

4864

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 11, 2013

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Introduced by M. of A. STEVENSON, AUBRY, COOK -- Multi-Sponsored by --  
M. of A. ARROYO, HIKIND -- read once and referred to the Committee on  
Judiciary

AN ACT to amend the domestic relations law and the family court act, in  
relation to staying child support arrearages while the payor is incar-  
cerated

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

1     Section 1. Clause (i) of subparagraph 2 of paragraph b of subdivision  
2     9 of part B of section 236 of the domestic relations law, as amended by  
3     chapter 182 of the laws of 2010, is amended to read as follows:

4     (i) The court may modify an order of child support, including an order  
5     incorporating without merging an agreement or stipulation of the  
6     parties, upon a showing of a substantial change in circumstances.  
7     Incarceration shall not be a bar to finding a substantial change in  
8     circumstances provided such incarceration is not the result of non-pay-  
9     ment of a child support order, or an offense against the custodial  
10    parent or child who is the subject of the order or judgment. FOR  
11    PURPOSES OF THIS SECTION, A CHILD SUPPORT PAYMENT IS NOT PAST DUE, AND  
12    NO ARREARAGE ACCRUES DURING ANY PERIOD WHEN THE PARTY ORDERED TO PAY  
13    CHILD SUPPORT IS INCARCERATED, IS NOT ON WORK RELEASE, AND HAS NO  
14    RESOURCES WITH WHICH TO MAKE THE PAYMENT.

15    S 2. Paragraph (a) of subdivision 2 of section 451 of the family court  
16    act, as added by chapter 182 of the laws of 2010, is amended to read as  
17    follows:

18    (a) The court may modify an order of child support, including an order  
19    incorporating without merging an agreement or stipulation of the  
20    parties, upon a showing of a substantial change in circumstances.  
21    Incarceration shall not be a bar to finding a substantial change in  
22    circumstances provided such incarceration is not the result of non-pay-  
23    ment of a child support order, or an offense against the custodial

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

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1 parent or child who is the subject of the order or judgment. FOR  
2 PURPOSES OF THIS SECTION, A CHILD SUPPORT PAYMENT IS NOT PAST DUE, AND  
3 NO ARREARAGE ACCRUES DURING ANY PERIOD WHEN THE PARTY ORDERED TO PAY  
4 CHILD SUPPORT IS INCARCERATED, IS NOT ON WORK RELEASE, AND HAS NO  
5 RESOURCES WITH WHICH TO MAKE THE PAYMENT.  
6 S 3. This act shall take effect immediately.