

STATE OF NEW YORK

9104

IN ASSEMBLY

January 31, 2022

Introduced by M. of A. REYES -- read once and referred to the Committee on Judiciary

AN ACT to amend the social services law and the family court act, in relation to administrative procedures for establishing support orders; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Paragraph g of subdivision 2 of section 111-c of the social
2 services law, as amended by section 18 of part L of chapter 56 of the
3 laws of 2020, is amended to read as follows:

4 g. obtain from respondent, when appropriate and in accordance with the
5 procedures established by section one hundred eleven-k and section one
6 hundred eleven-1 of this [~~chapter~~] title, an acknowledgement of parent-
7 age or an agreement to make support payments, or both;

8 § 2. Paragraph (b) of subdivision 1 of section 111-k of the social
9 services law, as amended by section 19 of part L of chapter 56 of the
10 laws of 2020, is amended to read as follows:

11 (b) an agreement to make support payments as provided in subdivision
12 (a) of section four hundred twenty-five of the family court act. Prior
13 to the execution of such agreement, the respondent shall be advised,
14 orally, which may be through the use of audio or video equipment, and in
15 writing, of the consequences of such agreement, that the respondent can
16 be held liable for support only if the family court, after a hearing,
17 makes an order of support; that respondent has a right to consult with
18 an attorney and that the agreement will be submitted to the family court
19 for approval pursuant to subdivision (a) of section four hundred twenty-
20 five of the family court act; and that by executing the agreement,
21 the respondent waives any right to a hearing regarding any matter
22 contained in such agreement.

23 § 3. The social services law is amended by adding a new section 111-1
24 to read as follows:

25 § 111-1. Child support order establishment conference pilot process.
26 1. Purpose. The department shall develop a one-year pilot project

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

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1 allowing social services districts to take expedited administrative
2 actions to facilitate the establishment of child support orders consist-
3 ent with the state's child support guidelines for parents who agree on
4 child support and seek to voluntarily engage in an administrative
5 conference.

6 2. Initiating administrative actions. (a) A child support order issued
7 pursuant to this section and confirmed by a court pursuant to subdivi-
8 sion (b) of section four hundred twenty-five of the family court act
9 shall constitute an order of the court and shall be enforceable by any
10 means available for the enforcement of child support obligations pursu-
11 ant to this title, articles four and five-B of the family court act or
12 pursuant to article fifty-two of the civil practice law and rules and
13 any other applicable provisions of law.

14 (b) An administrative action pursuant to this section may be initiated
15 by a social services district serving a notice to establish a child
16 support order by conference to each party entitled to notice or by
17 referral from a family court, along with notice to each party entitled
18 to notice.

19 (c) A case that involves a minor parent, requires a determination of
20 paternity, or has verified family violence indicators shall be excluded
21 from an administrative action pursuant to this section.

22 (d) A case where the combined parental income exceeds the amount set
23 forth in paragraph (b) of subdivision two of section one hundred
24 eleven-i of this title shall be excluded from an administrative action
25 pursuant to this section.

26 (e) A case that involves spousal support in addition to child support
27 will be excluded from an administrative action pursuant to this section.

28 3. Contents of notice to establish a child support order by confer-
29 ence. The notice to establish a child support order by conference
30 issued by the social services official shall:

31 (a) describe the procedure for the conference;

32 (b) inform the party that the party may be represented by legal coun-
33 sel during the conference or at a court hearing;

34 (c) inform the party that the party may refuse to participate or cease
35 participation in the conference, but that the refusal by the party to
36 participate will not prevent the filing of a request for a de novo hear-
37 ing on child support in a family court along with a record of the admin-
38 istrative conference, in which a party may be assisted by the social
39 services district;

40 (d) inform the party that an affidavit in support of the conference
41 process promulgated by the commissioner and sent with the notice shall
42 be executed by the party and returned to the social services official
43 along with any documentation or information in support of the affidavit
44 no later than fifteen days after the date the notice is served;

45 (e) inform the party that if the requested affidavit is not returned
46 as required, the agency may:

47 (i) proceed with the conference process using the information provided
48 by the parties or otherwise obtained or available to the agency; or

49 (ii) file a petition with the court for child support on behalf of a
50 party; and

51 (f) direct the party to contact the social services district if the
52 party believes that pursuing child support would expose the party or the
53 child to physical or emotional harm.

54 4. Service of notice. Any notice or order required to be served pursu-
55 ant to this section shall be delivered by personal service or first-

1 class mail on each party entitled to notice as provided under article
2 four of the family court act, or by electronic means on consent.

3 5. Issuance of administrative subpoena. As part of the conference
4 process pursuant to this section, the social services district may issue
5 administrative subpoenas as authorized pursuant to section one hundred
6 eleven-p of this title.

