**§ 455. Commitment.** 1. The court may at any time suspend an order of commitment upon such reasonable conditions, if any, as the court deems appropriate to carry out the purposes of this article without placing the respondent on probation or may place him on probation under such conditions as the court may determine and in accordance with the provisions of the criminal procedure law. For good cause shown, the court may at any time revoke the suspension of the order of commitment.

2. Except as provided in article five-B of this act, any respondent against whom an order of commitment has been issued, if financially unable to comply with any lawful order issued under this article, upon such notice to such parties as the court may direct, may make application to the court for an order relieving him or her of payments directed in such order and the commitment order. The court, upon the hearing on such application, if satisfied by competent proof that the respondent is financially unable to comply with such order may, upon a showing of good cause until further order of the court, modify such order and relieve the respondent from the commitment order. No such modification shall reduce or annul unpaid sums or installments accrued prior to the making of such application unless the defaulting party shows good cause for failure to make application for relief from the order directing payment prior to the accrual of such arrears. Such modification may increase the amount to be paid pursuant to a lawful order issued under this article nunc pro tunc based on newly discovered evidence.

3. Whenever, upon application to the court by an interested party, it appears to the satisfaction of the court that any person, who has been relieved totally or partially from making any payment pursuant to the provisions of this section, is no longer financially unable to comply with the order to make such payment, then the court may, upon a showing of good cause modify or revoke its order relieving such person totally or partially from making such payment.

4. Notwithstanding any inconsistent provision of this article, the provision of any order issued under this article requiring the payment of money by one spouse for the support of the other shall be suspended

and inoperative so far as punishment for contempt is concerned during the period in which the defaulting spouse is imprisoned pursuant to any order adjudging him or her in contempt for failure to comply with any provision in such order.

5. Any respondent may assert his or her financial inability to comply with the directions contained in an order issued under this article or an order or judgment entered in a matrimonial action or in an action for the enforcement in this state of a judgment in a matrimonial action rendered in another state, as a defense in a proceeding instituted against him or her under subdivision one of section four hundred fifty-four of this article or under the judiciary law to punish him or her for failure to comply with such directions. If the court, upon the hearing of such contempt proceeding, is satisfied by competent proof that the respondent is financially unable to comply with such order or judgment, it may, in its discretion, until further order of the court, make an order modifying such order or judgment and denying the application to punish the respondent for contempt; provided, however, that if an order or judgement for child support issued by another state is before the court solely for enforcement, the court may only modify the order in accordance with article five-B of this act. No such modification shall reduce or annul arrears accrued prior to the making of such application for modification unless the defaulting party shows good cause for failure to make application for relief from the order or judgment directing such payment prior to the accrual of such arrears. Such modification may increase such support nunc pro tunc as of the date of the application based on newly discovered evidence. Any retroactive amount of support due shall be paid in one sum or periodic sums, as the court shall direct, taking into account any amount of temporary support which has been paid.