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

7574

I N S E N A T E

June 5, 2012

Introduced by COMMITTEE ON RULES -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the domestic relations law and the family court act, in relation to the child support obligations of indigent and near-indigent support obligors

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

Section 1. Subparagraph 1 of paragraph (b) of subdivision 1-b of section 240 of the domestic relations law, as added by chapter 567 of the laws of 1989, is amended to read as follows:

(1) (I) "BASE CALCULATION" SHALL MEAN THE SUM DERIVED BY ADDING THE AMOUNTS DETERMINED BY THE APPLICATION OF SUBPARAGRAPHS ONE, TWO, AND THREE OF PARAGRAPH (C) OF THIS SUBDIVISION.

(II) "Basic child support obligation" shall mean the [sum derived by adding the amounts determined by the application of subparagraphs two and three of paragraph (c) of this subdivision] BASE CALCULATION except as increased pursuant to subparagraphs four, five, six and seven of [such] paragraph (C) OF THIS SUBDIVISION.

S 2. Paragraph (d) of subdivision 1-b of section 240 of the domestic relations law, as amended by chapter 436 of the laws of 2011, is amended to read as follows:

(d) Notwithstanding the provisions of paragraph (c) of this subdivision[, where the annual amount]:

(1) IF THE SUPPORT OBLIGOR'S INCOME IS ABOVE THE SELF-SUPPORT RESERVE, BUT THE APPLICATION of the BASE CALCULATION TO THE OBLIGOR'S INCOME WOULD REDUCE SUCH INCOME BELOW THE SELF-SUPPORT RESERVE, THE basic child support obligation [would reduce the non-custodial parent's] SHALL BE SIX HUNDRED DOLLARS PER YEAR OR THE DIFFERENCE BETWEEN THE SUPPORT OBLIGOR'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS GREATER. IN ADDITION, THE COURT MAY, IN ITS DISCRETION, ORDER AMOUNTS IN ACCORDANCE WITH SUBPARAGRAPHS FOUR, FIVE, SIX AND SEVEN OF PARAGRAPH (C) OF THIS SUBDIVISION.

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

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(2) IF THE OBLIGOR'S income IS EQUAL TO OR below the SELF-SUPPORT RESERVE, BUT ABOVE THE poverty income guidelines amount for a single person as reported by the federal department of health and human services, the basic child support obligation shall be [twenty-five] SIX HUNDRED dollars per [month, provided, however, that if the court finds that] YEAR UNLESS such [basic child support] AN obligation WOULD REDUCE THE SUPPORT OBLIGOR'S INCOME BELOW THE POVERTY INCOME AMOUNT, IN WHICH CASE THE BASIC CHILD SUPPORT OBLIGATION SHALL BE THREE HUNDRED DOLLARS PER YEAR OR THE DIFFERENCE BETWEEN THE SUPPORT OBLIGOR'S INCOME AND THE POVERTY LEVEL, WHICHEVER IS GREATER.

(3) IF THE OBLIGOR'S INCOME IS EQUAL TO OR BELOW THE POVERTY GUIDELINES AMOUNT FOR A SINGLE PERSON AS REPORTED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE BASIC CHILD SUPPORT OBLIGATION SHALL BE THREE HUNDRED DOLLARS PER YEAR.

(4) NOTWITHSTANDING THE FOREGOING, IF THE COURT FINDS THAT ANY AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (1), (2), OR (3) OF THIS PARAGRAPH is unjust or inappropriate, which finding shall be based upon considerations of the factors set forth in paragraph (f) of this subdivision, the court shall order the [non-custodial parent] CHILD SUPPORT OBLIGOR to pay such amount of the child support as the court finds just and appropriate. [Notwithstanding the provisions of paragraph (c) of this subdivision, where the annual amount of the basic child support obligation would reduce the non-custodial parent's income below the self-support reserve but not below the poverty income guidelines amount for a single person as reported by the federal department of health and human services, the basic child support obligation shall be fifty dollars per month or the difference between the non-custodial parent's income and the self-support reserve, whichever is greater, in addition to any amounts that the court may, in its discretion, order in accordance with subparagraphs four, five, six and/or seven of paragraph (c) of this subdivision.]

