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

6495

2013-2014 Regular Sessions

I N A S S E M B L Y

April 4, 2013

Introduced by M. of A. GALEF -- Multi-Sponsored by -- M. of A. BOYLAND, CROUCH, McKEVITT -- read once and referred to the Committee on Codes

AN ACT to amend the social services law and the penal law, in relation to making it a criminal offense to violate a support order in certain situations

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

Section 1. Legislative intent. This legislation ensures that those who violate family court child support orders can be extradited from outside court jurisdictions to appear before a family court judge. It has become frequent practice for such persons to cross state lines to escape court-ordered spouse and child support payments. By criminalizing such violations, these violators can be extradited to the appropriate jurisdiction if apprehended on another matter such as a traffic violation. This legislation would provide that they are returned to the district attorney's office, and then referred to the appropriate family court judge. It is not the intent of this legislation to imprison those who fail to make child support payments because they are not employed or do not possess the financial resources to do so. The sole motivation of a family court judge is to protect and support families. The purpose of the legislation is to provide an additional means to accomplish that goal.

S 2. Section 111-b of the social services law is amended by adding a new subdivision 15-a to read as follows:

15-A. WHEN A SUPPORT OBLIGOR WHO IS OR WAS UNDER A COURT ORDER TO PAY CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT TO A SUPPORT COLLECTION UNIT ON BEHALF OF PERSONS RECEIVING SERVICES UNDER THIS TITLE HAS ACCUMULATED SUPPORT ARREARS EQUIVALENT TO OR GREATER THAN THE AMOUNT OF SUPPORT DUE PURSUANT TO SUCH ORDER FOR A PERIOD OF FOUR MONTHS, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL NOTIFY THE DISTRICT ATTORNEY IN THE COUNTY WHERE THE COURT ORDER OF SUPPORT WAS ENTERED OF

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

LBD04780-01-3

THE SUPPORT OBLIGOR'S FAILURE TO FULLY PAY THE SUPPORT ARREARS. UPON SUCH NOTIFICATION, THE DISTRICT ATTORNEY IS AUTHORIZED TO COMMENCE AN ACTION AGAINST THE SUPPORT OBLIGOR PURSUANT TO SECTIONS 260.36 AND 260.38 OF THE PENAL LAW. FOR PURPOSES OF DETERMINING WHETHER A SUPPORT OBLIGOR HAS ACCUMULATED SUPPORT ARREARS EQUIVALENT TO OR GREATER THAN THE AMOUNT OF SUPPORT DUE FOR A PERIOD OF FOUR MONTHS, THE AMOUNT OF ANY RETROACTIVE SUPPORT, OTHER THAN PERIODIC PAYMENTS OF RETROACTIVE SUPPORT WHICH ARE PAST DUE, SHALL NOT BE INCLUDED IN THE CALCULATION OF SUPPORT ARREARS PURSUANT TO THIS SECTION; HOWEVER, IF AT LEAST FOUR MONTHS OF SUPPORT ARREARS HAVE ACCUMULATED SUBSEQUENT TO THE DATE OF THE COURT ORDER, THE ENTIRE AMOUNT OF ANY RETROACTIVE SUPPORT MAY BE COLLECTED PURSUANT TO THE PROVISIONS OF THIS SECTION OR AS OTHERWISE AUTHORIZED BY LAW.

S 3. The penal law is amended by adding two new sections 260.36 and 260.38 to read as follows:

S 260.36 VIOLATING A SUPPORT ORDER IN THE SECOND DEGREE.

A PERSON IS GUILTY OF VIOLATING A SUPPORT ORDER IN THE SECOND DEGREE WHEN, BEING ORDERED TO PAY SUPPORT, HE OR SHE FAILS OR REFUSES, WITHOUT LAWFUL EXCUSE, TO PAY SUPPORT UNDER A SUPPORT OBLIGATION:

1. FOR A PERIOD LONGER THAN ONE YEAR;

2. IN AN AMOUNT GREATER THAN FIVE THOUSAND DOLLARS;

3. IN A MANNER SPECIFIED BY SUBDIVISION FIFTEEN-A OF SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW.

VIOLATING A SUPPORT ORDER IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 260.38 VIOLATING A SUPPORT ORDER IN THE FIRST DEGREE.

A PERSON IS GUILTY OF VIOLATING A SUPPORT ORDER IN THE FIRST DEGREE WHEN BEING ORDERED TO PAY SUPPORT, HE OR SHE FAILS OR REFUSES, WITHOUT LAWFUL EXCUSE, TO PAY SUPPORT UNDER A SUPPORT OBLIGATION:

1. FOR A PERIOD LONGER THAN TWO YEARS OR IN AN AMOUNT GREATER THAN TEN THOUSAND DOLLARS;

2. FOR A PERIOD LONGER THAN ONE YEAR OR IN AN AMOUNT GREATER THAN FIVE THOUSAND DOLLARS AND HE OR SHE HAS PREVIOUSLY BEEN CONVICTED IN THE PRECEDING FIVE YEARS OF A CRIME DEFINED IN SECTION 260.36 OF THIS ARTICLE OR A CRIME DEFINED IN THE PROVISIONS OF THIS SECTION; OR

3. IN A MANNER SPECIFIED BY SUBDIVISION FIFTEEN-A OF SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW.

VIOLATING A SUPPORT ORDER IN THE FIRST DEGREE IS A CLASS E FELONY.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.