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

2977

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 providing additional enforcement mechanisms for collection of spousal or child support

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

Section 1. Section 243 of the domestic relations law, as amended by chapter 281 of the laws of 1980, is amended to read as follows:

S 243. Security for payments by defendant in action for divorce, separation or annulment; sequestration. Where a judgment rendered or an order made in an action in this state for divorce, separation or annulment, or for a declaration of nullity of a void marriage, or a judgment rendered in another state for divorce upon any of the grounds provided in section one hundred seventy of this chapter, or for separation or separate support and maintenance for any of the causes specified in section two hundred OF THIS CHAPTER, or for relief, however designated, granted upon grounds which in this state would be grounds for annulment of marriage or for a declaration of nullity of a void marriage, upon which an action has been brought in this state and judgment rendered therein, requires a spouse to provide for the education or maintenance of any of the children of a marriage, or for the support of his or her spouse, OR TO MAKE PAYMENTS PURSUANT TO A DISTRIBUTIVE AWARD OR SETTLEMENT OF EQUITABLE DISTRIBUTION OF THE PROPERTY OF THE PARTIES TO ANY SUCH ACTION, the court, in its discretion, also may direct the spouse from whom maintenance [or], support OR EQUITABLE DISTRIBUTION PAYMENTS is sought to give reasonable security, in such a manner and within such a time as it thinks proper, for the payment, from time to time, of the sums of money required for that purpose. If he or she fails to give the security, or to make any payment required by the terms of such a judgment or order, whether or not security has been given therefor, or to

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

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pay any sum of money for the support and maintenance of the children or the support and maintenance of the spouse during the pendency of the action, OR TO MAKE PAYMENTS PURSUANT TO A DISTRIBUTIVE AWARD OR SETTLEMENT OF EQUITABLE DISTRIBUTION OF THE PROPERTY OF THE PARTIES TO ANY SUCH ACTION, or for counsel fees and expenses which he or she is required to pay by a judgment or order, the court may cause his or her personal property and the rents and profits of his or her real property to be sequestered, and may appoint a receiver thereof. The rents and profits and other property so sequestered may be applied, from time to time, under the direction of the court, to the payment of any of the sums of money specified in this section, as justice requires; and if the same shall be insufficient to pay the sums of money required, the court, on application of the receiver, may direct the mortgage or sale of such real property by the receiver, under such terms and conditions as it may prescribe, sufficient to pay such sums.

S 2. Section 245 of the domestic relations law, as amended by chapter 809 of the laws of 1985, is amended to read as follows:

S 245. Enforcement by contempt proceedings of judgment or order in action for divorce, separation or annulment. Where a spouse, in an action for divorce, separation, annulment or declaration of nullity of a void marriage, or for the enforcement in this state of a judgment for divorce, separation, annulment or declaration of nullity of a void marriage rendered in another state, makes default in paying any sum of money as required by the judgment or order directing the payment thereof, [and it appears presumptively, to the satisfaction of the court, that payment cannot be enforced pursuant to section two hundred forty-three or two hundred forty-four of this chapter or section fifty-two hundred forty-one or fifty-two hundred forty-two of the civil practice law and rules,] the aggrieved spouse may make application pursuant to the provisions of section seven hundred fifty-six of the judiciary law to punish the defaulting spouse for contempt, and where the judgment or order directs the payment to be made in installments, or at stated intervals, failure to make such single payment or installment may be punished as therein provided, and such punishment, either by fine or commitment, shall not be a bar to a subsequent proceeding to punish the defaulting spouse as for a contempt for failure to pay subsequent installments, but for such purpose such spouse may be proceeded against under the said order in the same manner and with the same effect as though such installment payment was directed to be paid by a separate and distinct order, and the provisions of the civil rights law are hereby superseded so far as they are in conflict therewith. Such application may also be made without any previous sequestration or direction to give security [where the court is satisfied that they would be ineffectual], OR ANY APPLICATION FOR ENFORCEMENT BY ANY OTHER MEANS. No demand of any kind upon the defaulting spouse shall be necessary in order that he or she be proceeded against and punished for failure to make any such payment or to pay any such installment; personal service upon the defaulting spouse of an uncertified copy of the judgment or order under which the default has occurred shall be sufficient.

S 3. This act shall take effect immediately and apply to all actions currently commenced as well as all judgments or orders previously entered.