

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

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

18 15-A. WHEN A SUPPORT OBLIGOR WHO IS OR WAS UNDER A COURT ORDER TO PAY
19 CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT TO A SUPPORT
20 COLLECTION UNIT ON BEHALF OF PERSONS RECEIVING SERVICES UNDER THIS TITLE
21 HAS ACCUMULATED SUPPORT ARREARS EQUIVALENT TO OR GREATER THAN THE AMOUNT
22 OF SUPPORT DUE PURSUANT TO SUCH ORDER FOR A PERIOD OF FOUR MONTHS, THE
23 OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL NOTIFY THE DISTRICT
24 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

1 THE SUPPORT OBLIGOR'S FAILURE TO FULLY PAY THE SUPPORT ARREARS. UPON
2 SUCH NOTIFICATION, THE DISTRICT ATTORNEY IS AUTHORIZED TO COMMENCE AN
3 ACTION AGAINST THE SUPPORT OBLIGOR PURSUANT TO SECTIONS 260.36 AND
4 260.38 OF THE PENAL LAW. FOR PURPOSES OF DETERMINING WHETHER A SUPPORT
5 OBLIGOR HAS ACCUMULATED SUPPORT ARREARS EQUIVALENT TO OR GREATER THAN
6 THE AMOUNT OF SUPPORT DUE FOR A PERIOD OF FOUR MONTHS, THE AMOUNT OF ANY
7 RETROACTIVE SUPPORT, OTHER THAN PERIODIC PAYMENTS OF RETROACTIVE SUPPORT
8 WHICH ARE PAST DUE, SHALL NOT BE INCLUDED IN THE CALCULATION OF SUPPORT
9 ARREARS PURSUANT TO THIS SECTION; HOWEVER, IF AT LEAST FOUR MONTHS OF
10 SUPPORT ARREARS HAVE ACCUMULATED SUBSEQUENT TO THE DATE OF THE COURT
11 ORDER, THE ENTIRE AMOUNT OF ANY RETROACTIVE SUPPORT MAY BE COLLECTED
12 PURSUANT TO THE PROVISIONS OF THIS SECTION OR AS OTHERWISE AUTHORIZED BY
13 LAW.

14 S 3. The penal law is amended by adding two new sections 260.36 and
15 260.38 to read as follows:

16 S 260.36 VIOLATING A SUPPORT ORDER IN THE SECOND DEGREE.

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

20 1. FOR A PERIOD LONGER THAN ONE YEAR;

21 2. IN AN AMOUNT GREATER THAN FIVE THOUSAND DOLLARS;

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

24 VIOLATING A SUPPORT ORDER IN THE SECOND DEGREE IS A CLASS A MISDEMEA-
25 NOR.

26 S 260.38 VIOLATING A SUPPORT ORDER IN THE FIRST DEGREE.

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

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

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

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

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

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