

STATE OF NEW YORK

8344

2019-2020 Regular Sessions

IN ASSEMBLY

June 14, 2019

Introduced by M. of A. WRIGHT, DINOWITZ -- (at request of the Office of Temporary and Disability Assistance) -- 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 establishment and modification of child support orders; and to amend the social services law, in relation to an increase in the annual service fee for child support services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Clause (v) of subparagraph 5 of paragraph (b) of subdivision
2 1 of section 413 of the family court act, as amended by chapter 567
3 of the laws of 1989, is amended to read as follows:

4 (v) an amount imputed as income based upon the parent's former
5 resources or income, if the court determines that a parent has reduced
6 resources or income in order to reduce or avoid the parent's obligation
7 for child support; provided that incarceration shall not be considered
8 voluntary unemployment, unless such incarceration is the result of non-
9 payment of a child support order, or an offense against the custodial
10 parent or child who is the subject of the order or judgment;

11 § 2. Clause (v) of subparagraph 5 of paragraph (b) of subdivision 1-b
12 of section 240 of the domestic relations law, as added by chapter 567 of
13 the laws of 1989, is amended to read as follows:

14 (v) an amount imputed as income based upon the parent's former
15 resources or income, if the court determines that a parent has reduced
16 resources or income in order to reduce or avoid the parent's obligation
17 for child support; provided that incarceration shall not be considered
18 voluntary unemployment, unless such incarceration is the result of non-
19 payment of a child support order, or an offense against the custodial
20 parent or child who is the subject of the order or judgment;

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

LBD09199-02-9

1 § 3. Paragraph (a) of subdivision 3 of section 451 of the family court
2 act, as amended by chapter 373 of the laws of 2014, is amended to read
3 as follows:

4 (a) The court may modify an order of child support, including an order
5 incorporating without merging an agreement or stipulation of the
6 parties, upon a showing of a substantial change in circumstances.
7 Incarceration shall not be considered voluntary unemployment and shall
8 not be a bar to finding a substantial change in circumstances provided
9 such incarceration is not the result of non-payment of a child support
10 order, or an offense against the custodial parent or child who is the
11 subject of the order or judgment.

12 § 4. Clause (i) of subparagraph 2 of paragraph (b) of subdivision 9 of
13 part B of section 236 of the domestic relations law, as amended by chap-
14 ter 182 of the laws of 2010, is amended to read as follows:

15 (i) The court may modify an order of child support, including an order
16 incorporating without merging an agreement or stipulation of the
17 parties, upon a showing of a substantial change in circumstances.
18 Incarceration shall not be considered voluntary unemployment and shall
19 not be a bar to finding a substantial change in circumstances provided
20 such incarceration is not the result of non-payment of a child support
21 order, or an offense against the custodial parent or child who is the
22 subject of the order or judgment.

23 § 5. Paragraph (a) of subdivision 3 of section 111-g of the social
24 services law, as added by section 1 of part Z of chapter 57 of the laws
25 of 2008, is amended to read as follows:

26 (a) A person who is receiving child support services pursuant to this
27 section who has never received assistance pursuant to title IV-A of the
28 federal social security act shall be subject to an annual service fee of
29 [~~twenty-five~~] thirty-five dollars for each child support case if at
30 least five hundred fifty dollars of support has been collected in the
31 federal fiscal year. Where a custodial parent has children with differ-
32 ent noncustodial parents, the order payable by each noncustodial parent
33 shall be a separate child support case for the purpose of imposing an
34 annual service fee. The fee shall be deducted from child support
35 payments received on behalf of the individual receiving services.

36 § 6. This act shall take effect immediately and shall apply to any
37 pending action or proceeding.