STATE OF NEW YORK

5269

2023-2024 Regular Sessions

IN SENATE

March 1, 2023

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act, in relation to authorizing expedited settlement conference processes for establishing child support orders

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

Section 1. Subdivisions (c) and (d) of section 439-a of the family court act are relettered (d) and (e) and a new subdivision (c) is added to read as follows:

(c) (i) Purpose. To authorize the development of expedited settlement conference processes in each family court to facilitate the establishment of child support orders pursuant to section four hundred thirteen of this article consistent with the state's child support guidelines for parents who agree on child support and seek to voluntarily engage in a settlement conference, expedited settlement conferences shall be authorized and developed pursuant to this section. Such expedited settlement conferences are not for the purpose of parents' negotiation or mediation of disputes concerning income or issues related to the determination of child support. Further, such expedited settlement conferences are not for use in actions brought by public welfare officials for support pursuant to subdivision one of section one hundred two of the social services law. The court administration shall promulgate or amend forms as necessary to implement the terms of this section.

(ii) Initiating the expedited settlement conference. (A) An expedited settlement conference may be initiated:

(1) by a petitioner selecting the option for a conference on the petition, with no objection by the respondent.

(2) by referral from a family court.

(B) Parties seeking to engage in an expedited settlement conference shall apply for child support services pursuant to title IV-d of the

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

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federal social security act, either by indication on the petition for support or on the stipulation for child support.

(C) The following cases shall be excluded from an expedited settlement conference process:

(1) Cases that involve minor parents who are unrepresented by legal counsel.

(2) Cases that require a determination of parentage.

(3) Cases between parties who are also parties to a temporary or final order of protection issued by any court of competent jurisdiction.

(4) Cases that involve spousal support in addition to child support.

(iii) Exchange of financial affidavits and supporting documentation. The parties shall exchange financial affidavits and supporting documentation in accordance with section four hundred twenty-four-a of this article, unless the parties expressly waive all or further financial disclosure.

(iv) Conduct of the conference. (A) At the outset of the expedited settlement conference, the parties shall be informed as to how the conference will proceed. Such notice shall include, but not be limited to:

(1) that the parties have a right to consult with or retain an attorney prior to reaching agreement;

(2) that participation in the conference is voluntary and that, at any time during the conference, either party can indicate that they choose to discontinue the conference for any reason;

(3) that section four hundred twenty-four-a of the family court act requires parties to a support case to engage in financial disclosure and that there shall be no further financial disclosure or discovery if the parties achieve a validly executed child support agreement through the expedited settlement conference process; and

(4) that child support orders, including court-ordered agreements, can be modified on the bases enumerated in section four hundred fifty-one of this article and as listed on the stipulation for child support form, and that a validly executed agreement between the parties opting out of the bases for modification under subparagraphs (i) and (ii) of paragraph (b) of subdivision three of section four hundred fifty-one of this article means those bases will not be available to a party seeking modification of the court-ordered agreement in the future.

(B) For the purposes of this section, the family court staff facilitating the conference shall review the financial affidavit submitted by each party and any other documentation or information provided by the parties and shall complete a child support guidelines worksheet to calculate the support obligation.

(C) The family court staff facilitating the conference shall review the child support guidelines worksheet with the parties and the support obligation resulting from the calculations and confirm that the parties received and had the opportunity to review a copy of the child support standards chart promulgated by the commissioner of the office of temporary and disability assistance pursuant to section one hundred eleven-i of the social services law.

(D) Where the combined parental income exceeds the amount set forth in paragraph (b) of subdivision two of section one hundred eleven-i of the social services law, the parties shall be informed at the expedited settlement conference that the law permits, but does not require, the use of the child support percentages in calculating the child support obligation on the income above the statutory cap and that the child support obligation for parental income above the statutory cap may be

determined pursuant to the factors listed in paragraph (f) of subdivision one of section four hundred thirteen of this article as an alternative to applying the child support percentages.

(E) To the extent resources are available in a family court, the expedited settlement conference and subsequent appearances before a support magistrate may be held virtually upon consent of the parties and in accordance with subdivision (c) of section four hundred thirty-three of this part.

(F) The court shall provide interpretation services for parties in expedited child support settlement conferences when a court determines that a party or witness, or an interested parent or guardian of a minor party in such proceeding, is unable to understand and communicate in English to the extent that he or she cannot meaningfully participate in such proceedings. The clerk of the court or another designated administrative officer shall schedule an interpreter at no expense from an approved list maintained by the office of court administration. The court may permit an interpreter to interpret by telephone or live audiovisual means. If no pre-approved interpreter is available, the clerk of the court or another designated administrative officer shall schedule an interpreter at no expense as justice requires. This subparagraph shall not alter or diminish the court's authority and duty to assure justness in proceedings before it. A person with limited English proficiency, other than a person testifying as a witness, may waive a court-appointed interpreter, with the consent of the court, if the person provides his or her own interpreter at his or her own expense.

(v) Issuance of a child support stipulation or referral to a support magistrate; effect. (A) If an expedited settlement conference results in an agreement of the parties, each party shall sign the child support stipulation and same shall be provided to a support magistrate for review and confirmation on the date of the conference. A child support order issued under this section and confirmed by a court pursuant to section four hundred twenty-five of this article constitutes an order of the court and is enforceable by any means available for the enforcement of child support obligations under this part, this article, article five-b of this chapter, article fifty-two of the civil practice law and rules, or any other applicable provisions of law.

(B) If a conference does not result in agreement by all parties to the child support order, the parties shall be referred to a support magistrate on the date of the conference for continued proceedings on the petition for support.

(vi) Evaluation and data reporting. The court administration shall make publicly available an annual report on data related to measures of the operation and impact of family court expedited settlement conference processes including, but not limited to:

(A) the number of support orders established through expedited settlement conference processes.

(B) the average time required to complete the process for cases where parties reach agreement such as the time between filing and issuance of child support order upon stipulation.

(C) the number of cases in which the expedited settlement conference process is deemed unavailable to parties because they are also parties to a temporary or final order of protection.

(D) the percentage of cases in which the expedited settlement conference process is begun but then terminated without resulting in a stipulation for child support.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.