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

2851--A

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. SAMPSON -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law, in relation to certain matrimonial actions; and repealing certain provisions of such law relating thereto

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

Section 1. Section 177 of the domestic relations law is REPEALED and a new section 255 is added to read as follows:

S 255. PREREQUISITES FOR JUDGMENTS UNDER ARTICLES NINE, TEN AND ELEVEN OF THIS CHAPTER; HEALTH CARE COVERAGE. A COURT, PRIOR TO SIGNING A JUDGMENT OF DIVORCE OR SEPARATION, OR A JUDGMENT ANNULLING A MARRIAGE OR DECLARING THE NULLITY OF A VOID MARRIAGE, SHALL ENSURE THAT:

1. BOTH PARTIES HAVE BEEN NOTIFIED, AT SUCH TIME AND BY SUCH MEANS AS THE COURT SHALL DETERMINE, THAT ONCE THE JUDGMENT IS SIGNED, A PARTY THERETO MAY OR MAY NOT BE ELIGIBLE TO BE COVERED UNDER THE OTHER PARTY'S HEALTH INSURANCE PLAN, DEPENDING ON THE TERMS OF THE PLAN. PROVIDED, HOWEVER, SERVICE UPON THE DEFENDANT, SIMULTANEOUS WITH THE SERVICE OF THE SUMMONS, OF A NOTICE INDICATING THAT ONCE THE JUDGMENT IS SIGNED, A PARTY THERETO MAY OR MAY NOT BE ELIGIBLE TO BE COVERED UNDER THE OTHER PARTY'S HEALTH INSURANCE PLAN, DEPENDING ON THE TERMS OF THE PLAN, SHALL BE DEEMED SUFFICIENT NOTICE TO A DEFAULTING DEFENDANT.

2. IF THE PARTIES HAVE ENTERED INTO A STIPULATION OF SETTLEMENT/AGREEMENT ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION RESOLVING ALL OF THE ISSUES BETWEEN THE PARTIES, SUCH SETTLEMENT/AGREEMENT ENTERED INTO BETWEEN THE PARTIES SHALL CONTAIN A PROVISION RELATING TO THE HEALTH CARE COVERAGE OF EACH PARTY; AND THAT SUCH PROVISION SHALL EITHER: (A) PROVIDE FOR THE FUTURE COVERAGE OF EACH

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

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PARTY, OR (B) STATE THAT EACH PARTY IS AWARE THAT HE OR SHE WILL NO LONGER BE COVERED BY THE OTHER PARTY'S HEALTH INSURANCE PLAN AND THAT EACH PARTY SHALL BE RESPONSIBLE FOR HIS OR HER OWN HEALTH INSURANCE COVERAGE, AND MAY BE ENTITLED TO PURCHASE HEALTH INSURANCE ON HIS OR HER OWN THROUGH A COBRA OPTION, IF AVAILABLE. THE REQUIREMENTS OF THIS SUBDIVISION SHALL NOT BE WAIVED BY EITHER PARTY OR COUNSEL AND, IN THE EVENT IT IS NOT COMPLIED WITH, THE COURT SHALL REQUIRE COMPLIANCE AND MAY GRANT A THIRTY DAY CONTINUANCE TO AFFORD THE PARTIES AN OPPORTUNITY TO PROCURE THEIR OWN HEALTH INSURANCE COVERAGE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law and shall be deemed to apply to all actions in which judgment has not been entered as of such effective date.