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

2009

2011-2012 Regular Sessions

I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. WEPRIN, CLARK, PHEFFER -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to suspension of professional licenses

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

Section 1. The education law is amended by adding a new section 6511-a to read as follows:

S 6511-A. PENALTIES FOR PROFESSIONAL MISCONDUCT INVOLVING SUPPORT PROCEEDINGS. THE PROVISIONS OF THIS SECTION SHALL APPLY IN ALL CASES OF LICENSEES WHO HAVE FAILED, AFTER RECEIVING APPROPRIATE NOTICE, TO COMPLY WITH A SUMMONS, SUBPOENA OR WARRANT RELATING TO A PATERNITY OR CHILD SUPPORT PROCEEDING OR IS IN ARREARS IN PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT REFERRED TO THE DEPARTMENT BY A COURT PURSUANT TO THE REQUIREMENTS OF SECTION TWO HUNDRED FORTY-FOUR-C OF THE DOMESTIC RELATIONS LAW OR PURSUANT TO SECTION FOUR HUNDRED FIFTY-EIGHT-B OR FIVE HUNDRED FORTY-EIGHT-B OF THE FAMILY COURT ACT.

(1) UPON RECEIPT OF AN ORDER FROM THE COURT PURSUANT TO ONE OF THE FOREGOING PROVISIONS OF LAW BASED ON ARREARS IN PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT, THE DEPARTMENT, IF IT FINDS SUCH PERSON TO BE SO LICENSED, SHALL WITHIN THIRTY DAYS OF RECEIPT OF SUCH ORDER FROM THE COURT, PROVIDE NOTICE TO THE LICENSEE OF, AND INITIATE, A HEARING WHICH SHALL BE HELD BY IT AT LEAST TWENTY DAYS AND NO MORE THAN THIRTY DAYS AFTER THE SENDING OF SUCH NOTICE TO THE LICENSEE. THE HEARING SHALL BE HELD SOLELY FOR THE PURPOSE OF DETERMINING WHETHER THERE EXISTS AS OF THE DATE OF THE HEARING PROOF THAT FULL PAYMENT OF ALL ARREARS OF SUPPORT ESTABLISHED BY THE ORDER OF THE COURT TO BE DUE FROM THE LICENSEE HAVE BEEN PAID. PROOF OF SUCH PAYMENT SHALL BE A CERTIFIED CHECK SHOWING FULL PAYMENT OF ESTABLISHED ARREARS OR A NOTICE ISSUED BY THE COURT, OR THE SUPPORT COLLECTION UNIT WHERE THE ORDER IS PAYABLE TO THE SUPPORT COLLECTION UNIT DESIGNATED BY THE APPROPRIATE SOCIAL

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

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SERVICES DISTRICT. SUCH NOTICE SHALL STATE THAT FULL PAYMENT OF ALL ARREARS OF SUPPORT ESTABLISHED BY THE ORDER OF THE COURT TO BE DUE HAVE BEEN PAID. THE LICENSEE SHALL BE GIVEN FULL OPPORTUNITY TO PRESENT SUCH PROOF OF PAYMENT FROM THE COURT OR SUPPORT COLLECTION UNIT AT THE HEARING IN PERSON OR BY COUNSEL. THE ONLY ISSUE TO BE DETERMINED BY THE DEPARTMENT AS A RESULT OF THE HEARING IS WHETHER THE ARREARS HAVE BEEN PAID. NO EVIDENCE WITH RESPECT TO THE APPROPRIATENESS OF THE COURT ORDER OR ABILITY OF THE RESPONDENT PARTY IN ARREARS TO COMPLY WITH SUCH ORDER SHALL BE RECEIVED OR CONSIDERED BY THE DEPARTMENT.

(2) UPON RECEIPT OF AN ORDER FROM THE COURT BASED ON FAILURE TO COMPLY WITH A SUMMONS, SUBPOENA, OR WARRANT RELATING TO A PATERNITY OR CHILD SUPPORT PROCEEDING, THE DEPARTMENT, IF IT FINDS SUCH PERSON TO BE SO LICENSED, SHALL WITHIN THIRTY DAYS OF RECEIPT OF SUCH ORDER FROM THE COURT, PROVIDE NOTICE TO THE LICENSEE THAT HIS OR HER LICENSE SHALL BE SUSPENDED WITHIN SIXTY DAYS UNLESS THE CONDITIONS IN SUBDIVISION FOUR OF THIS SECTION ARE MET.

(3) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR OF ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE LICENSE OF A LICENSEE SHALL BE SUSPENDED IF AT THE HEARING, PROVIDED FOR BY SUBDIVISION ONE OF THIS SECTION, THE LICENSEE FAILS TO PRESENT PROOF OF PAYMENT AS REQUIRED BY SUCH SUBDIVISION. SUCH SUSPENSION SHALL NOT BE LIFTED UNLESS THE COURT OR THE SUPPORT COLLECTION UNIT, WHERE THE COURT ORDER IS PAYABLE TO THE SUPPORT COLLECTION UNIT DESIGNATED BY THE APPROPRIATE SOCIAL SERVICES DISTRICT, ISSUES NOTICE TO THE DEPARTMENT THAT FULL PAYMENT OF ALL ARREARS OF SUPPORT ESTABLISHED BY THE ORDER OF THE COURT TO BE DUE HAVE BEEN PAID.

(4) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR OF ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE LICENSE OF A LICENSEE SHALL BE SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION UNLESS THE COURT TERMINATES ITS ORDER TO COMMENCE SUSPENSION PROCEEDINGS. SUCH SUSPENSION SHALL NOT BE LIFTED UNLESS THE COURT ISSUES AN ORDER TO THE DEPARTMENT TERMINATING ITS ORDER TO COMMENCE SUSPENSION PROCEEDINGS.

(5) THE DEPARTMENT SHALL INFORM THE COURT OF ALL ACTIONS TAKEN HEREUNDER AS REQUIRED BY LAW.

THIS SECTION APPLIES TO PATERNITY AND CHILD SUPPORT PROCEEDINGS COMMENCED UNDER, AND SUPPORT OBLIGATIONS PAID PURSUANT TO ANY ORDER OF CHILD SUPPORT OR CHILD AND SPOUSAL SUPPORT ISSUED UNDER PROVISIONS OF SECTION TWO HUNDRED THIRTY-SIX OR TWO HUNDRED FORTY OF THE DOMESTIC RELATIONS LAW, OR ARTICLE FOUR, FIVE, FIVE-A OR FIVE-B OF THE FAMILY COURT ACT.

(6) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE OR OF ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE EXCLUSION OF ANY OTHER REQUIREMENTS OF THIS ARTICLE AND TO THE EXCLUSION OF ANY OTHER REQUIREMENT OF LAW TO THE CONTRARY.

(7) IN THE EVENT THAT THE DEPARTMENT SHALL REVOKE OR SUSPEND ANY SUCH LICENSE, OR IMPOSE ANY FINE OR REPRIMAND ON THE HOLDER THEREOF, ITS DETERMINATION SHALL BE IN WRITING AND OFFICIALLY SIGNED. THE ORIGINAL OF SUCH DETERMINATION, WHEN SO SIGNED, SHALL BE FILED IN THE OFFICE OF THE DEPARTMENT AND COPIES THEREOF SHALL BE SERVED PERSONALLY OR BY REGISTERED MAIL UPON THE LICENSEE ADDRESSED TO THE PRINCIPAL PLACE OF BUSINESS OF SUCH LICENSEE, AND TO THE COMPLAINANT.

S 2. This act shall take effect immediately.