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

4864

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

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 incarcerated

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

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

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

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

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

S 3. This act shall take effect immediately.