

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

10415

I N A S S E M B L Y

May 29, 2012

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to probation in child support, juvenile delinquency, persons in need of supervision and family offense proceedings

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

1 Section 1. Section 171 of the family court act is amended to read as
2 follows:
3 S 171. Enforcement or modification of orders in other county. [A]
4 EXCEPT FOR PROCEEDINGS FOR ENFORCEMENT OR MODIFICATION OF AN ORDER OF
5 PROBATION IN CASES BROUGHT UNDER ARTICLE THREE OR SEVEN OF THIS ACT,
6 WHICH SHALL BE SUBJECT TO THE TERMS OF SUBDIVISION TWO OF SECTION ONE
7 HUNDRED SEVENTY-SIX OF THIS PART, A lawful order of the family court in
8 any county may be enforced or modified in that county or in the family
9 court in any other county in which the party affected by the order
10 resides or is found.
11 S 2. Section 173 of the family court act is amended to read as
12 follows:
13 S 173. Transfer of papers to other county. If the family court in
14 which an enforcement or modification proceeding is brought under this
15 article does not transfer it under section one hundred seventy-four OF
16 THIS PART, it shall advise the family court that issued the order sought
17 to be enforced or modified of the commencement of such proceedings and
18 shall request that court to forward to it BY ELECTRONIC OR OTHER MEANS a
19 copy of all or any of the papers [on which] WITH RESPECT TO the order
20 [was based] SOUGHT TO BE ENFORCED OR MODIFIED. The requested court shall
21 forthwith comply with the request.
22 S 3. Section 175 of the family court act is amended to read as
23 follows:
24 S 175. Violation of probation in other county. [If] EXCEPT FOR CASES
25 BROUGHT UNDER ARTICLES THREE AND SEVEN OF THIS ACT WHICH SHALL BE
26 SUBJECT TO THE TERMS OF SUBDIVISION TWO OF SECTION ONE HUNDRED SEVENTY-

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

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1 SIX OF THIS PART, IF an act or omission which constitutes a violation of
2 the terms of probation allegedly occurs in a county other than the one
3 in which the order of probation was made, the family court in either
4 county may hear the allegation of a violation of the terms of probation
5 and proceed in accordance with the provisions of this act.

6 S 4. Section 176 of the family court act, as amended by section 4 of
7 subpart C of part C of chapter 97 of the laws of 2011, is amended to
8 read as follows:

9 S 176. Inter-county probation. 1. TRANSFER OF PROBATION SUPERVISION.
10 Where a person placed on probation resides in another jurisdiction with-
11 in the state at the time of the order of disposition, the family court
12 which placed him or her on probation MAY, AND, IN THE CASE OF ORDERS OF
13 PROBATION ISSUED UNDER ARTICLE THREE OR SEVEN OF THIS ACT, shall trans-
14 fer PROBATION supervision to the probation department in the jurisdic-
15 tion in which the person resides. Where, after a probation disposition
16 is pronounced, a probationer [requests to reside in] RELOCATES TO anoth-
17 er jurisdiction within the state, the family court which placed him or
18 her on probation may, [in its discretion, approve a change in residency
19 and, upon approval,] AND, IN THE CASE OF ORDERS OF PROBATION ISSUED
20 UNDER ARTICLE THREE OR SEVEN OF THIS ACT, SHALL shall transfer PROBATION
21 supervision to the probation department [serving] IN the [county] JURIS-
22 DICTION of the probationer's [proposed] new residence. UPON COMPLETION
23 OF A TRANSFER OF PROBATION SUPERVISION AS AUTHORIZED PURSUANT TO THIS
24 SUBDIVISION, THE PROBATION DEPARTMENT IN THE RECEIVING JURISDICTION
25 SHALL ASSUME ALL POWERS AND DUTIES OF THE PROBATION DEPARTMENT IN THE
26 JURISDICTION OF THE FAMILY COURT WHICH PLACED THE PROBATIONER ON
27 PROBATION. Any transfer under this subdivision must be in accordance
28 with rules adopted by the commissioner of the division of criminal
29 justice services.

30 2. [Upon completion of a transfer as authorized pursuant to subdivi-
31 sion one of this section, the family court within the jurisdiction of
32 the receiving probation department shall assume all powers and duties of
33 the family court which placed the probationer on probation and shall
34 have sole jurisdiction in the case. The family court which placed the
35 probationer on probation shall immediately forward its entire case
36 record to the receiving court] FOR ALL CASES BROUGHT UNDER ARTICLE THREE
37 OR SEVEN OF THIS ACT, WHERE PROBATION SUPERVISION HAS BEEN TRANSFERRED
38 UNDER SUBDIVISION ONE OF THIS SECTION, THE FAMILY COURT IN THE RECEIVING
39 JURISDICTION SHALL HEAR ANY PROCEEDINGS TO ENFORCE OR MODIFY THE ORDER
40 OF PROBATION, UNLESS THE RECEIVING FAMILY COURT DETERMINES THAT THERE IS
41 GOOD CAUSE TO RETURN THE PROCEEDING TO THE SENDING FAMILY COURT FOR
42 ADJUDICATION, IN WHICH CASE THE PROCEEDING SHALL BE RETURNED TO THE
43 SENDING FAMILY COURT FOR ADJUDICATION.

44 3. [Upon completion of a transfer as authorized pursuant to subdivi-
45 sion one of this section, the probation department in the receiving
46 jurisdiction shall assume all powers and duties of the probation depart-
47 ment in the jurisdiction of the family court which placed the probation-
48 er on probation] FOR THE PURPOSE OF THIS SECTION, "JURISDICTION" SHALL
49 MEAN A COUNTY OR THE CITY OF NEW YORK.

50 S 5. This act shall take effect immediately.