

S T A T E O F N E W Y O R K

4214--B

2009-2010 Regular Sessions

I N S E N A T E

April 17, 2009

Introduced by Sen. SAMPSON -- (at request of the Office of Temporary and Disability Assistance) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the domestic relations law, in relation to establishing definitions for "cash medical support", and when health insurance benefits are "reasonable in cost" and "reasonably accessible"; to amend the civil practice law and rules, in relation to amending the priority for deductions via an income execution; and to repeal certain provisions of the family court act and the domestic relations law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph 5 of paragraph (c) of subdivision 1 of section
2 413 of the family court act is REPEALED and a new subparagraph 5 is
3 added to read as follows:
4 (5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
5 HEALTH INSURANCE BENEFITS PURSUANT TO SECTION FOUR HUNDRED SIXTEEN OF
6 THIS PART AND TO PAY CASH MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPAR-
7 AGRAPH.
8 (I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD
9 THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT
10 THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGAN-
11 IZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH
12 INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE
13 EXPENSES NOT COVERED BY INSURANCE.

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

LBD07704-09-9

1 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
2 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
3 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
4 BE AVAILABLE, THE COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE
5 PRORATED BETWEEN THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S
6 INCOME IS TO THE COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS
7 ORDERED TO PROVIDE SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA
8 SHARE OF SUCH COSTS SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF
9 THE NON-CUSTODIAL PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTO-
10 DIAL PARENT'S PRO RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE
11 BASIC SUPPORT OBLIGATION.

12 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
13 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
14 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
15 BE UNAVAILABLE, IF THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR
16 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO
17 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL
18 ORDER THE NON-CUSTODIAL PARENT TO PAY CASH MEDICAL SUPPORT AS FOLLOWS:

19 (A) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR MANAGED CARE
20 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM, THE LESSER OF THE AMOUNT
21 THAT WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
22 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
23 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
24 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
25 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
26 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
27 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
28 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
29 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
30 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
31 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

32 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
33 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
34 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
35 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
36 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
37 WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
38 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
39 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
40 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
41 NON-CUSTODIAL AND CUSTODIAL PARENTS TIMES TWELVE MONTHS OR THE NUMBER OF
42 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
43 COVERAGE DURING ANY YEAR. THE COURT SHALL SEPARATELY STATE IN THE ORDER
44 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
45 GATION AND, UPON PROOF TO THE COURT THAT THE NON-CUSTODIAL PARENT, AFTER
46 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
47 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
48 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
49 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
50 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
51 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.
52 THE TOTAL ANNUAL AMOUNT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY
53 UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS
54 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
55 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

1 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
2 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
3 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
4 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
5 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
6 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
7 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE
8 NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS
9 LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE
10 SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
11 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

12 (IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
13 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
14 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
15 BE UNAVAILABLE, AND THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR
16 COVERAGE UNDER THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE
17 ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL
18 PRORATE EACH PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION
19 REQUIRED UNDER SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION
20 AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE
21 THE AMOUNT OF THE NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL
22 AMOUNT OF CASH MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED
23 TO PAY UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
24 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
25 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

26 (V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR
27 (IV) OF THIS SUBPARAGRAPH, THE COURT SHALL PRO RATE EACH PARENT'S SHARE
28 OF REASONABLE HEALTH CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE,
29 THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF
30 ARTICLE FIVE OF THE SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH
31 INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE
32 PUBLIC HEALTH LAW, IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO
33 THE COMBINED PARENTAL INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE
34 AS A PERCENTAGE IN THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE
35 OF SUCH HEALTH CARE EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING
36 SHALL BE SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY
37 REMEDIES PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE
38 SUPPORT. IN ADDITION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL
39 PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM
40 OR IN PERIODIC SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVID-
41 ER.

42 (VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO
43 CLAUSE (II), (III), (IV) OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR
44 INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF SUBDIVISION ONE OF THIS
45 SECTION, THE COURT SHALL:

46 (A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS
47 JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

48 (B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT
49 CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID
50 NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

51 S 2. Subparagraph 5 of paragraph (c) of subdivision 1-b of section 240
52 of the domestic relations law is REPEALED and a new subparagraph 5 is
53 added to read as follows:

54 (5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
55 HEALTH INSURANCE BENEFITS PURSUANT TO THIS SECTION AND TO PAY CASH
56 MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPARAGRAPH.

