

STATE OF NEW YORK

7795

2021-2022 Regular Sessions

IN ASSEMBLY

May 21, 2021

Introduced by M. of A. WALLACE -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the filing of objections in child support cases in the family court

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

1 Section 1. Subdivision (e) of section 439 of the family court act, as
2 amended by chapter 336 of the laws of 2004, is amended to read as
3 follows:

4 (e) The determination of a support magistrate shall include findings
5 of fact and, except with respect to a determination of a willful
6 violation of an order under subdivision three of section four hundred
7 fifty-four of this article where commitment is recommended as provided
8 in subdivision (a) of this section, a final order which shall be entered
9 and transmitted to the parties. Specific written objections to a final
10 order of a support magistrate may be filed by either party with the
11 court within thirty days after receipt of the order in court or by
12 personal service, or, if the objecting party or parties did not receive
13 the order in court or by personal service, thirty-five days after mail-
14 ing or electronic transmission of the order to such party or parties. A
15 party filing objections shall serve a copy of such objections upon the
16 opposing party, who shall have thirteen days from such service to serve
17 and file a written rebuttal to such objections. Proof of service upon
18 the opposing party shall be filed with the court at the time of filing
19 of objections and any rebuttal. Within fifteen days after the rebuttal
20 is filed, or the time to file such rebuttal has expired, whichever is
21 applicable, the judge, based upon a review of the objections and the
22 rebuttal, if any, shall (i) remand one or more issues of fact to the
23 support magistrate, (ii) make, with or without holding a new hearing,
24 his or her own findings of fact and order, or (iii) deny the objections.

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

LBD09233-01-1

1 Pending review of the objections and the rebuttal, if any, the order of
2 the support magistrate shall be in full force and effect and no stay of
3 such order shall be granted. In the event a new order is issued,
4 payments made by the respondent in excess of the new order shall be
5 applied as a credit to future support obligations. The final order of a
6 support magistrate, after objections and the rebuttal, if any, have been
7 reviewed by a judge, may be appealed pursuant to article eleven of this
8 act.
9 § 2. This act shall take effect immediately.