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

7127

2015-2016 Regular Sessions

I N A S S E M B L Y

April 24, 2015

Introduced by M. of A. LAWRENCE -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to income deduction for support enforcement

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

Section 1. Paragraph 1 of subdivision (b) of section 5241 of the civil practice law and rules, as amended by chapter 270 of the laws of 2013, is amended to read as follows:

(1) When a debtor is in default, an execution for support enforcement may be issued by the support collection unit, or by the sheriff, the clerk of court or the attorney for the creditor as an officer of the court. Where a debtor is receiving or will receive income, an execution for deductions therefrom in amounts not to exceed the limits set forth in subdivision (g) of this section may be served upon an employer or income payor after notice to the debtor. The amount of the deductions to be withheld shall be sufficient to ensure compliance with the direction in the order of support, and shall include an additional amount to be applied to the reduction of arrears. The issuer may amend the execution before or after service upon the employer or income payor to reflect additional arrears or payments made by the debtor after notice pursuant to subdivision (d) of this section, or to conform the execution to the facts found upon a determination made pursuant to subdivision (e) of this section. AN EMPLOYER OR INCOME PAYER SHALL INDICATE ON THE PAYCHECK STUB OF AN EMPLOYEE WHOSE INCOME IS SUBJECT TO AN ORDER UNDER THIS SECTION, THAT THE INCOME IS BEING WITHHELD TO SATISFY AN ORDER OF CHILD SUPPORT. SUCH AMOUNT SHALL BE LABELED ON THE PAYCHECK STUB AS "PARENTAL CONTRIBUTION".

S 2. Subdivision (c) of section 5242 of the civil practice law and rules, as amended by chapter 270 of the laws of 2013, is amended to read as follows:

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

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(c) When the court enters an order of support on behalf of persons other than those in receipt of public assistance or in receipt of services pursuant to section one hundred eleven-g of the social services law, or registers pursuant to article five-B of the family court act an order of support which has been issued by a foreign jurisdiction and which is not to be enforced pursuant to title six-A of article three of the social services law, where the court determines that the debtor has income that could be subject to an income deduction order, the court shall issue an income deduction order to obtain payment of the order at the same time it issues or registers the order. AN EMPLOYER SHALL INDICATE ON THE PAYCHECK STUB OF AN EMPLOYEE WHOSE INCOME IS SUBJECT TO AN ORDER UNDER THIS SECTION, THAT THE INCOME IS BEING WITHHELD TO SATISFY AN ORDER OF CHILD SUPPORT. SUCH AMOUNT SHALL BE LABELED ON THE PAYCHECK STUB AS "PARENTAL CONTRIBUTION". The court shall enter the income deduction order unless the court finds and sets forth in writing (i) the reasons that there is good cause not to require immediate income withholding; or (ii) that an agreement providing for an alternative arrangement has been reached between the parties. Such agreement may include a written agreement or an oral stipulation, made on the record, that results in a written order. For purposes of this subdivision, good cause shall mean substantial harm to the debtor. The absence of an arrearage or the mere issuance of an income deduction order shall not constitute good cause. When the court determines that there is good cause not to issue an income deduction order immediately or when the parties agree to an alternative arrangement as provided in this subdivision, the court shall state expressly in the order of support the basis for its decision.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.