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

7637

2015-2016 Regular Sessions

I N A S S E M B L Y

May 20, 2015

Introduced by M. of A. SEAWRIGHT, WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to spousal maintenance and child support in supreme and family court

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

Section 1. Subclauses (G) and (H) of clause (iii) of subparagraph 5 of paragraph (b) of subdivision 1 of section 413 of the family court act, as added by chapter 567 of the laws of 1989, are amended and a new subclause (I) is added to read as follows:

(G) fellowships and stipends, [and]

(H) annuity payments[;], AND

(I) ALIMONY OR MAINTENANCE ACTUALLY PAID OR TO BE PAID TO A SPOUSE WHO IS A PARTY TO THE INSTANT ACTION PURSUANT TO AN EXISTING COURT ORDER OR CONTAINED IN THE ORDER TO BE ENTERED BY THE COURT, OR PURSUANT TO A VALIDLY EXECUTED WRITTEN AGREEMENT, IN WHICH EVENT THE ORDER OR AGREEMENT SHALL PROVIDE FOR A SPECIFIC ADJUSTMENT, IN ACCORDANCE WITH THIS SUBDIVISION, IN THE AMOUNT OF CHILD SUPPORT PAYABLE UPON THE TERMINATION OF ALIMONY OR MAINTENANCE TO SUCH SPOUSE; PROVIDED, HOWEVER, THAT THE SPECIFIC ADJUSTMENT IN THE AMOUNT OF CHILD SUPPORT IS WITHOUT PREJUDICE TO EITHER PARTY'S RIGHT TO SEEK A MODIFICATION IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTICLE. IN AN ACTION OR PROCEEDING TO MODIFY AN ORDER OF CHILD SUPPORT, INCLUDING AN ORDER INCORPORATING WITHOUT MERGING AN AGREEMENT, ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL NOT, BY THEMSELVES, CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTICLE.

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

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S 2. Subclause (C) of clause (vii) of subparagraph 5 of paragraph (b) of subdivision 1 of section 413 of the family court act, as added by chapter 567 of the laws of 1989, is amended to read as follows:

(C) alimony or maintenance actually paid or to be paid to a spouse [that] WHO is a party to the instant action pursuant to an existing court order or contained in the order to be entered by the court, or pursuant to a validly executed written agreement, [provided] IN WHICH EVENT the order or agreement [provides] SHALL PROVIDE for a specific adjustment, in accordance with this subdivision, in the amount of child support payable upon the termination of alimony or maintenance to such spouse[,]; PROVIDED, HOWEVER, THAT THE SPECIFIC ADJUSTMENT IN THE AMOUNT OF CHILD SUPPORT IS WITHOUT PREJUDICE TO EITHER PARTY'S RIGHT TO SEEK A MODIFICATION IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTICLE. IN AN ACTION OR PROCEEDING TO MODIFY AN ORDER OF CHILD SUPPORT, INCLUDING AN ORDER INCORPORATING WITHOUT MERGING AN AGREEMENT, ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL NOT, BY THEMSELVES, CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTICLE.

S 3. Subclauses (G) and (H) of clause (iii) of subparagraph 5 of paragraph (b) of subdivision 1-b of section 240 of the domestic relations law, as added by chapter 567 of the laws of 1989, are amended and a new subclause (I) is added to read as follows:

(G) fellowships and stipends, [and]

(H) annuity payments[;], AND

(I) ALIMONY OR MAINTENANCE ACTUALLY PAID OR TO BE PAID TO A SPOUSE WHO IS A PARTY TO THE INSTANT ACTION PURSUANT TO AN EXISTING COURT ORDER OR CONTAINED IN THE ORDER TO BE ENTERED BY THE COURT, OR PURSUANT TO A VALIDLY EXECUTED WRITTEN AGREEMENT, IN WHICH EVENT THE ORDER OR AGREEMENT SHALL PROVIDE FOR A SPECIFIC ADJUSTMENT, IN ACCORDANCE WITH THIS SUBDIVISION, IN THE AMOUNT OF CHILD SUPPORT PAYABLE UPON THE TERMINATION OF ALIMONY OR MAINTENANCE TO SUCH SPOUSE; PROVIDED, HOWEVER, THAT THE SPECIFIC ADJUSTMENT IN THE AMOUNT OF CHILD SUPPORT IS WITHOUT PREJUDICE TO EITHER PARTY'S RIGHT TO SEEK A MODIFICATION IN ACCORDANCE WITH SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION NINE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THIS ARTICLE. IN AN ACTION OR PROCEEDING TO MODIFY AN ORDER OF CHILD SUPPORT, INCLUDING AN ORDER INCORPORATING WITHOUT MERGING AN AGREEMENT, ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL NOT, BY THEMSELVES, CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES PURSUANT TO PARAGRAPH B OF SUBDIVISION NINE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THIS ARTICLE.

S 4. Subclause (C) of clause (vii) of subparagraph 5 of paragraph (b) of subdivision 1-b of section 240 of the domestic relations law, as added by chapter 567 of the laws of 1989, is amended to read as follows:

(C) alimony or maintenance actually paid or to be paid to a spouse [that] WHO is a party to the instant action pursuant to an existing court order or contained in the order to be entered by the court, or pursuant to a validly executed written agreement, [provided] IN WHICH EVENT the order or agreement [provides] SHALL PROVIDE for a specific adjustment, in accordance with this subdivision, in the amount of child support payable upon the termination of alimony or maintenance to such spouse[,]; PROVIDED, HOWEVER, THAT THE SPECIFIC ADJUSTMENT IN THE AMOUNT OF CHILD SUPPORT IS WITHOUT PREJUDICE TO EITHER PARTY'S RIGHT TO SEEK A MODIFICATION IN ACCORDANCE WITH SUBPARAGRAPH TWO OF PARAGRAPH B OF

SUBDIVISION NINE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THIS ARTICLE. IN AN ACTION OR PROCEEDING TO MODIFY AN ORDER OF CHILD SUPPORT, INCLUDING AN ORDER INCORPORATING WITHOUT MERGING AN AGREEMENT, ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL NOT, BY THEMSELVES, CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES PURSUANT TO PARAGRAPH B OF SUBDIVISION NINE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THIS ARTICLE.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.