

5691

2015-2016 Regular Sessions

I N   S E N A T E

May 28, 2015

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Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed 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:

1     Section 1. Subclauses (G) and (H) of clause (iii) of subparagraph 5 of  
2     paragraph (b) of subdivision 1 of section 413 of the family court act,  
3     as added by chapter 567 of the laws of 1989, are amended and a new  
4     subclause (I) is added to read as follows:  
5     (G) fellowships and stipends, [and]  
6     (H) annuity payments[;], AND  
7     (I) ALIMONY OR MAINTENANCE ACTUALLY PAID OR TO BE PAID TO A SPOUSE WHO  
8     IS A PARTY TO THE INSTANT ACTION PURSUANT TO AN EXISTING COURT ORDER OR  
9     CONTAINED IN THE ORDER TO BE ENTERED BY THE COURT, OR PURSUANT TO A  
10    VALIDLY EXECUTED WRITTEN AGREEMENT, IN WHICH EVENT THE ORDER OR AGREE-  
11    MENT SHALL PROVIDE FOR A SPECIFIC ADJUSTMENT, IN ACCORDANCE WITH THIS  
12    SUBDIVISION, IN THE AMOUNT OF CHILD SUPPORT PAYABLE UPON THE TERMINATION  
13    OF ALIMONY OR MAINTENANCE TO SUCH SPOUSE; PROVIDED, HOWEVER, THAT THE  
14    SPECIFIC ADJUSTMENT IN THE AMOUNT OF CHILD SUPPORT IS WITHOUT PREJUDICE  
15    TO EITHER PARTY'S RIGHT TO SEEK A MODIFICATION IN ACCORDANCE WITH SUBDI-  
16    VISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTICLE. IN AN  
17    ACTION OR PROCEEDING TO MODIFY AN ORDER OF CHILD SUPPORT, INCLUDING AN  
18    ORDER INCORPORATING WITHOUT MERGING AN AGREEMENT, ISSUED PRIOR TO THE  
19    EFFECTIVE DATE OF THIS SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL  
20    NOT, BY THEMSELVES, CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES  
21    PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED  
22    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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1 S 2. Subclause (C) of clause (vii) of subparagraph 5 of paragraph (b)  
2 of subdivision 1 of section 413 of the family court act, as added by  
3 chapter 567 of the laws of 1989, is amended to read as follows:

4 (C) alimony or maintenance actually paid or to be paid to a spouse  
5 [that] WHO is a party to the instant action pursuant to an existing  
6 court order or contained in the order to be entered by the court, or  
7 pursuant to a validly executed written agreement, [provided] IN WHICH  
8 EVENT the order or agreement [provides] SHALL PROVIDE for a specific  
9 adjustment, in accordance with this subdivision, in the amount of child  
10 support payable upon the termination of alimony or maintenance to such  
11 spouse[,]; PROVIDED, HOWEVER, THAT THE SPECIFIC ADJUSTMENT IN THE AMOUNT  
12 OF CHILD SUPPORT IS WITHOUT PREJUDICE TO EITHER PARTY'S RIGHT TO SEEK A  
13 MODIFICATION IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION FOUR  
14 HUNDRED FIFTY-ONE OF THIS ARTICLE. IN AN ACTION OR PROCEEDING TO MODIFY  
15 AN ORDER OF CHILD SUPPORT, INCLUDING AN ORDER INCORPORATING WITHOUT  
16 MERGING AN AGREEMENT, ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS  
17 SUBCLAUSE, THE PROVISIONS OF THIS SUBCLAUSE SHALL NOT, BY THEMSELVES,  
18 CONSTITUTE A SUBSTANTIAL CHANGE OF CIRCUMSTANCES PURSUANT TO PARAGRAPH  
19 (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FIFTY-ONE OF THIS ARTI-  
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21 S 3. Subclauses (G) and (H) of clause (iii) of subparagraph 5 of para-  
22 graph (b) of subdivision 1-b of section 240 of the domestic relations  
23 law, as added by chapter 567 of the laws of 1989, are amended and a new  
24 subclause (I) is added to read as follows:

25 (G) fellowships and stipends, [and]

26 (H) annuity payments[;], AND

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

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

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

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

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