

5691

2015-2016 Regular Sessions

I N S E N A T E

May 28, 2015

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-
20 CLE.

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.