

Automatic Orders

An “Automatic Orders” bill was signed by Governor Patterson and effective on September 1, 2009 in New York.

The Automatic Orders bill amends the Domestic Relations Law and requires that specific automatic orders be served upon the Defendant along with the Summons. The automatic orders are binding upon the Plaintiff when the action for divorce is commenced, i.e., when the Summons is filed in the County Clerk’s office, and binding upon the Defendant when he is served with the orders. The orders remain in effect during the matrimonial action unless terminated or modified by court order or stipulation of the parties. There are five automatic orders as follows:

1. Neither party can sell, transfer, encumber, conceal, assign, remove or dispose of any property (including 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 the matrimonial action.

2. Neither party can transfer, encumber, assign, remove withdraw or in any way dispose of any tax deferred funds, stocks or any other assets held in any individual retirement accounts, 401(k) accounts, profit sharing plans, Keogh accounts, or any other pension or retirement account, and the parties can further refrain from applying for or requesting the payment of retirement benefits or annuity payments of any kind, without the consent of the other party or order of the court.

3. Neither party can incur unreasonable debts, such as by 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 the matrimonial action.

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

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