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

2970

2009-2010 Regular Sessions

I N S E N A T E

March 9, 2009

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

AN ACT to amend the domestic relations law, in relation to establishing automatic orders in matrimonial actions

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

Section 1. Subdivision 2 of part B of section 236 of the domestic relations law, as added by chapter 281 of the laws of 1980, is amended to read as follows:

2. Matrimonial actions. A. Except as provided in subdivision five of this part, the provisions of this part shall be applicable to actions for an annulment or dissolution of a marriage, for a divorce, for a separation, for a declaration of the nullity of a void marriage, for a declaration of the validity or nullity of a foreign judgment of divorce, for a declaration of the validity or nullity of a marriage, and to proceedings to obtain maintenance or a distribution of marital property following a foreign judgment of divorce, commenced on and after the effective date of this part. Any application which seeks a modification of a judgment, order or decree made in an action commenced prior to the effective date of this part shall be heard and determined in accordance with the provisions of part A of this section.

B. WITH RESPECT TO MATRIMONIAL ACTIONS WHICH COMMENCE ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, THE PLAINTIFF SHALL CAUSE TO BE SERVED UPON THE DEFENDANT, SIMULTANEOUS WITH THE SERVICE OF THE SUMMONS, A COPY OF THE AUTOMATIC ORDERS SET FORTH IN THIS PARAGRAPH. THE AUTOMATIC ORDERS SHALL BE BINDING UPON THE PLAINTIFF IN A MATRIMONIAL ACTION IMMEDIATELY UPON THE FILING OF THE SUMMONS, OR SUMMONS AND COMPLAINT, AND UPON THE DEFENDANT IMMEDIATELY UPON THE SERVICE OF THE AUTOMATIC ORDERS WITH THE SUMMONS. THE AUTOMATIC ORDERS SHALL REMAIN IN FULL FORCE AND EFFECT DURING THE PENDENCY OF THE ACTION, UNLESS TERMINATED, MODIFIED OR AMENDED BY FURTHER ORDER OF THE COURT UPON MOTION OF EITHER OF THE

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

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PARTIES OR UPON WRITTEN AGREEMENT BETWEEN THE PARTIES DULY EXECUTED AND ACKNOWLEDGED. THE AUTOMATIC ORDERS ARE AS FOLLOWS:

(1) NEITHER PARTY SHALL SELL, TRANSFER, ENCUMBER, CONCEAL, ASSIGN, REMOVE OR IN ANY WAY DISPOSE OF, WITHOUT THE CONSENT OF THE OTHER PARTY IN WRITING, OR BY ORDER OF THE COURT, ANY PROPERTY (INCLUDING, BUT NOT LIMITED TO, REAL ESTATE, PERSONAL PROPERTY, CASH ACCOUNTS, STOCKS, MUTUAL FUNDS, BANK ACCOUNTS, CARS AND BOATS) INDIVIDUALLY OR JOINTLY HELD BY THE PARTIES, EXCEPT IN THE USUAL COURSE OF BUSINESS, FOR CUSTOMARY AND USUAL HOUSEHOLD EXPENSES OR FOR REASONABLE ATTORNEY'S FEES IN CONNECTION WITH THIS ACTION.

(2) NEITHER PARTY SHALL TRANSFER, ENCUMBER, ASSIGN, REMOVE, WITHDRAW OR IN ANY WAY DISPOSE OF ANY TAX DEFERRED FUNDS, STOCKS OR OTHER ASSETS HELD IN ANY INDIVIDUAL RETIREMENT ACCOUNTS, 401K ACCOUNTS, PROFIT SHARING PLANS, KEOUGH ACCOUNTS, OR ANY OTHER PENSION OR RETIREMENT ACCOUNT, AND THE PARTIES SHALL FURTHER REFRAIN FROM APPLYING FOR OR REQUESTING THE PAYMENT OF RETIREMENT BENEFITS OR ANNUITY PAYMENTS OF ANY KIND, WITHOUT THE CONSENT OF THE OTHER PARTY IN WRITING, OR UPON FURTHER ORDER OF THE COURT.

(3) NEITHER PARTY SHALL INCUR UNREASONABLE DEBTS HEREAFTER, INCLUDING, BUT NOT LIMITED TO FURTHER BORROWING AGAINST ANY CREDIT LINE SECURED BY THE FAMILY RESIDENCE, FURTHER ENCUMBRANCING ANY ASSETS, OR UNREASONABLY USING CREDIT CARDS OR CASH ADVANCES AGAINST CREDIT CARDS, EXCEPT IN THE USUAL COURSE OF BUSINESS OR FOR CUSTOMARY OR USUAL HOUSEHOLD EXPENSES, OR FOR REASONABLE ATTORNEY'S FEES IN CONNECTION WITH THIS ACTION.

(4) NEITHER PARTY SHALL CAUSE THE OTHER PARTY OR THE CHILDREN OF THE MARRIAGE TO BE REMOVED FROM ANY EXISTING MEDICAL, HOSPITAL AND DENTAL INSURANCE COVERAGE, AND EACH PARTY SHALL MAINTAIN THE EXISTING MEDICAL, HOSPITAL AND DENTAL INSURANCE COVERAGE IN FULL FORCE AND EFFECT.

(5) NEITHER PARTY SHALL CHANGE THE BENEFICIARIES OF ANY EXISTING LIFE INSURANCE POLICIES, AND EACH PARTY SHALL MAINTAIN THE EXISTING LIFE INSURANCE, AUTOMOBILE INSURANCE, HOMEOWNERS AND RENTERS INSURANCE POLICIES IN FULL FORCE AND EFFECT.

S 2. This act shall take effect on the first of the calendar month next succeeding the sixtieth day after it shall have become a law.