STATE OF NEW YORK

6560

2019-2020 Regular Sessions

IN SENATE

June 16, 2019

Introduced by Sen. PERSAUD -- (at request of the Office of Temporary and Disability Assistance) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

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

§ 2. Clause (v) 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:

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

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

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

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

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

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

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

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