1 (I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD
2 THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT
3 THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGAN-
4 IZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH
5 INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE
6 EXPENSES NOT COVERED BY INSURANCE.

7 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
8 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
9 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE AVAILABLE, THE
10 COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE PRORATED BETWEEN
11 THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE
12 COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS ORDERED TO PROVIDE
13 SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH COSTS
14 SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF THE NON-CUSTODIAL
15 PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTODIAL PARENT'S PRO
16 RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE BASIC SUPPORT OBLI-
17 GATION.

18 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
19 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
20 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, IF
21 THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE
22 MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTI-
23 CLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL ORDER THE NON-CUS-
24 TODIAL PARENT TO PAY CASH MEDICAL SUPPORT AS FOLLOWS:

25 (A) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR MANAGED CARE
26 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM, THE LESSER OF THE AMOUNT
27 THAT WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
28 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
29 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
30 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
31 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
32 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
33 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
34 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
35 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
36 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
37 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

38 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
39 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
40 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
41 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
42 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
43 WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
44 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
45 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
46 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
47 NON-CUSTODIAL AND CUSTODIAL PARENTS TIMES TWELVE MONTHS OR THE NUMBER OF
48 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
49 COVERAGE DURING ANY YEAR. THE COURT SHALL SEPARATELY STATE IN THE ORDER
50 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
51 GATION AND, UPON PROOF TO THE COURT THAT THE NON-CUSTODIAL PARENT, AFTER
52 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
53 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
54 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
55 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
56 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS

1 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.
2 THE TOTAL ANNUAL AMOUNT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY
3 UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS
4 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
5 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

6 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
7 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
8 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
9 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
10 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
11 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
12 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE
13 NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS
14 LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE
15 SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
16 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

17 (IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
18 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
19 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, AND
20 THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE
21 STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE
22 TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL PRORATE EACH
23 PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION REQUIRED UNDER
24 SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION AS EACH PARENT'S
25 INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE THE AMOUNT OF THE
26 NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL AMOUNT OF CASH
27 MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER
28 THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS INCOME, OR
29 THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND THE
30 SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

31 (V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR
32 (IV), THE COURT SHALL PRO RATE EACH PARENT'S SHARE OF REASONABLE HEALTH
33 CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE, THE MEDICAL ASSIST-
34 ANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE
35 SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT
36 TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, IN THE
37 SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL
38 INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE AS A PERCENTAGE IN
39 THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE
40 EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING SHALL BE SUPPORT
41 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES PROVIDED
42 BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT. IN ADDI-
43 TION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL PARENT'S PRO RATA
44 SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM OR IN PERIODIC
45 SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVIDER.

46 (VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO
47 CLAUSE (II), (III), (IV), OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR
48 INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, THE COURT
49 SHALL:

50 (A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS
51 JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

52 (B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT
53 CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID
54 NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

55 S 3. Subdivision (d) of section 416 of the family court act is amended
56 by adding a new paragraph 3 to read as follows:

1 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
2 IN ACCORDANCE WITH SUBDIVISION (E) OF THIS SECTION, HEALTH INSURANCE
3 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
4 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
5 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE
6 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
7 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
8 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
9 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
10 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
11 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
12 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
13 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
14 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
15 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
16 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
17 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
18 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
19 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
20 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
21 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
22 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
23 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
24 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

25 S 4. Paragraph (b) of subdivision 1 of section 240 of the domestic
26 relations law is amended by adding a new subparagraph 3 to read as
27 follows:

28 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
29 IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION, HEALTH INSURANCE
30 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
31 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
32 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE
33 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
34 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
35 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
36 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
37 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
38 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
39 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
40 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
41 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
42 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
43 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
44 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
45 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
46 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
47 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
48 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
49 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
50 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
51 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

52 S 5. Subparagraph (iii) of paragraph 2 of subdivision (e) of section
53 416 of the family court act, as added by chapter 624 of the laws of
54 2002, is amended to read as follows:

55 (iii) If neither parent has available health insurance benefits, the
56 court shall direct in the order of support that the custodial parent

1 apply for the state's child health insurance plan pursuant to title
2 one-A of article twenty-five of the public health law and the medical
3 assistance program established pursuant to title eleven of article five
4 of the social services law. [If eligible for such coverage, the court
5 shall prorate the cost of any premium or family contribution in accord-
6 ance with subdivision (f) of this section.] A direction issued under
7 this subdivision shall not limit or alter either parent's obligation to
8 obtain health insurance benefits at such time as they become available
9 as required pursuant to subdivision (c) of this section. NOTHING IN
10 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
11 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
12 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
13 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
14 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

