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

10415--A

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 -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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:

Section 1. Section 171 of the family court act is amended to read as follows:

S 171. Enforcement or modification of orders in other county. [A] EXCEPT FOR PROCEEDINGS FOR ENFORCEMENT OR MODIFICATION OF AN ORDER OF PROBATION IN CASES BROUGHT UNDER ARTICLE THREE OR SEVEN OF THIS ACT, WHICH SHALL BE SUBJECT TO THE TERMS OF SUBDIVISION TWO OF SECTION ONE HUNDRED SEVENTY-SIX OF THIS PART, A lawful order of the family court in any county may be enforced or modified in that county or in the family court in any other county in which the party affected by the order resides or is found.

S 2. Section 173 of the family court act is amended to read as follows:

S 173. Transfer of papers to other county. If the family court in which an enforcement or modification proceeding is brought under this article does not transfer it under section one hundred seventy-four OF THIS PART, it shall advise the family court that issued the order sought to be enforced or modified of the commencement of such proceedings and shall request that court to forward to it BY ELECTRONIC OR OTHER MEANS a copy of all or any of the papers [on which] WITH RESPECT TO the order [was based] SOUGHT TO BE ENFORCED OR MODIFIED. The requested court shall forthwith comply with the request.

S 3. Section 175 of the family court act is amended to read as follows:

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

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S 175. Violation of probation in other county. [If] EXCEPT FOR CASES BROUGHT UNDER ARTICLES THREE AND SEVEN OF THIS ACT WHICH SHALL BE SUBJECT TO THE TERMS OF SUBDIVISION TWO OF SECTION ONE HUNDRED SEVENTY-SIX OF THIS PART, IF an act or omission which constitutes a violation of the terms of probation allegedly occurs in a county other than the one in which the order of probation was made, the family court in either county may hear the allegation of a violation of the terms of probation and proceed in accordance with the provisions of this act.

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

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

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

3. [Upon completion of a transfer as authorized pursuant to subdivision one of this section, the probation department in the receiving jurisdiction shall assume all powers and duties of the probation department in the jurisdiction of the family court which placed the probationer on probation] FOR THE PURPOSE OF THIS SECTION, "JURISDICTION" SHALL MEAN A COUNTY OR THE CITY OF NEW YORK.

S 5. This act shall take effect immediately.