

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:

1 Section 1. Section 243 of the domestic relations law, as amended by
2 chapter 281 of the laws of 1980, is amended to read as follows:
3 S 243. Security for payments by defendant in action for divorce, sepa-
4 ration or annulment; sequestration. Where a judgment rendered or an
5 order made in an action in this state for divorce, separation or annul-
6 ment, or for a declaration of nullity of a void marriage, or a judgment
7 rendered in another state for divorce upon any of the grounds provided
8 in section one hundred seventy of this chapter, or for separation or
9 separate support and maintenance for any of the causes specified in
10 section two hundred OF THIS CHAPTER, or for relief, however designated,
11 granted upon grounds which in this state would be grounds for annulment
12 of marriage or for a declaration of nullity of a void marriage, upon
13 which an action has been brought in this state and judgment rendered
14 therein, requires a spouse to provide for the education or maintenance
15 of any of the children of a marriage, or for the support of his or her
16 spouse, OR TO MAKE PAYMENTS PURSUANT TO A DISTRIBUTIVE AWARD OR SETTLE-
17 MENT OF EQUITABLE DISTRIBUTION OF THE PROPERTY OF THE PARTIES TO ANY
18 SUCH ACTION, the court, in its discretion, also may direct the spouse
19 from whom maintenance [or], support OR EQUITABLE DISTRIBUTION PAYMENTS
20 is sought to give reasonable security, in such a manner and within such
21 a time as it thinks proper, for the payment, from time to time, of the
22 sums of money required for that purpose. If he or she fails to give the
23 security, or to make any payment required by the terms of such a judg-
24 ment 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.

LBD01551-01-9

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

16 S 2. Section 245 of the domestic relations law, as amended by chapter
17 809 of the laws of 1985, is amended to read as follows:

18 S 245. Enforcement by contempt proceedings of judgment or order in
19 action for divorce, separation or annulment. Where a spouse, in an
20 action for divorce, separation, annulment or declaration of nullity of a
21 void marriage, or for the enforcement in this state of a judgment for
22 divorce, separation, annulment or declaration of nullity of a void
23 marriage rendered in another state, makes default in paying any sum of
24 money as required by the judgment or order directing the payment there-
25 of, [and it appears presumptively, to the satisfaction of the court,
26 that payment cannot be enforced pursuant to section two hundred forty-
27 three or two hundred forty-four of this chapter or section fifty-two
28 hundred forty-one or fifty-two hundred forty-two of the civil practice
29 law and rules,] the aggrieved spouse may make application pursuant to
30 the provisions of section seven hundred fifty-six of the judiciary law
31 to punish the defaulting spouse for contempt, and where the judgment or
32 order directs the payment to be made in installments, or at stated
33 intervals, failure to make such single payment or installment may be
34 punished as therein provided, and such punishment, either by fine or
35 commitment, shall not be a bar to a subsequent proceeding to punish the
36 defaulting spouse as for a contempt for failure to pay subsequent
37 installments, but for such purpose such spouse may be proceeded against
38 under the said order in the same manner and with the same effect as
39 though such installment payment was directed to be paid by a separate
40 and distinct order, and the provisions of the civil rights law are here-
41 by superseded so far as they are in conflict therewith. Such applica-
42 tion may also be made without any previous sequestration or direction to
43 give security [where the court is satisfied that they would be ineffec-
44 tual], OR ANY APPLICATION FOR ENFORCEMENT BY ANY OTHER MEANS. No demand
45 of any kind upon the defaulting spouse shall be necessary in order that
46 he or she be proceeded against and punished for failure to make any such
47 payment or to pay any such installment; personal service upon the
48 defaulting spouse of an uncertified copy of the judgment or order under
49 which the default has occurred shall be sufficient.

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