15 S 6. Clause (iii) of subparagraph 2 of paragraph (c) of subdivision 1
16 of section 240 of the domestic relations law, as amended by chapter 624
17 of the laws of 2002, is amended to read as follows:

18 (iii) If neither parent has available health insurance benefits, the
19 court shall direct in the order of support that the custodial parent
20 apply for the state's child health insurance plan pursuant to title
21 one-A of article twenty-five of the public health law and the medical
22 assistance program established pursuant to title eleven of article five
23 of the social services law. [If eligible for such coverage, the court
24 shall prorate the cost of any premium or family contribution in accord-
25 ance with paragraph (d) of this subdivision.] A direction issued under
26 this subdivision shall not limit or alter either parent's obligation to
27 obtain health insurance benefits at such time as they become available,
28 as required pursuant to paragraph (a) of this subdivision. NOTHING IN
29 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
30 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
31 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
32 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
33 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

34 S 7. Subdivision (f) of section 416 of the family court act is
35 REPEALED and a new subdivision (f) is added to read as follows:

36 (F) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
37 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
38 PROGRAM, PURSUANT TO SUBDIVISION (E) OF THIS SECTION, SHALL BE DEEMED
39 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
40 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
41 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR
42 HUNDRED THIRTEEN OF THIS PART.

43 S 8. Paragraph (d) of subdivision 1 of section 240 of the domestic
44 relations law is REPEALED and a new paragraph (d) is added to read as
45 follows:

46 (D) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
47 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
48 PROGRAM, PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE DEEMED
49 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
50 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
51 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE-B OF THIS SECTION.

52 S 9. Section 514 of the family court act, as amended by chapter 81 of
53 the laws of 1995, is amended to read as follows:

54 S 514. Liability of father to mother. The father is liable [to pay]
55 FOR the reasonable expenses of the mother's confinement and recovery and
56 such reasonable expenses in connection with her pregnancy as DETERMINED

1 BY the court [in its discretion may deem proper]; provided, however,
2 where the mother's confinement, recovery and expenses in connection with
3 her pregnancy were paid under the medical assistance program on the
4 mother's behalf, the father may be liable to the social services
5 district furnishing such medical assistance and to the state department
6 of [social services] HEALTH for [the full amount of] medical assistance
7 so expended[, as the court in its discretion may deem proper]. SUCH
8 EXPENSES, INCLUDING SUCH EXPENSES PAID BY THE MEDICAL ASSISTANCE PROGRAM
9 ON THE MOTHER'S BEHALF, SHALL BE DEEMED CASH MEDICAL SUPPORT AND THE
10 COURT SHALL DETERMINE THE OBLIGATION OF THE PARTIES TO CONTRIBUTE TO THE
11 COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVI-
12 SION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS ACT.

13 S 10. Subdivision 1 of section 545 of the family court act, as amended
14 by chapter 214 of the laws of 1998, is amended to read as follows:

15 1. In a proceeding in which the court has made an order of filiation,
16 the court shall direct the parent or parents possessed of sufficient
17 means or able to earn such means to pay weekly or at other fixed periods
18 a fair and reasonable sum according to their respective means as the
19 court may determine and apportion for such child's support and educa-
20 tion, until the child is twenty-one. The order shall be effective as of
21 the earlier of the date of the application for an order of filiation,
22 or, if the children for whom support is sought are in receipt of public
23 assistance, the date for which their eligibility for public assistance
24 was effective. Any retroactive amount of child support shall be support
25 arrears/past-due support and shall be paid in one sum or periodic sums
26 as the court shall direct, taking into account any amount of temporary
27 support which has been paid. In addition, such retroactive child support
28 shall be enforceable in any manner provided by law including, but not
29 limited to, an execution for support enforcement pursuant to subdivision
30 (b) of section fifty-two hundred forty-one of the civil practice law and
31 rules. The court shall direct such parent to make his or her residence
32 known at all times should he or she move from the address last known to
33 the court by reporting such change to the support collection unit desig-
34 nated by the appropriate social services district. The order shall
35 contain the social security numbers of the named parents. The order may
36 also direct each parent to pay an amount as the court may determine and
37 apportion for the support of the child prior to the making of the order
38 of filiation, and may direct each parent to pay an amount as the court
39 may determine and apportion for [(i)] the funeral expenses if the child
40 has died[; (ii) the]. THE necessary expenses incurred by or for the
41 mother in connection with her confinement and recovery[;] and [(iii)]
42 such expenses in connection with the pregnancy of the mother [as the
43 court may deem proper] SHALL BE DEEMED CASH MEDICAL SUPPORT, AND THE
44 COURT SHALL DETERMINE THE OBLIGATION OF EITHER OR BOTH PARENTS TO
45 CONTRIBUTE TO THE COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARA-
46 GRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS
47 ACT. In addition, the court shall make provisions for health insurance
48 benefits in accordance with the requirements of section four hundred
49 sixteen of this act.

