

S T A T E   O F   N E W   Y O R K

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3879--A

2009-2010 Regular Sessions

I N   S E N A T E

April 2, 2009

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Introduced by Sen. MONTGOMERY -- (at request of the Office of Temporary and Disability Assistance) -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to publication of a child support standards chart; to amend the social services law and the family court act, in relation to clarifying the role of the support collection unit in violation proceedings and the role of an attorney appearing for the social services district on behalf of an individual receiving child support services; to amend the family court act, in relation to correcting references to federal authority; and to amend the social services law, the family court act and the domestic relations law, in relation to increasing the combined parental income amount utilized for the calculation of child support

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "child support modernization act".  
3     S 2. Subdivision 2 of section 111-i of the social services law, as  
4     added by chapter 567 of the laws of 1989, is amended to read as follows:  
5     2. (a) The commissioner shall publish annually [in department regu-  
6     lations the revised self-support reserve as defined in section two  
7     hundred forty of the domestic relations law to reflect the annual updat-  
8     ing of the poverty income guidelines amount for a single person as  
9     reported by the federal department of health and human services] A CHILD  
10    SUPPORT STANDARDS CHART. THE CHILD SUPPORT STANDARDS CHART SHALL  
11    INCLUDE: (I) THE REVISED POVERTY INCOME GUIDELINE FOR A SINGLE PERSON AS  
12    REPORTED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES; (II)  
13    THE REVISED SELF-SUPPORT RESERVED AS DEFINED IN SECTION TWO HUNDRED

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

LBD07668-03-9

1 FORTY OF THE DOMESTIC RELATIONS LAW; (III) THE DOLLAR AMOUNTS YIELDED  
2 THROUGH APPLICATION OF THE CHILD SUPPORT PERCENTAGE AS DEFINED IN  
3 SECTION TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW AND SECTION FOUR  
4 HUNDRED THIRTEEN OF THE FAMILY COURT ACT; AND (IV) THE COMBINED PARENTAL  
5 INCOME AMOUNT.

6 (B) THE COMBINED PARENTAL INCOME AMOUNT TO BE REPORTED IN THE CHILD  
7 SUPPORT STANDARDS CHART AND UTILIZED IN CALCULATING ORDERS OF CHILD  
8 SUPPORT IN ACCORDANCE WITH SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVI-  
9 SION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THE FAMILY COURT ACT AND  
10 SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION ONE-B OF SECTION TWO  
11 HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW SHALL BE ONE HUNDRED THIRTY  
12 THOUSAND DOLLARS; PROVIDED, HOWEVER, BEGINNING JANUARY THIRTY-FIRST, TWO  
13 THOUSAND TWELVE AND EVERY TWO YEARS THEREAFTER, THE COMBINED PARENTAL  
14 INCOME AMOUNT SHALL INCREASE BY THE PRODUCT OF THE AVERAGE ANNUAL  
15 PERCENTAGE CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS  
16 (CPI-U) AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR BUREAU OF  
17 LABOR STATISTICS FOR THE TWO YEAR PERIOD ROUNDED TO THE NEAREST ONE  
18 THOUSAND DOLLARS.

19 [(b)] (C) The commissioner shall publish [in department regulations a  
20 child support standards chart to reflect the dollar amounts yielded  
21 through application of the child support percentage as defined in  
22 section two hundred forty of the domestic relations law] THE CHILD  
23 SUPPORT STANDARDS CHART ON AN ANNUAL BASIS BY APRIL FIRST OF EACH YEAR  
24 AND IN NO EVENT LATER THAN FORTY-FIVE DAYS FOLLOWING PUBLICATION OF THE  
25 ANNUAL POVERTY INCOME GUIDELINE FOR A SINGLE PERSON AS REPORTED BY THE  
26 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES.

27 S 3. Section 111-c of the social services law is amended by adding a  
28 new subdivision 4 to read as follows:

29 4. A. A SOCIAL SERVICES DISTRICT REPRESENTS THE INTERESTS OF THE  
30 DISTRICT IN PERFORMING ITS FUNCTIONS AND DUTIES AS PROVIDED IN THIS  
31 TITLE AND NOT THE INTERESTS OF ANY PARTY. THE INTERESTS OF A DISTRICT  
32 SHALL INCLUDE, BUT ARE NOT LIMITED TO, ESTABLISHING PATERNITY, AND  
33 ESTABLISHING, MODIFYING AND ENFORCING CHILD SUPPORT ORDERS.

