STATE OF NEW YORK

9481

IN ASSEMBLY

March 7, 2022

Introduced by M. of A. GALEF -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to consideration by the courts in awarding temporary possession of a marital residence during the pending of a divorce action

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

Section 1. Section 234 of the domestic relations law, as amended by chapter 685 of the laws of 1963, is amended to read as follows:

§ 234. Title to or occupancy and possession of property. **1.** In any action for divorce, for a separation, for an annulment or to declare the nullity of a void marriage, the court may (1) determine any question as to the title to property arising between the parties, and (2) make such direction, between the parties, concerning the possession **(pendente lite or otherwise)** of property, as in the court's discretion justice requires having regard to the circumstances of the case and of the respective parties**, which circumstances shall include, but not be limited to, the following:**

(a) the best interests of the child or children;

(b) incidents of domestic violence, which shall include (i) verbal abuse; (ii) physical abuse; and/or (iii) domestic violence as defined by the New York state office for prevention of domestic violence;

(c) the financial circumstances of the parties, including, without limitation, whether or not a pendente lite sale of the residence that is the subject of the application for exclusive use and occupancy should be directed; and

(d) any other factor which the court shall expressly find to be just and proper.

2. Such direction may be made in the final judgment, or by one or more orders from time to time before or subsequent to final judgment, or by both such order or orders and final judgment. Where the title to real property is affected, a copy of such judgment, order or decree, duly certified by the clerk of the court wherein said judgement was rendered, shall be recorded in the office of the recording officer of the county

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

LBD14653-01-2

in which such property is situated, as provided by section two hundred ninety-seven-b of the real property law.

§ 2. This act shall take effect immediately and shall apply to actions and proceedings commenced on or after such effective date.