

# STATE OF NEW YORK

5269

2023-2024 Regular Sessions

## IN SENATE

March 1, 2023

Introduced by Sen. PERSAUD -- 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 authorizing expedited settlement conference processes for establishing child support orders

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

1 Section 1. Subdivisions (c) and (d) of section 439-a of the family  
2 court act are relettered (d) and (e) and a new subdivision (c) is added  
3 to read as follows:

4 (c) (i) Purpose. To authorize the development of expedited settlement  
5 conference processes in each family court to facilitate the establish-  
6 ment of child support orders pursuant to section four hundred thirteen  
7 of this article consistent with the state's child support guidelines for  
8 parents who agree on child support and seek to voluntarily engage in a  
9 settlement conference, expedited settlement conferences shall be author-  
10 ized and developed pursuant to this section. Such expedited settlement  
11 conferences are not for the purpose of parents' negotiation or mediation  
12 of disputes concerning income or issues related to the determination of  
13 child support. Further, such expedited settlement conferences are not  
14 for use in actions brought by public welfare officials for support  
15 pursuant to subdivision one of section one hundred two of the social  
16 services law. The court administration shall promulgate or amend forms  
17 as necessary to implement the terms of this section.

18 (ii) Initiating the expedited settlement conference. (A) An expedited  
19 settlement conference may be initiated:

20 (1) by a petitioner selecting the option for a conference on the peti-  
21 tion, with no objection by the respondent.

22 (2) by referral from a family court.

23 (B) Parties seeking to engage in an expedited settlement conference  
24 shall apply for child support services pursuant to title IV-d of the

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

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1 federal social security act, either by indication on the petition for  
2 support or on the stipulation for child support.

3 (C) The following cases shall be excluded from an expedited settlement  
4 conference process:

5 (1) Cases that involve minor parents who are unrepresented by legal  
6 counsel.

7 (2) Cases that require a determination of parentage.

8 (3) Cases between parties who are also parties to a temporary or final  
9 order of protection issued by any court of competent jurisdiction.

10 (4) Cases that involve spousal support in addition to child support.

11 (iii) Exchange of financial affidavits and supporting documentation.  
12 The parties shall exchange financial affidavits and supporting documen-  
13 tation in accordance with section four hundred twenty-four-a of this  
14 article, unless the parties expressly waive all or further financial  
15 disclosure.

16 (iv) Conduct of the conference. (A) At the outset of the expedited  
17 settlement conference, the parties shall be informed as to how the  
18 conference will proceed. Such notice shall include, but not be limited  
19 to:

20 (1) that the parties have a right to consult with or retain an attor-  
21 ney prior to reaching agreement;

22 (2) that participation in the conference is voluntary and that, at any  
23 time during the conference, either party can indicate that they choose  
24 to discontinue the conference for any reason;

25 (3) that section four hundred twenty-four-a of the family court act  
26 requires parties to a support case to engage in financial disclosure and  
27 that there shall be no further financial disclosure or discovery if the  
28 parties achieve a validly executed child support agreement through the  
29 expedited settlement conference process; and

30 (4) that child support orders, including court-ordered agreements, can  
31 be modified on the bases enumerated in section four hundred fifty-one of  
32 this article and as listed on the stipulation for child support form,  
33 and that a validly executed agreement between the parties opting out of  
34 the bases for modification under subparagraphs (i) and (ii) of paragraph  
35 (b) of subdivision three of section four hundred fifty-one of this arti-  
36 cle means those bases will not be available to a party seeking modifica-  
37 tion of the court-ordered agreement in the future.

38 (B) For the purposes of this section, the family court staff facili-  
39 tating the conference shall review the financial affidavit submitted by  
40 each party and any other documentation or information provided by the  
41 parties and shall complete a child support guidelines worksheet to  
42 calculate the support obligation.