34 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISION OF CHILD  
35 SUPPORT SERVICES PURSUANT TO THIS TITLE DOES NOT CONSTITUTE NOR CREATE  
36 AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN THE INDIVIDUAL RECEIVING  
37 SERVICES AND ANY ATTORNEY REPRESENTING OR APPEARING FOR THE DISTRICT. A  
38 SOCIAL SERVICES DISTRICT SHALL PROVIDE NOTICE TO ANY INDIVIDUAL REQUEST-  
39 ING OR RECEIVING SERVICES THAT THE ATTORNEY REPRESENTING OR APPEARING  
40 FOR THE DISTRICT DOES NOT REPRESENT THE INDIVIDUAL AND THAT THE INDIVID-  
41 UAL HAS A RIGHT TO RETAIN HIS OR HER OWN LEGAL COUNSEL.

42 C. A SOCIAL SERVICES DISTRICT MAY APPEAR IN ANY ACTION TO ESTABLISH  
43 PATERNITY, OR TO ESTABLISH, MODIFY, OR ENFORCE AN ORDER OF SUPPORT WHEN  
44 AN INDIVIDUAL IS RECEIVING SERVICES UNDER THIS TITLE.

45 S 4. Subdivision (a) of section 453 of the family court act, as added  
46 by chapter 456 of the laws of 1978, is amended to read as follows:

47 (a) Persons who may originate AND PROSECUTE proceedings. The original  
48 petitioner, the support collection unit ON BEHALF OF PERSONS IN RECEIPT  
49 OF PUBLIC ASSISTANCE OR IN RECEIPT OF SERVICES PURSUANT TO SECTION ONE  
50 HUNDRED ELEVEN-G OF THE SOCIAL SERVICES LAW, or any person to whom the  
51 order is payable expressly or who may originate proceedings under  
52 section four hundred twenty-two of this article may originate AND PROSE-  
53 CUTE a proceeding under this part.

54 S 5. Subdivision (d) of section 516-a of the family court act, as  
55 amended by chapter 462 of the laws of 2007, is amended to read as  
56 follows:

1 (d) A determination of paternity made by any other state, whether  
2 established through an administrative or judicial process or through an  
3 acknowledgment of paternity signed in accordance with that state's laws,  
4 must be accorded full faith and credit[, if and only if such acknowledg-  
5 ment meets the requirements set forth in section 652(a)(7) of title IV-D  
6 of the social security act] PURSUANT TO SECTION 466(A)(11) OF TITLE IV-D  
7 OF THE SOCIAL SECURITY ACT (42 U.S.C. S 666(A)(11)).

8 S 6. Subparagraph 2 of paragraph (c) of subdivision 1 of section 413  
9 of the family court act, as amended by chapter 567 of the laws of 1989,  
10 is amended to read as follows:

11 (2) The court shall multiply the combined parental income up to  
12 [eighty thousand dollars] THE AMOUNT SET FORTH IN PARAGRAPH (B) OF  
13 SUBDIVISION TWO OF SECTION ONE HUNDRED ELEVEN-I OF THE SOCIAL SERVICES  
14 LAW by the appropriate child support percentage and such amount shall be  
15 prorated in the same proportion as each parent's income is to the  
16 combined parental income.

17 S 7. Subparagraph 2 of paragraph (c) of subdivision 1-b of section 240  
18 of the domestic relations law, as added by chapter 567 of the laws of  
19 1989, is amended to read as follows:

20 (2) The court shall multiply the combined parental income up to  
21 [eighty thousand dollars] THE AMOUNT SET FORTH IN PARAGRAPH (B) OF  
22 SUBDIVISION TWO OF SECTION ONE HUNDRED ELEVEN-I OF THE SOCIAL SERVICES  
23 LAW by the appropriate child support percentage and such amount shall be  
24 prorated in the same proportion as each parent's income is to the  
25 combined parental income.

26 S 8. This act shall take effect immediately; provided, however, that  
27 sections two, six and seven of this act shall take effect January 31,  
28 2010, except that any rule or regulation necessary for the timely imple-  
29 mentation of any section or sections of this act shall be promulgated on  
30 or before the effective date of such section or sections.