STATE OF NEW YORK

10571

IN ASSEMBLY

June 5, 2024

Introduced by COMMITTEE ON RULES -- (at request of 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, in relation to the filing of objections to support magistrate determinations in child support, paternity and parentage proceedings in family court and to the time-limit for appeals in all categories of family court cases

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

Section 1. Subdivision (e) of section 439 of the family court act, as amended by chapter 336 of the laws of 2004, is amended to read as follows:

(e) The determination of a support magistrate shall include findings of fact and, except with respect to a determination of a willful violation of an order under subdivision three of section four hundred fifty-four of this article where commitment is recommended as provided in subdivision (a) of this section, a final order which shall be entered and transmitted to the parties. Specific written objections to a final order of a support magistrate may be filed by either party with the court within thirty days after receipt of the order in court or by personal service, or, if the objecting party or parties did not receive the order in court or by personal service, thirty-five days after mailing ***or electronic transmission*** of the order to such party or parties. A party filing objections shall serve a copy of such objections upon the opposing party, who shall have thirteen days from such service to serve and file a written rebuttal to such objections. Proof of service upon the opposing party shall be filed with the court at the time of filing of objections and any rebuttal. Within fifteen days after the rebuttal is filed, or the time to file such rebuttal has expired, whichever is applicable, the judge, based upon a review of the objections and the rebuttal, if any, shall (i) remand one or more issues of fact to the support magistrate, (ii) make, with or without holding a new hearing, his or her own findings of fact and order, or (iii) deny the objections. Pending review of the objections and the rebuttal, if any, the order of

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

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the support magistrate shall be in full force and effect and no stay of such order shall be granted. In the event a new order is issued, payments made by the respondent in excess of the new order shall be applied as a credit to future support obligations. The final order of a support magistrate, after objections and the rebuttal, if any, have been reviewed by a judge, may be appealed pursuant to article eleven of this act.

§ 2. Section 1113 of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

§ 1113. Time of appeal. An appeal under this article must be taken no later than thirty days after the service by a party or the child's attorney upon the appellant of any order from which the appeal is taken, thirty days from receipt of the order by the appellant in court or thirty-five days from the mailing **or electronic transmission** of the order to the appellant by the clerk of the court, whichever is earliest.

All such orders shall contain the following statement in conspicuous print: "Pursuant to section 1113 of the family court act, an appeal must be taken within thirty days of receipt of the order by appellant in court, thirty-five days from the mailing **or electronic transmission** of the order to the appellant by the clerk of the court, or thirty days after service by a party or attorney for the child upon the appellant, whichever is earliest." When service of the order is made by the court, the time to take an appeal shall not commence unless the order contains such statement and there is an official notation in the court record as to the date and the manner of service of the order.

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