50 S 11. Subparagraph (i) of paragraph 2 of subdivision (b) of section
51 5241 of the civil practice law and rules, as amended by chapter 533 of
52 the laws of 1999, is amended to read as follows:

53 (i) Where the court orders the debtor to provide health insurance
54 benefits for specified dependents, an execution for medical support
55 enforcement may, except as provided for herein, be issued by the support
56 collection unit, or by the sheriff, the clerk of court or the attorney

1 for the creditor as an officer of the court; provided, however, that
2 when the court issues an order of child support or combined child and
3 spousal support on behalf of persons other than those in receipt of
4 public assistance or in receipt of services pursuant to section one
5 hundred eleven-g of the social services law, such medical execution
6 shall be in the form of a separate qualified medical child support order
7 as provided by subdivision [(f)] (J) of section four hundred sixteen of
8 the family court act and paragraph [(f)] (H) of subdivision one of
9 section two hundred forty of the domestic relations law. Such execution
10 for medical support enforcement may require the debtor's employer,
11 organization or group health plan administrator to purchase on behalf of
12 the debtor and the debtor's dependents such available health insurance
13 benefits. Such execution shall direct the employer, organization or
14 group health plan administrator to provide to the dependents for whom
15 such benefits are required to be provided or such dependents' custodial
16 parent or legal guardian or social services district on behalf of
17 persons applying for or in receipt of public assistance any identifica-
18 tion cards and benefit claim forms and to withhold from the debtor's
19 income the employee's share of the cost of such health insurance bene-
20 fits, and to provide written confirmation of such enrollment indicating
21 the date such benefits were or become available or that such benefits
22 are not available and the reasons therefor to the issuer of the
23 execution. An execution for medical support enforcement shall not
24 require a debtor's employer, organization or group health plan adminis-
25 trator to purchase or otherwise acquire health insurance or health
26 insurance benefits that would not otherwise be available to the debtor
27 by reason of his or her employment or membership. Nothing herein shall
28 be deemed to obligate or otherwise hold any employer, organization or
29 group health plan administrator responsible for an option exercised by
30 the debtor in selecting medical insurance coverage by an employee or
31 member.

32 S 12. Subdivision (h) of section 5241 of the civil practice law and
33 rules, as amended by chapter 398 of the laws of 1997, is amended to read
34 as follows:

35 (h) Priority. A levy pursuant to this section or an income deduction
36 order pursuant to section 5242 of this chapter shall take priority over
37 any other assignment, levy or process. If an employer or income payor is
38 served with more than one execution pursuant to this section, or with an
39 execution pursuant to this section and also an order pursuant to section
40 5242 of this chapter, and if the combined total amount of the deductions
41 to be withheld exceeds the limits set forth in subdivision (g) of this
42 section, the employer or income payor shall withhold the maximum amount
43 permitted thereby and pay to each creditor that proportion thereof which
44 such creditor's claim bears to the combined total. Any additional
45 deduction authorized by subdivision (g) of this section to be applied to
46 the reduction of arrears shall be applied to such arrears in proportion
47 to the amount of arrears due to each creditor. Deductions to satisfy
48 CURRENT support obligations[, including any additional deductions
49 authorized by subdivision (g) of this section,] shall have priority over
50 deductions for the debtor's share of health insurance premiums WHICH
51 SHALL HAVE PRIORITY OVER ANY ADDITIONAL DEDUCTION AUTHORIZED BY SUBDIVI-
52 SION (G) OF THIS SECTION.

53 S 13. This act shall take effect on the ninetieth day after it shall
54 have become a law and shall apply to any proceeding to establish or
55 modify a child support obligation, including a medical support obli-
56 gation, commenced on or after such date.