

2078

2011-2012 Regular Sessions

I N A S S E M B L Y

January 13, 2011

Introduced by M. of A. REILICH -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to income deduction for support enforcement

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

1 Section 1. Paragraph 1 of subdivision (b) of section 5241 of the civil
2 practice law and rules, as amended by chapter 59 of the laws of 1993, is
3 amended to read as follows:

4 (1) When a debtor is in default, an execution for support enforcement
5 may be issued by the support collection unit, or by the sheriff, the
6 clerk of court or the attorney for the creditor as an officer of the
7 court. Where a debtor is receiving or will receive income, an execution
8 for deductions therefrom in amounts not to exceed the limits set forth
9 in subdivision (g) of this section may be served upon an employer or
10 income payor after notice to the debtor. The amount of the deductions to
11 be withheld shall be sufficient to ensure compliance with the direction
12 in the order of support, and shall include an additional amount to be
13 applied to the reduction of arrears. The creditor may amend the
14 execution before or after service upon the employer or income payor to
15 reflect additional arrears or payments made by the debtor after notice
16 pursuant to subdivision (d) of this section, or to conform the execution
17 to the facts found upon a determination made pursuant to subdivision (e)
18 of this section. AN EMPLOYER OR INCOME PAYER SHALL INDICATE ON THE
19 PAYCHECK STUB OF AN EMPLOYEE WHOSE INCOME IS SUBJECT TO AN ORDER UNDER
20 THIS SECTION, THAT THE INCOME IS BEING WITHHELD TO SATISFY AN ORDER OF
21 CHILD SUPPORT. SUCH AMOUNT SHALL BE LABELED ON THE PAYCHECK STUB AS
22 "PARENTAL CONTRIBUTION".

23 S 2. The opening paragraph of paragraph 2 of subdivision (c) of
24 section 5242 of the civil practice law and rules, as amended by chapter
25 601 of the laws of 2007, 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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1 An employer served with an income deduction order entered pursuant to
2 this subdivision shall commence deductions from the income due or there-
3 after due to the debtor no later than the first pay period that occurs
4 fourteen days after service of the income deduction order, and shall
5 remit payments to the state office of temporary and disability assist-
6 ance pursuant to subdivision fourteen of section one hundred eleven-b of
7 the social services law within ten days of the date that the debtor is
8 paid. Each payment remitted by the employer shall be made payable to the
9 creditor named in the order, and shall include the names, addresses, and
10 social security numbers of the debtor and the creditor, and the date and
11 the amount of each withholding of the debtor's income included in the
12 payment. AN EMPLOYER SHALL INDICATE ON THE PAYCHECK STUB OF AN EMPLOYEE
13 WHOSE INCOME IS SUBJECT TO AN ORDER UNDER THIS SECTION, THAT THE INCOME
14 IS BEING WITHHELD TO SATISFY AN ORDER OF CHILD SUPPORT. SUCH AMOUNT
15 SHALL BE LABELED ON THE PAYCHECK STUB AS "PARENTAL CONTRIBUTION". An
16 employer shall be liable to the creditor for failure to deduct the
17 amounts specified in the income deduction order, provided however that
18 deduction by the employer of the amounts specified shall not relieve the
19 debtor of the underlying obligation of support. If an employer shall
20 fail to so pay the creditor, the creditor may commence a proceeding
21 against the employer for accrued deductions, together with interest and
22 reasonable attorney's fees. If the debtor's employment is terminated by
23 resignation or dismissal at any time after service of the income
24 deduction order, the order shall cease to have force and effect unless
25 the debtor is reinstated or re-employed by the same employer. An employ-
26 er must notify the creditor promptly when the debtor terminates employ-
27 ment and must provide the debtor's last address and the name and address
28 of the debtor's new employer, if known. Where the income is compensation
29 paid or payable to the debtor for personal services, the amount withheld
30 by the employer shall not exceed the following:

31 S 3. This act shall take effect on the ninetieth day after it shall
32 have become a law.