STATE OF NEW YORK

4908

2021-2022 Regular Sessions

IN SENATE

February 18, 2021

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law and the family court act, in relation to visitation and custody rights involving non-United States citizens

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

Section 1. Section 240 of the domestic relations law is amended by adding a new subdivision 1-d to read as follows:

1-d. Notwithstanding any other provision of this chapter to the contrary, no court shall make an order providing for visitation or custody of a minor who is a United States citizen to a person who resides or plans to reside outside the United States when the other party to such action is a United States citizen and objects to such visitation or custody.

§ 2. Section 651 of the family court act is amended by adding a new subdivision (g) to read as follows:

(g) Visitation and custody rights unenforceable; non-United States citizens. No visitation or custody order shall be enforceable by a person who resides or plans to reside outside the United States when the subject of such visitation or custody order is a minor who is a United States citizen and the other party to such action is a United States citizen and objects to such visitation or custody.

§ 3. Section 75-e of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

§ 75-e. Effect of child custody determination. A child custody determination made by a court of this state that had jurisdiction under this article binds all persons who have been served in accordance with the laws of this state or notified in accordance with section seventy-five-g of this title or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons,

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

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the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified or except to the extent that enforcement of an order would violate subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act.

§ 4. Subdivision 2 of section 75 of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

2. It is the intent of the legislature in enacting this article to provide an effective mechanism to obtain and enforce orders of custody and visitation across state lines and to do so in a manner that ensures that the safety of the children is paramount and that victims of domestic violence and child abuse are protected. It is further the intent of the legislature that this article be construed so as to ensure that custody and visitation by perpetrators of domestic violence or homicide of a parent, legal custodian, legal guardian, sibling, half-sibling or step-sibling of a child [~~is~~] **or non-United States citizen are** restricted pursuant to [~~subdivision~~] **subdivisions** one-c **and one-d** of section two hundred forty of this chapter and section one thousand eighty-five **and subdivision (g) of section six hundred fifty-one** of the family court act.

§ 5. Subdivision 1 of section 77-b of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

1. A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this article or the determination was made under factual circumstances meeting the jurisdictional standards of this article and the determination has not been modified in accordance with this article; provided, however, that recognition and enforcement of the determination would not violate subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act.

§ 6. The opening paragraph of subdivision 1 of section 77-c of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

A court of this state which does not have jurisdiction to modify a child custody determination, may, if consistent with subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act, issue a temporary order enforcing:

§ 7. Subdivision 2 of section 77-e of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

2. A court of this state shall recognize and enforce, but may not modify, except in accordance with title two of this article, a registered child custody determination of a court of another state; provided, however, that recognition and enforcement of the determination would not violate subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act.

§ 8. Subparagraph (ii) of paragraph (a) of subdivision 1 of section 77-i of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under title two of this article or enforcement of

the determination would violate subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act; or

§ 9. Section 77-l of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

§ 77-l. Recognition and enforcement. A court of this state shall accord full faith and credit to an order issued by another state and consistent with this article which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under title two of this article, unless recognition and enforcement would violate subdivision one-c **or one-d** of section two hundred forty of this chapter or section one thousand eighty-five **or subdivision (g) of section six hundred fifty-one** of the family court act.

§ 10. This act shall take effect immediately.