

4051

2011-2012 Regular Sessions

I N   S E N A T E

March 15, 2011

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Introduced by Sen. GALLIVAN -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to recoupment of overpayments of child support in family and supreme court

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

1     Section 1. Section 451 of the family court act is amended by adding a  
2     new subdivision 3 to read as follows:  
3     3. THE COURT THAT ISSUED A CHILD SUPPORT ORDER OR AN ORDER OF MODIFI-  
4     CATION UNDER THIS ACT HAS CONTINUING JURISDICTION OVER MOTIONS SEEKING  
5     RECOUPMENT OF OVERPAYMENTS OF CHILD SUPPORT. WHERE THE INTERESTS OF  
6     JUSTICE REQUIRE, THE COURT MAY ALLOW RECOUPMENT OF THE OVERPAYMENT OF A  
7     CHILD SUPPORT OBLIGATION UPON PROOF OF THE OVERPAYMENT AND UPON PROOF  
8     THAT THE RECOUPMENT AND THE METHOD AND RATE OF ITS COLLECTION WILL NOT  
9     SUBSTANTIALLY IMPAIR THE CUSTODIAL PARENT'S ABILITY TO MEET THE FINAN-  
10    CIAL NEEDS OF THE CHILD OR CHILDREN. THE COURT SHALL STATE ITS REASONS  
11    ON THE RECORD FOR ANY ORDER ISSUED UNDER THIS SUBDIVISION.  
12    S 2. Section 240 of the domestic relations law is amended by adding a  
13    new subdivision 6 to read as follows:  
14    6. THE COURT THAT ISSUED A CHILD SUPPORT ORDER OR AN ORDER OF MODIFI-  
15    CATION HAS CONTINUING JURISDICTION OVER MOTIONS SEEKING RECOUPMENT OF  
16    OVERPAYMENTS OF CHILD SUPPORT. WHERE THE INTERESTS OF JUSTICE REQUIRE,  
17    THE COURT MAY ALLOW RECOUPMENT OF THE OVERPAYMENT OF A CHILD SUPPORT  
18    OBLIGATION UPON PROOF OF THE OVERPAYMENT AND UPON PROOF THAT THE RECOUP-  
19    MENT AND THE METHOD AND RATE OF ITS COLLECTION WILL NOT SUBSTANTIALLY  
20    IMPAIR THE CUSTODIAL PARENT'S ABILITY TO MEET THE FINANCIAL NEEDS OF THE  
21    CHILD OR CHILDREN. THE COURT SHALL STATE ITS REASONS ON THE RECORD FOR  
22    ANY ORDER ISSUED UNDER THIS SUBDIVISION.  
23    S 3. This act shall take effect on the ninetieth day after it shall  
24    have become a law.

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

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