STATE OF NEW YORK

7804

2021-2022 Regular Sessions

IN ASSEMBLY

May 21, 2021

Introduced by M. of A. LAVINE -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and domestic relations law, in relation to recurring payments to the non-custodial parent in special circumstances in child support proceedings involving joint or shared custody of children

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

Section 1. Paragraphs (h), (i), (j), (k) and (l) of subdivision 1 of section 413 of the family court act are relettered paragraphs (i), (j), (k), (l) and (m) and a new paragraph (h) is added to read as follows:

(h) Notwithstanding the above, provided that the child is not receiving temporary assistance for needy families, the court may direct the custodial parent to pay a recurring sum of money to the non-custodial parent where the court determines that: (1) the non-custodial parent has been awarded extended visitation; (2) the non-custodial parent is required to pay only the statutory minimum amount of child support to the custodial parent pursuant to paragraph (d) of this subdivision; (3) there is a vast disparity in the parties' income in favor of the custodial parent, and the non-custodial parent does not have the ability to earn sufficient income to provide for the child's basic needs when in his or her care; (4) such payment is necessary to enable the non-custodial parent to provide for the child's basic needs when in the care of the non-custodial parent; (5) directing the custodial parent to make such payment would not result in insufficient funds in the household of the custodial parent to meet the basic needs of the child; or (6) to do otherwise would not be in the child's best interests and would cause the child to unfairly bear the economic burden of the parental separation. Such payment shall be deemed child support for the purposes of enforcement and shall be deemed income to the non-custodial parent.

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

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§ 2. Paragraphs (h), (i), (j), (k) and (l) of subdivision 1-b of section 240 of the domestic relations law are relettered paragraphs (i), (j), (k), (l) and (m) and a new paragraph (h) is added to read as follows:

(h) Notwithstanding the above, provided that the child is not receiving temporary assistance for needy families, the court may direct the custodial parent to pay a recurring sum of money to the non-custodial parent where the court determines that: (1) the non-custodial parent has been awarded extended visitation; (2) the non-custodial parent is required to pay only the statutory minimum amount of child support to the custodial parent pursuant to paragraph (d) of this subdivision; (3) there is a vast disparity in the parties' income in favor of the custodial parent, and the non-custodial parent does not have the ability to earn sufficient income to provide for the child's basic needs when in his or her care; (4) such payment is necessary to enable the non-custodial parent to provide for the child's basic needs when in the care of the non-custodial parent; (5) directing the custodial parent to make such payment would not result in insufficient funds in the household of the custodial parent to meet the basic needs of the child; or (6) to do otherwise would not be in the child's best interests and would cause the child to unfairly bear the economic burden of the parental separation. Such payment shall be deemed child support for the purposes of enforcement and shall be deemed income to the non-custodial parent.

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