

STATE OF NEW YORK

841

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

Introduced by Sens. MONTGOMERY, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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:

§ 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.

§ 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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1 other matter which the agency conducting the investigation deems rele-
2 vant to the question of sentence, and must include any matter the court
3 directs to be included.

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

6 e. Notwithstanding any other provision of law to the contrary, upon an
7 application for a modification of child support pursuant to this subdi-
8 vision, the court in its discretion, may issue an order directing that
9 an order for payment of child support be stayed for a period of up to
10 one hundred eighty days following the release of a non-custodial parent
11 from a period of incarceration. Arrears shall accrue during such peri-
12 od. The original order, or any modified order shall be enforceable at
13 the end of such stay.

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

20 § 13. This act shall take effect on the ninetieth day after it shall
21 have become law; provided however, that sections six and seven of this
22 act shall apply to any action or proceeding to modify any order of child
23 support entered on or after the effective date of this act except that
24 if the child support order incorporated without merging a valid agree-
25 ment or stipulation of the parties, the amendments regarding the modifi-
26 cation of a child support order set forth in sections six and seven of
27 this act shall only apply if the incorporated agreement or stipulation
28 was executed on or after this act's effective date, and except that
29 sections six and seven of this act shall apply to any action or proceed-
30 ing to modify a child support order entered against any person who is an
31 inmate in a correctional facility in this state whose incarceration
32 began prior to the effective date of this act; provided however, that
33 sections three and four of this act shall take effect on the three
34 hundred sixty-fifth day after it shall have become a law.

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