

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

S. 5473--A

A. 7931--A

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

May 25, 2011

IN SENATE -- Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, PERKINS, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, the criminal procedure law and the domestic relations law, in relation to child support obligations of inmates; and to amend section 13 of chapter 182 of the laws of 2010 amending the tax law, the family court act, the domestic relations law and the social services law relating to the modification of child support orders, employer reporting of new hires and quarterly earnings, work programs and the noncustodial earned income tax credit, in relation to the effectiveness of certain provisions thereof

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

1 Section 1. The correction law is amended by adding a new section 149-a
2 to read as follows:
3 S 149-A. NOTIFICATION TO INMATES OF THEIR ABILITY TO SEEK MODIFICA-
4 TIONS OF AN ORDER OF CHILD SUPPORT. NOTWITHSTANDING ANY PROVISION OF LAW
5 TO THE CONTRARY, THE DEPARTMENT SHALL NOTIFY ALL INMATES RESIDING IN A
6 CORRECTIONAL FACILITY WITHIN THE STATE OF NEW YORK OF THE POSSIBILITY
7 THAT THEY MAY BE ABLE TO MODIFY AN EXISTING CHILD SUPPORT ORDER BASED ON
8 A "SUBSTANTIAL CHANGE IN CIRCUMSTANCES" IN ACCORDANCE WITH SECTION TWO

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

LBD10641-07-2

1 HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW AND SECTION FOUR
2 HUNDRED FIFTY-ONE OF THE FAMILY COURT ACT.

3 S 2. Subdivision 1 of section 390.30 of the criminal procedure law is
4 amended to read as follows:

5 1. The investigation. The pre-sentence investigation consists of the
6 gathering of information with respect to the circumstances attending the
7 commission of the offense, the defendant's history of delinquency or
8 criminality, and the defendant's social history, employment history,
9 family situation, economic status, INCLUDING CHILD SUPPORT OBLIGATIONS,
10 education, and personal habits. Such investigation may also include any
11 other matter which the agency conducting the investigation deems rele-
12 vant to the question of sentence, and must include any matter the court
13 directs to be included.

14 S 3. Subdivision 9 of part B of section 236 of the domestic relations
15 law is amended by adding a new paragraph e to read as follows:

16 E. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON AN
17 APPLICATION FOR A MODIFICATION OF CHILD SUPPORT PURSUANT TO THIS SUBDI-
18 VISION, THE COURT IN ITS DISCRETION, MAY ISSUE AN ORDER DIRECTING THAT
19 AN ORDER FOR PAYMENT OF CHILD SUPPORT BE STAYED FOR A PERIOD OF UP TO
20 ONE HUNDRED EIGHTY DAYS FOLLOWING THE RELEASE OF A NON-CUSTODIAL PARENT
21 FROM A PERIOD OF INCARCERATION. ARREARS SHALL ACCRUE DURING SUCH PERI-
22 OD. THE ORIGINAL ORDER, OR ANY MODIFIED ORDER SHALL BE ENFORCEABLE AT
23 THE END OF SUCH STAY.

24 S 4. Section 13 of chapter 182 of the laws of 2010 amending the tax
25 law, the family court act, the domestic relations law and the social
26 services law relating to the modification of child support orders,
27 employer reporting of new hires and quarterly earnings, work programs
28 and the noncustodial earned income tax credit is amended to read as
29 follows:

30 S 13. This act shall take effect on the ninetieth day after it shall
31 have become law; provided however, that sections six and seven of this
32 act shall apply to any action or proceeding to modify any order of child
33 support entered on or after the effective date of this act except that
34 if the child support order incorporated without merging a valid agree-
35 ment or stipulation of the parties, the amendments regarding the modifi-
36 cation of a child support order set forth in sections six and seven of
37 this act shall only apply if the incorporated agreement or stipulation
38 was executed on or after this act's effective date, AND EXCEPT THAT
39 SECTIONS SIX AND SEVEN OF THIS ACT SHALL APPLY TO ANY ACTION OR PROCEED-
40 ING TO MODIFY A CHILD SUPPORT ORDER ENTERED AGAINST ANY PERSON WHO IS AN
41 INMATE IN A CORRECTIONAL FACILITY IN THIS STATE WHOSE INCARCERATION
42 BEGAN PRIOR TO THE EFFECTIVE DATE OF THIS ACT; provided however, that
43 sections three and four of this act shall take effect on the three
44 hundred sixty-fifth day after it shall have become a law.

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