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

4010

2013-2014 Regular Sessions

I N S E N A T E

March 4, 2013

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, the family court act, the domestic relations law and the social services law, in relation to granting a person with child support obligations, who involuntarily had his or her employment terminated, with a temporary stay of criminal, civil and administrative penalties for nonpayment of such obligations

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

Section 1. The opening paragraph of subdivision 3 of section 3-503 of the general obligations law, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

If the applicant is not under an obligation to pay child support, the agency may issue or renew such license. If the applicant is under an obligation to pay child support and is not four months or more in arrears in the payment of child support, or meets the conditions of paragraphs b, c and d of this subdivision, the agency may issue or renew such license. [If] EXCEPT AS OTHERWISE PROVIDED IN SECTION FOUR HUNDRED FIFTY OF THE FAMILY COURT ACT, IF the applicant does not meet one of the above requirements, the agency may issue or renew such license but such license shall expire in six months unless before that time the applicant submits a written certification under oath, duly sworn and subscribed that he or she:

S 2. Part 5 of article 4 of the family court act is amended by adding a new section 450 to read as follows:

S 450. TEMPORARY STAY OF AN ORDER OF SUPPORT; INVOLUNTARY LOSS OF EMPLOYMENT. 1. ANY PERSON UNDER AN OBLIGATION TO PAY CHILD SUPPORT, WHO INVOLUNTARILY HAS HIS OR HER EMPLOYMENT TERMINATED, MAY, WITHIN THIRTY DAYS OF SUCH INVOLUNTARY TERMINATION OF EMPLOYMENT, PETITION THE COURT FOR A STAY OF THE ENFORCEMENT OF THE OBLIGATION TO PAY CHILD SUPPORT AND

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

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THE ENFORCEMENT OF ANY AND ALL CIVIL, CRIMINAL AND ADMINISTRATIVE PENALTIES FOR THE FAILURE TO PAY CHILD SUPPORT FOR A PERIOD OF SIX MONTHS. THE COURT SHALL GRANT SUCH A PETITION TO ANY PERSON ONLY ONCE AND FOR GOOD CAUSE SHOWN. ANY PETITIONER WHO FAILS TO SUBMIT HIS OR HER PETITION IN A TIMELY MANNER SHALL FORFEIT HIS OR HER RIGHT TO APPLY THEREFOR PURSUANT TO THIS SECTION.

2. UPON THE GRANTING OF A TEMPORARY STAY PURSUANT TO THIS SECTION AND DURING THE DURATION OF SUCH STAY:

(A) ANY CRIMINAL PROCEEDING COMMENCED PURSUANT TO SECTION 260.05 OR 260.06 OF THE PENAL LAW SHALL BE DISMISSED;

(B) NO LICENSE SHALL BE DENIED PURSUANT TO SECTION 3-503 OF THE GENERAL OBLIGATIONS LAW;

(C) THE OBLIGATION TO PAY CHILD SUPPORT PURSUANT TO A PREEXISTING COURT ORDER SHALL BE STAYED, AND NO INTEREST OR PENALTY FOR FAILURE TO PAY SUCH SUPPORT SHALL ACCRUE. HOWEVER, UPON EXPIRATION OF A STAY GRANTED PURSUANT TO THIS SECTION, THE CHILD SUPPORT NOT PAID DURING THE STAY SHALL BECOME DUE;

(D) THE COURT SHALL DETERMINE AND ORDER THE PETITIONER TO PAY AN AMOUNT OF CHILD SUPPORT AS THE COURT FINDS THAT IS JUST AND APPROPRIATE, AND THAT THE PETITIONER CAN REASONABLY AFFORD TO PAY;

(E) THE COURT SHALL ORDER THE PETITIONER TO PARTICIPATE IN AND SUCCESSFULLY COMPLETE APPROPRIATE JOB TRAINING AND PLACEMENT PROGRAMS; AND

(F) THE COURT SHALL PROVIDE NOTICE OF SUCH STAY TO ALL INTERESTED PARTIES, INCLUDING THE DISTRICT ATTORNEY AND THE CHILD SUPPORT ENFORCEMENT UNIT.

S 3. Paragraph (b) of subdivision 4 of section 440 of the family court act, as added by chapter 182 of the laws of 2010, is amended to read as follows:

(b) informing the parties of their right to seek a modification of the child support order upon a showing of:

(i) a substantial change in circumstances; or

(ii) that three years have passed since the order was entered, last modified or adjusted; or

(iii) there has been a change in either party's gross income by fifteen percent or more since the order was entered, last modified, or adjusted;

however, if the parties have specifically opted out of subparagraph (ii) or (iii) of this paragraph in a validly executed agreement or stipulation, then that basis to seek modification does not apply[.], AND

(C) INFORMING THE RESPONDENT THAT HE OR SHE MAY, UPON THE INVOLUNTARY TERMINATION OF HIS OR HER EMPLOYMENT, ON A ONE-TIME BASIS, APPLY FOR A SIX MONTH STAY OF THE ENFORCEMENT OF THE ORDER PURSUANT TO SECTION FOUR HUNDRED FIFTY OF THIS ARTICLE.

S 4. Subdivision 7 of part B of section 236 of the domestic relations law is amended by adding a new paragraph e to read as follows:

E. ANY CHILD SUPPORT ORDER MADE BY THE COURT IN ANY PROCEEDING UNDER THE PROVISIONS OF THIS SECTION SHALL INCLUDE, ON ITS FACE, A NOTICE PRINTED OR TYPEWRITTEN IN A SIZE EQUAL TO AT LEAST EIGHT POINT BOLD TYPE INFORMING THE RESPONDENT THAT HE OR SHE MAY, UPON THE INVOLUNTARY TERMINATION OF HIS OR HER EMPLOYMENT, ON A ONE-TIME BASIS, APPLY FOR A SIX MONTH STAY OF THE ENFORCEMENT OF THE ORDER PURSUANT TO SECTION FOUR HUNDRED FIFTY OF THE FAMILY COURT ACT.

S 5. The social services law is amended by adding a new section 101-b to read as follows:

S 101-B. PUBLIC EDUCATION; TEMPORARY STAY OF AN ORDER OF SUPPORT. THE COMMISSIONER OF TEMPORARY AND DISABILITY ASSISTANCE SHALL DEVELOP AND IMPLEMENT A PUBLIC EDUCATION PROGRAM TO PROVIDE NOTICE OF THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY OF THE FAMILY COURT ACT RELATING TO THE GRANTING OF A TEMPORARY STAY OF THE OBLIGATION TO PAY CHILD SUPPORT UPON THE INVOLUNTARY TERMINATION OF EMPLOYMENT.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.