

# STATE OF NEW YORK

9712

## IN SENATE

May 22, 2024

Introduced by Sen. PERSAUD -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the filing of objections to support magistrate determinations in child support, paternity and parentage proceedings in family court and to the time-limit for appeals in all categories of family court cases

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.  
25 Pending review of the objections and the rebuttal, if any, the order of

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

LBD09738-01-3

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

8 § 2. Section 1113 of the family court act, as amended by chapter 41 of  
9 the laws of 2010, is amended to read as follows:

10 § 1113. Time of appeal. An appeal under this article must be taken no  
11 later than thirty days after the service by a party or the child's  
12 attorney upon the appellant of any order from which the appeal is taken,  
13 thirty days from receipt of the order by the appellant in court or thir-  
14 ty-five days from the mailing or electronic transmission of the order to  
15 the appellant by the clerk of the court, whichever is earliest.

16 All such orders shall contain the following statement in conspicuous  
17 print: "Pursuant to section 1113 of the family court act, an appeal must  
18 be taken within thirty days of receipt of the order by appellant in  
19 court, thirty-five days from the mailing or electronic transmission of  
20 the order to the appellant by the clerk of the court, or thirty days  
21 after service by a party or attorney for the child upon the appellant,  
22 whichever is earliest." When service of the order is made by the court,  
23 the time to take an appeal shall not commence unless the order contains  
24 such statement and there is an official notation in the court record as  
25 to the date and the manner of service of the order.

26 § 3. This act shall take effect on the one hundred twentieth day after  
27 it shall have become a law.