S 3. Subparagraph 1 of paragraph (b) of subdivision 1 of section 413 of the family court act, as amended by chapter 567 of the laws of 1989, is amended to read as follows:

(1) (I) "BASE CALCULATION" SHALL MEAN THE SUM DERIVED BY ADDING THE AMOUNTS DETERMINED BY THE APPLICATION OF SUBPARAGRAPHS ONE, TWO, AND THREE OF PARAGRAPH (C) OF THIS SUBDIVISION.

(II) "Basic child support obligation" shall mean the [sum derived by adding the amounts determined by the application of subparagraphs two and three of paragraph (c) of this subdivision] BASE CALCULATION except as increased pursuant to subparagraphs four, five, six and seven of [such] paragraph (C) OF THIS SUBDIVISION.

S 4. Paragraph (d) of subdivision 1 of section 413 of the family court act, as amended by chapter 436 of the laws of 2011, is amended to read as follows:

(d) Notwithstanding the provisions of paragraph (c) of this subdivision[, where the annual amount]: (1) IF THE SUPPORT OBLIGOR'S INCOME IS ABOVE THE SELF-SUPPORT RESERVE, BUT THE APPLICATION of the BASE CALCULATION TO THE OBLIGOR'S INCOME WOULD REDUCE SUCH INCOME BELOW THE SELF-SUPPORT RESERVE, THE basic child support obligation [would reduce the non-custodial parent's] SHALL BE SIX HUNDRED DOLLARS PER YEAR OR THE DIFFERENCE BETWEEN THE SUPPORT OBLIGOR'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS GREATER. IN ADDITION, THE COURT MAY, IN ITS DISCRETION, ORDER AMOUNTS IN ACCORDANCE WITH SUBPARAGRAPHS FOUR, FIVE, SIX AND SEVEN OF PARAGRAPH (C) OF THIS SUBDIVISION.

(2) IF THE OBLIGOR'S income IS EQUAL TO OR below the SELF-SUPPORT RESERVE, BUT ABOVE THE poverty income guidelines amount for a single person as reported by the federal department of health and human services, the basic child support obligation shall be [twenty-five] SIX HUNDRED dollars per [month; provided, however, that if the court finds that] YEAR UNLESS such [basic child support] AN obligation WOULD REDUCE THE SUPPORT OBLIGOR'S INCOME BELOW THE POVERTY INCOME AMOUNT, IN WHICH CASE THE BASIC CHILD SUPPORT OBLIGATION SHALL BE THREE HUNDRED DOLLARS PER YEAR OR THE DIFFERENCE BETWEEN THE SUPPORT OBLIGOR'S INCOME AND THE POVERTY LEVEL, WHICHEVER IS GREATER.

(3) IF THE OBLIGOR'S INCOME IS EQUAL TO OR BELOW THE POVERTY GUIDELINES AMOUNT FOR A SINGLE PERSON AS REPORTED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE BASIC CHILD SUPPORT OBLIGATION SHALL BE THREE HUNDRED DOLLARS PER YEAR.

(4) NOTWITHSTANDING THE FOREGOING, IF THE COURT FINDS THAT ANY AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (1), (2), OR (3) OF THIS PARAGRAPH is unjust or inappropriate, which finding shall be based upon considerations of the factors set forth in paragraph (f) of this subdivision, then the court shall order the [non-custodial parent] CHILD SUPPORT OBLIGOR to pay such amount of the child support as the court finds just and appropriate. [Notwithstanding the provisions of paragraph (c) of this subdivision, where the annual amount of the basic child support obligation would reduce the non-custodial parent's income below the self-support reserve but not below the poverty income guidelines amount for a single person as reported by the federal department of health and human services, the basic child support obligation shall be fifty dollars per month or the difference between the non-custodial parent's income and the self-support reserve, whichever is greater, in addition to any amounts that the court may, in its discretion, order in accordance with subparagraphs four, five, six and/or seven of paragraph (c) of this subdivision.]

S 5. This act shall take effect on the ninetieth day after it shall have become a law.