43 (C) The family court staff facilitating the conference shall review  
44 the child support guidelines worksheet with the parties and the support  
45 obligation resulting from the calculations and confirm that the parties  
46 received and had the opportunity to review a copy of the child support  
47 standards chart promulgated by the commissioner of the office of tempo-  
48 rary and disability assistance pursuant to section one hundred eleven-i  
49 of the social services law.

50 (D) Where the combined parental income exceeds the amount set forth in  
51 paragraph (b) of subdivision two of section one hundred eleven-i of the  
52 social services law, the parties shall be informed at the expedited  
53 settlement conference that the law permits, but does not require, the  
54 use of the child support percentages in calculating the child support  
55 obligation on the income above the statutory cap and that the child  
56 support obligation for parental income above the statutory cap may be

1 determined pursuant to the factors listed in paragraph (f) of subdivi-  
2 sion one of section four hundred thirteen of this article as an alterna-  
3 tive to applying the child support percentages.

4 (E) To the extent resources are available in a family court, the expe-  
5 ditated settlement conference and subsequent appearances before a support  
6 magistrate may be held virtually upon consent of the parties and in  
7 accordance with subdivision (c) of section four hundred thirty-three of  
8 this part.

9 (F) The court shall provide interpretation services for parties in  
10 expedited child support settlement conferences when a court determines  
11 that a party or witness, or an interested parent or guardian of a minor  
12 party in such proceeding, is unable to understand and communicate in  
13 English to the extent that he or she cannot meaningfully participate in  
14 such proceedings. The clerk of the court or another designated adminis-  
15 trative officer shall schedule an interpreter at no expense from an  
16 approved list maintained by the office of court administration. The  
17 court may permit an interpreter to interpret by telephone or live audi-  
18 ovisual means. If no pre-approved interpreter is available, the clerk of  
19 the court or another designated administrative officer shall schedule an  
20 interpreter at no expense as justice requires. This subparagraph shall  
21 not alter or diminish the court's authority and duty to assure justness  
22 in proceedings before it. A person with limited English proficiency,  
23 other than a person testifying as a witness, may waive a court-appointed  
24 interpreter, with the consent of the court, if the person provides his  
25 or her own interpreter at his or her own expense.

26 (v) Issuance of a child support stipulation or referral to a support  
27 magistrate; effect. (A) If an expedited settlement conference results in  
28 an agreement of the parties, each party shall sign the child support  
29 stipulation and same shall be provided to a support magistrate for  
30 review and confirmation on the date of the conference. A child support  
31 order issued under this section and confirmed by a court pursuant to  
32 section four hundred twenty-five of this article constitutes an order of  
33 the court and is enforceable by any means available for the enforcement  
34 of child support obligations under this part, this article, article  
35 five-b of this chapter, article fifty-two of the civil practice law and  
36 rules, or any other applicable provisions of law.

37 (B) If a conference does not result in agreement by all parties to the  
38 child support order, the parties shall be referred to a support magis-  
39 trate on the date of the conference for continued proceedings on the  
40 petition for support.

41 (vi) Evaluation and data reporting. The court administration shall  
42 make publicly available an annual report on data related to measures of  
43 the operation and impact of family court expedited settlement conference  
44 processes including, but not limited to:

45 (A) the number of support orders established through expedited settle-  
46 ment conference processes.

47 (B) the average time required to complete the process for cases where  
48 parties reach agreement such as the time between filing and issuance of  
49 child support order upon stipulation.

50 (C) the number of cases in which the expedited settlement conference  
51 process is deemed unavailable to parties because they are also parties  
52 to a temporary or final order of protection.

53 (D) the percentage of cases in which the expedited settlement confer-  
54 ence process is begun but then terminated without resulting in a stipu-  
55 lation for child support.

1 § 2. This act shall take effect on the one hundred twentieth day after  
2 it shall have become a law. Effective immediately, the addition, amend-  
3 ment and/or repeal of any rule or regulation necessary for the implemen-  
4 tation of this act on its effective date are authorized to be made and  
5 completed on or before such effective date.