

STATE OF NEW YORK

8389--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 13, 2025

Introduced by M. of A. BURROUGHS -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law, the social services law and the family court act, in relation to the calculation of child support; and to repeal certain provisions of the domestic relations law and the family court act relating thereto

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

1 Section 1. Subparagraph 3 of paragraph (b) of subdivision 1 of section
2 240 of the domestic relations law, as added by chapter 215 of the laws
3 of 2009, is amended to read as follows:
4 (3) When the person on whose behalf the petition is brought is a child
5 in accordance with paragraph (c) of this subdivision, health insurance
6 benefits shall be considered "reasonable in cost" if the cost of health
7 insurance benefits does not exceed five percent of [~~the combined~~
8 ~~parental~~] either parent's gross income. The cost of health insurance
9 benefits shall refer to the cost of the premium and deductible attribut-
10 able to adding the child or children to existing coverage or the differ-
11 ence between such costs for self-only and family coverage. Provided,
12 however, the presumption that the health insurance benefits are reason-
13 able in cost may be rebutted upon a finding that the cost is unjust or
14 inappropriate which finding shall be based on the circumstances of the
15 case, the cost and comprehensiveness of the health insurance benefits
16 for which the child or children may otherwise be eligible, and the best
17 interests of the child or children. In no instance shall health insur-
18 ance benefits be considered "reasonable in cost" if a parent's share of
19 the cost of extending such coverage would reduce the income of that
20 parent below the self-support reserve. Health insurance benefits are
21 "reasonably accessible" if the child lives within the geographic area
22 covered by the plan or lives within thirty minutes or thirty miles of

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

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1 travel time from the child's residence to the services covered by the
2 health insurance benefits or through benefits provided under a recipro-
3 cal agreement; provided, however, this presumption may be rebutted for
4 good cause shown including, but not limited to, the special health needs
5 of the child. The court shall set forth such finding and the reasons
6 therefor in the order of support.

7 § 2. Subparagraphs 2 and 3 of paragraph (b) of subdivision 1-b of
8 section 240 of the domestic relations law, as added by chapter 567 of
9 the laws of 1989, are amended to read as follows:

10 (2) "Child support" shall mean a sum to be paid pursuant to court
11 order or decree by either or both parents or pursuant to a valid agree-
12 ment between the parties for care, maintenance and education of any
13 unemancipated child under the age of [~~twenty-one~~] eighteen years.

14 (3) "Child support percentage" shall mean:

15 (i) seventeen percent of the [~~combined-parental~~] non-custodial
16 parent's income for one child;

17 (ii) twenty-five percent of the [~~combined-parental~~] non-custodial
18 parent's income for two children;

19 (iii) twenty-nine percent of the [~~combined-parental~~] non-custodial
20 parent's income for three children;

21 (iv) thirty-one percent of the [~~combined-parental~~] non-custodial
22 parent's income for four children; and

23 (v) no less than thirty-five percent of the [~~combined-parental~~] non-
24 custodial parent's income for five or more children.

25 § 3. Subparagraph 4 of paragraph (b) of subdivision 1-b of section 240
26 of the domestic relations law is REPEALED.

27 § 4. Items (B) and (C) of clause (iv) of subparagraph 5 of paragraph
28 (b) of subdivision 1-b of section 240 of the domestic relations law are
29 REPEALED.

30 § 5. Clause (vii) of subparagraph 5 of paragraph (b) of subdivision
31 1-b of section 240 of the domestic relations law, as added by chapter
32 567 of the laws of 1989, subclause (C) as amended by chapter 387 of the
33 laws of 2015, is amended to read as follows:

34 (vii) the following shall be deducted from income prior to applying
35 the provisions of paragraph (c) of this subdivision:

36 (A) unreimbursed employee business expenses except to the extent said
37 expenses reduce personal expenditures,

38 (B) alimony or maintenance actually paid to a spouse not a party to
39 the instant action pursuant to court order or validly executed written
40 agreement,