7 6. Notice of conference. (a) The social services district shall notify
8 all parties entitled to notice of the conference of the date, time, and
9 place of the conference, and such conference shall be scheduled no later
10 than thirty days after the date of the notice.

11 (b) If a party fails to attend the scheduled conference the social
12 services district may proceed with the conference and, at the conclusion
13 of the conference, generate a conference report containing the affida-
14 vits submitted by each party and information shared with or obtained by
15 the district, along with the child support guidelines worksheet setting
16 forth the presumptive amount of support.

17 (c) The social services district may reschedule a conference on the
18 reasonable request of any party. The social services district shall give
19 all parties notice of a rescheduled conference no later than three days
20 before the date of the rescheduled conference if notice was given by
21 personal service or by electronic means on consent and no later than
22 eight days before the date of the rescheduled conference if notice was
23 given by first-class mail.

24 7. Exchange of financial affidavits and supporting documentation. As
25 set forth in paragraph (d) of subdivision three of this section, no
26 later than fifteen days after the date of the notice of the conference,
27 each party shall execute and return to the social services district an
28 affidavit in support of the conference process, along with any documen-
29 tation or information in support of the affidavit. The social services
30 district shall then provide copies of any affidavits along with documen-
31 tation or information in support to the parties immediately upon
32 receipt, but no later than the seven days prior to the conference, by
33 personal delivery or by first class mail or by electronic means on
34 consent.

35 8. Information required to be provided by the social services official
36 at the conference. At the beginning of the conference, the social
37 services district shall review with the parties participating in the
38 conference the information provided in the notice to establish a child
39 support order by conference and inform the parties that:

40 (a) the purpose of the conference is to provide an opportunity to
41 reach an agreement on a child support order pursuant to the child
42 support guidelines and that the basic child support obligation calcu-
43 lated pursuant to the guidelines would presumptively result in the
44 correct amount of child support to be awarded. The parties shall be
45 provided with a copy of the child support standards chart promulgated by
46 the commissioner pursuant to section one hundred eleven-i of this title
47 and a copy of the child support guidelines worksheet promulgated by the
48 commissioner in consultation with the office of court administration;

49 (b) if the parties reach an agreement, the social services district
50 will prepare an agreed proposed order to be filed with the court for
51 confirmation pursuant to subdivision (b) of section four hundred twenty-
52 five of the family court act;

53 (c) a party does not have to sign the order prepared by the social
54 services district; however, the social services district may prepare a
55 conference report containing the affidavit submitted by each party and
56 information shared with or obtained by the district, along with the

child support guidelines worksheet setting forth the presumptive amount of support, and may assist a party in filing a request for a de novo hearing on child support with the family court together with the conference report. The parties shall only be liable for support if a party requests a hearing, such hearing is held and the court makes an order of support;

(d) the parties who reach an agreement shall sign a waiver of the right to service of process and to a hearing regarding any matter contained in an agreed proposed order; and

(e) where the parties do not reach agreement in the conference, a party may file a request for a de novo hearing no later than twenty days after the date on which a copy of the notice of determination that no order should be submitted to the court, along with a conference report, is provided to the party.

9. Conduct of the conference. (a) For the purposes of this section, the social services district shall review the affidavit submitted by each party and any other documentation or information provided by the parties or obtained pursuant to authority granted under this title and shall complete a child support guidelines worksheet to calculate the support obligation.

(b) The social services district shall review the child support guidelines worksheet with the parties and the support obligation resulting from the calculations.

(c) The social services district shall prepare the agreed proposed order or prepare a notice of determination that no order should be submitted to the court along with a conference report, and provide the party with a copy of the form to request a court hearing promulgated by the office of court administration in consultation with the office of temporary and disability assistance.

10. Record of proceedings. (a) For the purposes of this section, documentation or information relied on by the social services district, including an affidavit of a party, together with the child support order or notice of determination that no order should be submitted to the court along with a conference report, constitutes a sufficient record of the proceedings.

(b) The social services district is not required to make any other record or transcript of the conference.

11. Issuance of an agreed proposed child support order or determination that no order should be submitted; effect. (a) If a conference results in an agreement of the parties, each party shall sign the child support order no later than five days after the date of the conference and the order shall contain the information set forth in subdivision twelve of this section.

(b) If a conference does not result in agreement by all parties to the child support order, the social services district shall render a final decision no later than five days after the date of the conference in the form of a notice of determination that no order should be submitted to the court, along with a conference report.

(i) If the social services district determines that a child support order should not be filed with the court, the agency shall immediately provide each party with notice of the determination by personal delivery or by first class mail or by electronic means on consent. A determination that no order should be submitted to the court shall include a statement of the reasons that an order is not being submitted and a statement that the agency's determination does not affect the right of a

1 party to seek an order of support, or to request any other remedy
2 provided by law.

