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

553

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. O'DONNELL, AUBRY -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, the criminal procedure law and the domestic relations law, in relation to child support obligations of inmates; and to amend section 13 of chapter 182 of the laws of 2010 amending the tax law, the family court act, the domestic relations law and the social services law relating to the modification of child support orders, employer reporting of new hires and quarterly earnings, work programs and the noncustodial earned income tax credit, in relation to the effectiveness of certain provisions thereof

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

Section 1. The correction law is amended by adding a new section 149-a to read as follows:

S 149-A. NOTIFICATION TO INMATES OF THEIR ABILITY TO SEEK MODIFICATIONS OF AN ORDER OF CHILD SUPPORT. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT SHALL NOTIFY ALL INMATES RESIDING IN A CORRECTIONAL FACILITY WITHIN THE STATE OF NEW YORK OF THE POSSIBILITY THAT THEY MAY BE ABLE TO MODIFY AN EXISTING CHILD SUPPORT ORDER BASED ON A "SUBSTANTIAL CHANGE IN CIRCUMSTANCES" IN ACCORDANCE WITH SECTION TWO HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW AND SECTION FOUR HUNDRED FIFTY-ONE OF THE FAMILY COURT ACT.

S 2. Subdivision 1 of section 390.30 of the criminal procedure law is amended to read as follows:

1. The investigation. The pre-sentence investigation consists of the gathering of information with respect to the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, and the defendant's social history, employment history, family situation, economic status, INCLUDING CHILD SUPPORT OBLIGATIONS, education, and personal habits. Such investigation may also include any

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

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other matter which the agency conducting the investigation deems relevant to the question of sentence, and must include any matter the court directs to be included.

S 3. Subdivision 9 of part B of section 236 of the domestic relations law is amended by adding a new paragraph e to read as follows:

E. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON AN APPLICATION FOR A MODIFICATION OF CHILD SUPPORT PURSUANT TO THIS SUBDIVISION, THE COURT IN ITS DISCRETION, MAY ISSUE AN ORDER DIRECTING THAT AN ORDER FOR PAYMENT OF CHILD SUPPORT BE STAYED FOR A PERIOD OF UP TO ONE HUNDRED EIGHTY DAYS FOLLOWING THE RELEASE OF A NON-CUSTODIAL PARENT FROM A PERIOD OF INCARCERATION. ARREARS SHALL ACCRUE DURING SUCH PERIOD. THE ORIGINAL ORDER, OR ANY MODIFIED ORDER SHALL BE ENFORCEABLE AT THE END OF SUCH STAY.

S 4. Section 13 of chapter 182 of the laws of 2010 amending the tax law, the family court act, the domestic relations law and the social services law relating to the modification of child support orders, employer reporting of new hires and quarterly earnings, work programs and the noncustodial earned income tax credit is amended to read as follows:

S 13. This act shall take effect on the ninetieth day after it shall have become law; provided however, that sections six and seven of this act shall apply to any action or proceeding to modify any order of child support entered on or after the effective date of this act except that if the child support order incorporated without merging a valid agreement or stipulation of the parties, the amendments regarding the modification of a child support order set forth in sections six and seven of this act shall only apply if the incorporated agreement or stipulation was executed on or after this act's effective date, AND EXCEPT THAT SECTIONS SIX AND SEVEN OF THIS ACT SHALL APPLY TO ANY ACTION OR PROCEEDING TO MODIFY A CHILD SUPPORT ORDER ENTERED AGAINST ANY PERSON WHO IS AN INMATE IN A CORRECTIONAL FACILITY IN THIS STATE WHOSE INCARCERATION BEGAN PRIOR TO THE EFFECTIVE DATE OF THIS ACT; provided however, that sections three and four of this act shall take effect on the three hundred sixty-fifth day after it shall have become a law.

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