41 (C) alimony or maintenance actually paid or to be paid to a spouse who
42 is a party to the instant action pursuant to an existing court order or
43 contained in the order to be entered by the court, or pursuant to a
44 validly executed written agreement, in which event the order or agree-
45 ment shall provide for a specific adjustment, in accordance with this
46 subdivision, in the amount of child support payable upon the termination
47 of alimony or maintenance to such spouse; provided, however, that the
48 specific adjustment in the amount of child support is without prejudice
49 to either party's right to seek a modification in accordance with
50 subparagraph two of paragraph b of subdivision nine of part B of section
51 two hundred thirty-six of this article. In an action or proceeding to
52 modify an order of child support, including an order incorporating with-
53 out merging an agreement, issued prior to the effective date of this
54 subclause, the provisions of this subclause shall not, by themselves,
55 constitute a substantial change of circumstances pursuant to paragraph b

1 of subdivision nine of part B of section two hundred thirty-six of this
2 article[~~+~~].

3 (D) child support actually paid pursuant to court order or written
4 agreement on behalf of any child for whom the parent has a legal duty of
5 support and who is not subject to the instant action,

6 (E) public assistance,

7 (F) supplemental security income,

8 (G) New York city or Yonkers income or earnings taxes actually paid,

9 [~~and~~]

10 (H) federal insurance contributions act (FICA) taxes actually paid[~~+~~].

11 (I) New York state income or earnings taxes actually paid,

12 (J) federal income or earnings taxes actually paid, and

13 (K) health insurance costs actually paid.

14 § 6. Subparagraphs 1, 2, 3 and 4 of paragraph (c) of subdivision 1-b
15 of section 240 of the domestic relations law, as added by chapter 567 of
16 the laws of 1989, subparagraph 2 as amended by chapter 343 of the laws
17 of 2009, are amended to read as follows:

18 (1) The court shall determine the [~~combined parental~~] non-custodial
19 parent's income.

20 (2) The court shall multiply the [~~combined parental~~] non-custodial
21 parent's income up to the amount set forth in paragraph (b) of subdivi-
22 sion two of section one hundred eleven-i of the social services law by
23 the appropriate child support percentage [~~and such amount shall be~~
24 ~~prorated in the same proportion as each parent's income is to the~~
25 ~~combined parental income~~].

26 (3) [~~Where the combined parental~~] The non-custodial parent's income
27 [~~exceeds~~] shall be capped at the dollar amount set forth in subparagraph
28 two of this paragraph[~~, the~~]. The court [~~shall~~] may determine the
29 amount of child support for the amount of the [~~combined parental~~] non-
30 custodial parent's income in excess of such dollar amount through
31 consideration of the factors set forth in paragraph (f) of this subdivi-
32 sion and/or the child support percentage.

33 (4) Where the custodial parent is working, or receiving elementary or
34 secondary education, or higher education or vocational training which
35 the court determines will lead to employment, and incurs child care
36 expenses as a result thereof, the court shall determine reasonable child
37 care expenses and such child care expenses, where incurred, shall be
38 prorated in the [~~same proportion as~~] amount of each parent's income [~~is~~
39 ~~to the combined parental income~~]. Each parent's pro rata share of the
40 child care expenses shall be separately stated and added to the sum of
41 subparagraphs two and three of this paragraph.

42 § 7. Paragraph (g) of subdivision 1-b of section 240 of the domestic
43 relations law, as amended by chapter 436 of the laws of 2011, is amended
44 to read as follows:

45 (g) Where the court finds that the non-custodial parent's [~~pro-rata~~
46 ~~share of the~~] basic child support obligation is unjust or inappropriate,
47 the court shall order the non-custodial parent to pay such amount of
48 child support as the court finds just and appropriate, and the court
49 shall set forth, in a written order, the factors it considered; the
50 amount of [~~each party's pro-rata share of~~] the non-custodial parent's
51 basic child support obligation; and the reasons that the court did not
52 order the basic child support obligation. Such written order may not be
53 waived by either party or counsel; provided, however, and notwithstand-
54 ing any other provision of law, the court shall not find that the non-
55 custodial parent's [~~pro-rata~~] share of such obligation is unjust or
56 inappropriate on the basis that such share exceeds the portion of a

1 public assistance grant which is attributable to a child or children.
2 Where the non-custodial parent's income is less than or equal to the
3 poverty income guidelines amount for a single person as reported by the
4 federal department of health and human services, unpaid child support
5 arrears in excess of five hundred dollars shall not accrue.

6 § 8. Paragraphs (a) and (b) of subdivision 2 of section 111-i of the
7 social services law, paragraph (a) as amended by chapter 343 of the laws
8 of 2009 and paragraph (b) as amended by chapter 347 of the laws of 2015,
9 are amended to read as follows:

10 (a) The commissioner shall publish annually a child support standards
11 chart. The child support standards chart shall include: (i) the revised
12 poverty income guideline for a single person as reported by the federal
13 department of health and human services; (ii) the revised self-support
14 reserved as defined in section two hundred forty of the domestic
15 relations law; (iii) the dollar amounts yielded through application of
16 the child support percentage as defined in section two hundred forty of
17 the domestic relations law and section four hundred thirteen of the
18 family court act; and (iv) the [~~combined-parental~~] non-custodial
19 parent's income amount.

20 (b) The [~~combined-parental~~] non-custodial parent's income amount to be
21 reported in the child support standards chart and utilized in calculat-
22 ing orders of child support in accordance with subparagraph two of para-
23 graph (c) of subdivision one of section four hundred thirteen of the
24 family court act and subparagraph two of paragraph (c) of subdivision
25 one-b of section two hundred forty of the domestic relations law as of
26 January thirty-first, two thousand fourteen shall be one hundred forty-
27 one thousand dollars; provided, however, beginning March first, two
28 thousand sixteen and every two years thereafter, the [~~combined-parental~~]
29 non-custodial parent's income amount shall increase by the sum of the
30 average annual percentage changes in the consumer price index for all
31 urban consumers (CPI-U) as published by the United States department of
32 labor bureau of labor statistics for the prior two years multiplied by
33 the current [~~combined-parental~~] non-custodial parent's income amount and
34 then rounded to the nearest one thousand dollars.

35 § 9. Subparagraphs 2 and 3 of paragraph (b) of subdivision 1 of
36 section 413 of the family court act, as amended by chapter 567 of the
37 laws of 1989, are amended to read as follows:

38 (2) "Child support" shall mean a sum to be paid pursuant to court
39 order or decree by either or both parents or pursuant to a valid agree-
40 ment between the parties for care, maintenance and education of any
41 unemancipated child under the age of [~~twenty-one~~] eighteen years.

42 (3) "Child support percentage" shall mean:

43 (i) seventeen percent of the [~~combined-parental~~] non-custodial
44 parent's income for one child;

45 (ii) twenty-five percent of the [~~combined-parental~~] non-custodial
46 parent's income for two children;

47 (iii) twenty-nine percent of the [~~combined-parental~~] non-custodial
48 parent's income for three children;

49 (iv) thirty-one percent of the [~~combined-parental~~] non-custodial
50 parent's income for four children; and

51 (v) no less than thirty-five percent of the [~~combined-parental~~] non-
52 custodial parent's income for five or more children.

53 § 10. Subparagraph 4 of paragraph (b) of subdivision 1 of section 413
54 of the family court act is REPEALED.

1 § 11. Subclauses (B) and (C) of clause (iv) of subparagraph 5 of para-
2 graph (b) of subdivision 1 of section 413 of the family court act are
3 REPEALED.

4 § 12. Clause (vii) of subparagraph 5 of paragraph (b) of subdivision 1
5 of section 413 of the family court act, as amended by chapter 567 of the
6 laws of 1989, subclause (C) as amended by chapter 387 of the laws of
7 2015, is amended to read as follows:

8 (vii) the following shall be deducted from income prior to applying
9 the provisions of paragraph (c) of this subdivision:

10 (A) unreimbursed employee business expenses except to the extent said
11 expenses reduce personal expenditures,

12 (B) alimony or maintenance actually paid to a spouse not a party to
13 the instant action pursuant to court order or validly executed written
14 agreement,

15 (C) alimony or maintenance actually paid or to be paid to a spouse who
16 is a party to the instant action pursuant to an existing court order or
17 contained in the order to be entered by the court, or pursuant to a
18 validly executed written agreement, in which event the order or agree-
19 ment shall provide for a specific adjustment, in accordance with this
20 subdivision, in the amount of child support payable upon the termination
21 of alimony or maintenance to such spouse; provided, however, that the
22 specific adjustment in the amount of child support is without prejudice
23 to either party's right to seek a modification in accordance with subdi-
24 vision three of section four hundred fifty-one of this article. In an
25 action or proceeding to modify an order of child support, including an
26 order incorporating without merging an agreement, issued prior to the
27 effective date of this subclause, the provisions of this subclause shall
28 not, by themselves, constitute a substantial change of circumstances
29 pursuant to paragraph (a) of subdivision three of section four hundred
30 fifty-one of this article[~~+~~].

31 (D) child support actually paid pursuant to court order or written
32 agreement on behalf of any child for whom the parent has a legal duty of
33 support and who is not subject to the instant action,

34 (E) public assistance,

35 (F) supplemental security income,

36 (G) New York city or Yonkers income or earnings taxes actually paid,
37 [~~and~~]

38 (H) federal insurance contributions act (FICA) taxes actually paid[~~+~~].

39 (I) New York state income or earnings taxes actually paid,

40 (J) federal income or earnings taxes actually paid, and

41 (K) health insurance costs actually paid.

42 § 13. Subparagraphs 1, 2, 3 and 4 of paragraph (c) of subdivision 1 of
43 section 413 of the family court act, as amended by chapter 567 of the
44 laws of 1989, subparagraph 2 as amended by chapter 343 of the laws of
45 2009, are amended to read as follows:

46 (1) The court shall determine the [~~combined-parental~~] non-custodial
47 parent's income.

48 (2) The court shall multiply the [~~combined-parental~~] non-custodial
49 parent's income up to the amount set forth in paragraph (b) of subdivi-
50 sion two of section one hundred eleven-i of the social services law by
51 the appropriate child support percentage [~~and such amount shall be~~
52 ~~prorated in the same proportion as each parent's income is to the~~
53 ~~combined-parental income~~].

54 (3) [~~Where the combined-parental~~] The non-custodial parent's income
55 [~~exceeds~~] shall be capped at the dollar amount set forth in subparagraph
56 two of this paragraph[~~, the~~]. The court [~~shall~~] may determine the amount

1 of child support for the amount of the [~~combined parental~~] non-custodial
2 parent's income in excess of such dollar amount through consideration of
3 the factors set forth in paragraph (f) of this subdivision and/or the
4 child support percentage.

5 (4) Where the custodial parent is working, or receiving elementary or
6 secondary education, or higher education or vocational training which
7 the court determines will lead to employment, and incurs child care
8 expenses as a result thereof, the court shall determine reasonable child
9 care expenses and such child care expenses, where incurred, shall be
10 prorated in the [~~same proportion as~~] amount of each parent's income [~~is~~
11 ~~to the combined parental income~~]. Each parent's pro rata share of the
12 child care expenses shall be separately stated and added to the sum of
13 subparagraphs two and three of this paragraph.

14 § 14. Paragraph (g) of subdivision 1 of section 413 of the family
15 court act, as amended by chapter 436 of the laws of 2011, is amended to
16 read as follows:

17 (g) Where the court finds that the non-custodial parent's [~~pro-rata~~
18 ~~share of the~~] basic child support obligation is unjust or inappropriate,
19 the court shall order the non-custodial parent to pay such amount of
20 child support as the court finds just and appropriate, and the court
21 shall set forth, in a written order, the factors it considered; the
22 amount of [~~each party's pro-rata share of~~] the non-custodial parent's
23 basic child support obligation; and the reasons that the court did not
24 order the basic child support obligation. Such written order may not be
25 waived by either party or counsel; provided, however, and notwithstand-
26 ing any other provision of law, including but not limited to section
27 four hundred fifteen of this part, the court shall not find that the
28 non-custodial parent's [~~pro-rata~~] share of such obligation is unjust or
29 inappropriate on the basis that such share exceeds the portion of a
30 public assistance grant which is attributable to a child or children.
31 Where the non-custodial parent's income is less than or equal to the
32 poverty income guidelines amount for a single person as reported by the
33 federal department of health and human services, unpaid child support
34 arrears in excess of five hundred dollars shall not accrue.

35 § 15. This act shall take effect immediately.