3 (ii) Where the parties do not reach agreement in the conference, a
4 party may, with the assistance of the social services district, file a
5 request for a de novo hearing no later than twenty days after the date
6 on which a copy of the notice of determination that no order should be
7 submitted to the court, along with a conference report, is provided to
8 the parties by personal delivery or by first class mail or by electronic
9 means on consent.

10 12. Contents of an order. (a) An order issued pursuant to this section
11 shall be reviewed and signed by a social services official or designee.

12 (b) If a conference results in an agreement of the parties, the order
13 shall contain the following as to each party:

14 (i) a waiver by the party of the right to service of process and a
15 court hearing;

16 (ii) the mailing address of the party; and

17 (iii) the following statement printed on the order in conspicuous
18 type: "I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS CHILD SUPPORT
19 ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT WILL BE CONFIRMED BY
20 THE COURT WITHOUT FURTHER NOTICE TO ME. I KNOW THAT IF I DO NOT OBEY THE
21 TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF COURT."

22 13. Withdrawal of an order. (a) The social services district may with-
23 draw an agreed proposed order, including at the request of a party, at
24 any time before the order is filed with the court.

25 (b) A new conference, with notice to all parties, may be scheduled or
26 the social services district may make a determination that a child
27 support order should not be submitted to the court and give notice of
28 that determination as provided for in this section.

29 14. Filing of an agreed proposed order. The social services district
30 shall file an agreed proposed order that contains signed waivers of
31 service of process and a right to a hearing with the court.

32 15. Contents of a notice of determination that a child support order
33 should not be issued, along with a conference report. The notice of
34 determination and conference report shall include the child support
35 guidelines worksheet as an attachment, as well as the affidavit submit-
36 ted by each party and any documentation or information relied on by the
37 social services district in the conference process.

38 16. Evaluation. The office of temporary and disability assistance
39 shall conduct an evaluation of the operation and impact of the child
40 support order establishment conference pilot process and shall submit to
41 the governor and the legislature an evaluation report containing the
42 findings from the pilot, the feasibility of a statewide program, and
43 recommendations, if any, for establishing a statewide program.

44 § 4. The opening paragraph of section 425 of the family court act is
45 designated subdivision (a) and a new subdivision (b) is added to read as
46 follows:

47 (b) Where a child support order is issued pursuant to the conference
48 process provided for in section one hundred eleven-1 of the social
49 services law, the child support order shall be filed with the court.

50 (i) Upon the filing of an agreed proposed order by a social services
51 district on behalf of a party:

52 (A) the court shall endorse on the order the date the order is filed
53 and the appropriate family court docket number;

54 (B) the court shall confirm and sign the agreed proposed order no
55 later than three days after its filing provided the agreed proposed
56 order, the waivers of service and a right to a hearing are signed by all

1 parties; provided, however, if the court finds that the agreed proposed
2 order, the waivers of service and a right to a hearing are not signed by
3 all parties, the court shall return the documents to the appropriate
4 social services district to allow such official to remedy the deficiency
5 no later than three days after the filing of the agreed proposed order;
6 and

7 (C) the order signed and confirmed by the court shall immediately
8 become a final order of the court and a copy thereof shall be mailed to
9 the social services district and all the parties.

10 (ii) Upon the filing of a form to request a de novo hearing, as
11 promulgated by the office of court administration in consultation with
12 the office of temporary and disability assistance:

13 (A) the court shall immediately serve each party with a copy of the
14 request for a de novo hearing, along with the social services district's
15 notice of determination that no order shall be submitted to the court
16 and the conference report, including the child support guidelines work-
17 sheet, the affidavit submitted by each party, and any documentation or
18 information relied on by the social services district; or

19 (B)(1) When a timely request for a court hearing has been filed pursu-
20 ant to the conference process provided in section one hundred eleven-1
21 of the social services law, the court shall hold a de novo hearing no
22 later than thirty days after the date the request was filed. At the de
23 novo hearing, the court shall enter a temporary order of support pursu-
24 ant to section four hundred thirty-four of this article; or

25 (2) If the court adjourns the hearing, the hearing shall be held no
26 later than thirty days after the date set for the initial hearing.

27 § 5. Upon the expiration and repeal of this act, the rights and
28 responsibilities of any parties who were subject to the provisions of
29 this act while it remained in effect shall not be diminished or
30 impaired.

31 § 6. This act shall take effect on the three hundred sixty-fifth day
32 after it shall have become a law and shall expire 3 years after such
33 effective date when upon such date the provisions of this act shall be
34 deemed repealed.