

A 2574 Weinstein (MS) Same as [S 2970](#)
SAMPSON
Domestic Relations Law
TITLE....Establishes automatic orders in
matrimonial actions
01/20/09 referred to judiciary
03/10/09 reported
03/12/09 advanced to third reading cal.220
03/19/09 passed assembly
03/19/09 delivered to senate
03/19/09 REFERRED TO JUDICIARY
04/28/09 SUBSTITUTED FOR S2970
04/28/09 3RD READING CAL.184
05/04/09 PASSED SENATE
05/04/09 RETURNED TO ASSEMBLY
06/12/09 delivered to governor
06/24/09 signed chap.72

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(MS)
ON FILE: 03/10/09 Domestic Relations Law
TITLE....Establishes automatic orders in
matrimonial actions
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04/21/09 1ST REPORT CAL.184
04/22/09 2ND REPORT CAL.
04/27/09 ADVANCED TO THIRD READING
04/28/09 SUBSTITUTED BY A2574
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NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A2574

SPONSOR: Weinstein (MS)

TITLE OF BILL: An act to amend the domestic relations law, in relation to establishing automatic orders in matrimonial actions

PURPOSE OF BILL: To prevent a party in a matrimonial action commenced in Supreme Court from dissipating assets in order to deprive his or her spouse of the property to which that spouse may be entitled.

SUMMARY OF PROVISIONS OF BILL: Amends domestic relations law § 236 (B) (2) to place upon the plaintiff a duty to serve upon the defendant automatic orders which would bind both parties from the commencement of a matrimonial action. The automatic orders would be binding upon the plaintiff upon the commencement of the action and upon the defendant upon service of the Summons or Summons and Complaint. The specific matters covered by the proposed automatic orders include prohibitions against the following: transfers and encumbrances of real and personal property and retirement funds; the accumulation of unreasonable debt; and changes in beneficiaries on existing health and life insurance policies.

JUSTIFICATION: The adoption of automatic orders at the very commencement of a matrimonial action is intended to prevent both parties from dissipating assets, incurring unreasonable debts, or removing a party or the children from health or life insurance policies. Making these prohibitions automatic upon commencement of the action will also save on legal fees and judicial time. The bill has the support of the OCA Committee on Matrimonial Practice, chaired by Hon. Jacqueline Silbermann, Statewide Administrative Judge for Matrimonial Matters.

LEGISLATIVE HISTORY:

2007-08; A.3128 - Passed Assembly

2005-06; A.8180 - Passed Assembly

2004; A.7521- Assembly Rules Committee

2002; A.7790/S.4408 - Assembly Rules Committee/Judiciary Committee

2001; A.7790/S.4408 - Assembly Rules Committee/Judiciary Committee

2000; A.10889 - Assembly Rules Committee

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS: None.

EFFECTIVE DATE: The law will take effect on the first of the calendar month next succeeding the sixtieth day after it shall become a law.

LAWS OF NEW YORK, 2009

CHAPTER 72

AN ACT to amend the domestic relations law, in relation to establishing automatic orders in matrimonial actions

Became a law June 24, 2009, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

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

Section 1. Subdivision 2 of part B of section 236 of the domestic relations law, as added by chapter 281 of the laws of 1980, is amended to read as follows:

2. Matrimonial actions. a. Except as provided in subdivision five of this part, the provisions of this part shall be applicable to actions for an annulment or dissolution of a marriage, for a divorce, for a separation, for a declaration of the nullity of a void marriage, for a declaration of the validity or nullity of a foreign judgment of divorce, for a declaration of the validity or nullity of a marriage, and to proceedings to obtain maintenance or a distribution of marital property following a foreign judgment of divorce, commenced on and after the effective date of this part. Any application which seeks a modification of a judgment, order or decree made in an action commenced prior to the effective date of this part shall be heard and determined in accordance with the provisions of part A of this section.

b. With respect to matrimonial actions which commence on or after the effective date of this paragraph, the plaintiff shall cause to be served upon the defendant, simultaneous with the service of the summons, a copy of the automatic orders set forth in this paragraph. The automatic orders shall be binding upon the plaintiff in a matrimonial action immediately upon the filing of the summons, or summons and complaint, and upon the defendant immediately upon the service of the automatic orders with the summons. The automatic orders shall remain in full force and effect during the pendency of the action, unless terminated, modified or amended by further order of the court upon motion of either of the parties or upon written agreement between the parties duly executed and acknowledged. The automatic orders are as follows:

(1) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of, without the consent of the other party in writing, or by order of the court, any property (including, but not limited to, real estate, personal property, cash accounts, stocks, mutual funds, bank accounts, cars and boats) individually or jointly held by the parties, except in the usual course of business, for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(2) Neither party shall transfer, encumber, assign, remove, withdraw or in any way dispose of any tax deferred funds, stocks or other assets held in any individual retirement accounts, 401K accounts, profit sharing plans, Keough accounts, or any other pension or retirement account, and the parties shall further refrain from applying for or requesting

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

the payment of retirement benefits or annuity payments of any kind, without the consent of the other party in writing, or upon further order of the court.

(3) Neither party shall incur unreasonable debts hereafter, including, but not limited to further borrowing against any credit line secured by the family residence, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards, except in the usual course of business or for customary or usual household expenses, or for reasonable attorney's fees in connection with this action.

(4) Neither party shall cause the other party or the children of the marriage to be removed from any existing medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(5) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners and renters insurance policies in full force and effect.

§ 2. This act shall take effect on the first of the calendar month next succeeding the sixtieth day after it shall have become a law.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

MALCOLM A. SMITH
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly