT NOT PAID DURING THE STAY
22 SHALL BECOME DUE;

23 (D) THE COURT SHALL DETERMINE AND ORDER THE PETITIONER TO PAY AN
24 AMOUNT OF CHILD SUPPORT AS THE COURT FINDS THAT IS JUST AND APPROPRIATE,
25 AND THAT THE PETITIONER CAN REASONABLY AFFORD TO PAY;

26 (E) THE COURT SHALL ORDER THE PETITIONER TO PARTICIPATE IN AND
27 SUCCESSFULLY COMPLETE APPROPRIATE JOB TRAINING AND PLACEMENT PROGRAMS;
28 AND

29 (F) THE COURT SHALL PROVIDE NOTICE OF SUCH STAY TO ALL INTERESTED
30 PARTIES, INCLUDING THE DISTRICT ATTORNEY AND THE CHILD SUPPORT ENFORCE-
31 MENT UNIT.

32 S 3. Subdivision 4 of section 440 of the family court act, as amended
33 by chapter 398 of the laws of 1997, is amended to read as follows:

34 4. Any support order made by the court in any proceeding under the
35 provisions of article five-B of this act, pursuant to a reference from
36 the supreme court under section two hundred fifty-one of the domestic
37 relations law or under the provisions of article four, five or five-A of
38 this act shall include, on its face, a notice printed or typewritten in
39 a size equal to at least eight point bold type:

40 (A) informing the respondent that a willful failure to obey the order
41 may, after court hearing, result in commitment to jail for a term not to
42 exceed six months for contempt of court[.]; AND

43 (B) INFORMING THE RESPONDENT THAT HE OR SHE MAY, UPON THE INVOLUNTARY
44 TERMINATION OF HIS OR HER EMPLOYMENT, ON A ONE-TIME BASIS, APPLY FOR A
45 SIX MONTH STAY OF THE ENFORCEMENT OF THE ORDER PURSUANT TO SECTION FOUR
46 HUNDRED FIFTY OF THIS ARTICLE.

47 S 4. Subdivision 7 of part B of section 236 of the domestic relations
48 law is amended by adding a new paragraph d to read as follows:

49 D. ANY CHILD SUPPORT ORDER MADE BY THE COURT IN ANY PROCEEDING UNDER
50 THE PROVISIONS OF THIS SECTION SHALL INCLUDE, ON ITS FACE, A NOTICE
51 PRINTED OR TYPEWRITTEN IN A SIZE EQUAL TO AT LEAST EIGHT POINT BOLD TYPE
52 INFORMING THE RESPONDENT THAT HE OR SHE MAY, UPON THE INVOLUNTARY TERMI-
53 NATION OF HIS OR HER EMPLOYMENT, ON A ONE-TIME BASIS, APPLY FOR A SIX
54 MONTH STAY OF THE ENFORCEMENT OF THE ORDER PURSUANT TO SECTION FOUR
55 HUNDRED FIFTY OF THE FAMILY COURT ACT.

1 S 5. The social services law is amended by adding a new section 101-b
2 to read as follows:
3 S 101-B. PUBLIC EDUCATION; TEMPORARY STAY OF AN ORDER OF SUPPORT. THE
4 COMMISSIONER OF TEMPORARY AND DISABILITY ASSISTANCE SHALL DEVELOP AND
5 IMPLEMENT A PUBLIC EDUCATION PROGRAM TO PROVIDE NOTICE OF THE PROVISIONS
6 OF SECTION FOUR HUNDRED FIFTY OF THE FAMILY COURT ACT RELATING TO THE
7 GRANTING OF A TEMPORARY STAY OF THE OBLIGATION TO PAY CHILD SUPPORT UPON
8 THE INVOLUNTARY TERMINATION OF EMPLOYMENT.
9 S 6. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law; provided, that, effec-
11 tive immediately, any rules and regulations necessary to implement the
12 provisions of this act on its effective date are authorized and directed
13 to be completed on or before such date.