

STATE OF NEW YORK

8296

2025-2026 Regular Sessions

IN ASSEMBLY

May 12, 2025

Introduced by M. of A. McMAHON -- (at request of the Unified Court System) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to recurring payments to the non-custodial parent in special circumstances in child support proceedings involving joint or shared custody of children

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

1 Section 1. Paragraphs (h), (i), (j), (k) and (l) of subdivision 1 of
2 section 413 of the family court act are relettered paragraphs (i), (j),
3 (k), (l) and (m) and a new paragraph (h) is added to read as follows:

4 (h) Notwithstanding the above, provided that the child is not receiv-
5 ing temporary assistance for needy families, the court may direct the
6 custodial parent to pay a recurring sum of money to the non-custodial
7 parent and/or to third parties on the child's behalf while in the care
8 of the non-custodial parent where the court finds, in a written deci-
9 sion, that: (1) the non-custodial parent has been awarded substantial
10 parenting time with the child; (2) the custodial parent has far greater
11 income and/or assets than the non-custodial parent, and the non-custodi-
12 al parent does not have the ability to earn sufficient income to provide
13 for the child's basic needs when in the non-custodial parent's care; (3)
14 such payment is necessary to enable the non-custodial parent to provide
15 for the child's basic needs when in the care of the non-custodial
16 parent; (4) directing the custodial parent to make such payment would
17 not result in insufficient funds in the household of the custodial
18 parent to meet the basic needs of the child; and (5) to do otherwise
19 would not be in the child's best interests and would cause the child to
20 unfairly bear the economic burden of the parental separation. Such
21 payment shall be deemed child support for the purposes of enforcement
22 and shall be deemed income to the non-custodial parent. After determin-
23 ing the amount of the recurring payments ordered to be paid to the non-

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

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1 custodial parent pursuant to this section by the custodial parent, and
2 the amount of the basic child support obligation to be paid to the
3 custodial parent by the non-custodial parent, the court in its
4 discretion may deduct the smaller payment from the larger payment so
5 that there is only one payment to be made hereunder.

6 § 2. Paragraphs (h), (i), (j), (k) and (l) of subdivision 1-b of
7 section 240 of the domestic relations law are relettered paragraphs (i),
8 (j), (k), (l) and (m) and a new paragraph (h) is added to read as
9 follows:

10 (h) Notwithstanding the above, provided that the child is not receiv-
11 ing temporary assistance for needy families, the court may direct the
12 custodial parent to pay a recurring sum of money to the non-custodial
13 parent and/or to third parties on the child's behalf while in the care
14 of the non-custodial parent where the court finds, in a written deci-
15 sion, that: (1) the non-custodial parent has been awarded substantial
16 parenting time with the child; (2) the custodial parent has far greater
17 income and/or assets than the non-custodial parent, and the non-custodi-
18 al parent does not have the ability to earn sufficient income to provide
19 for the child's basic needs when in the non-custodial parent's care; (3)
20 such payment is necessary to enable the non-custodial parent to provide
21 for the child's basic needs when in the care of the non-custodial
22 parent; (4) directing the custodial parent to make such payment would
23 not result in insufficient funds in the household of the custodial
24 parent to meet the basic needs of the child; and (5) to do otherwise
25 would not be in the child's best interests and would cause the child to
26 unfairly bear the economic burden of the parental separation. Such
27 payment shall be deemed child support for the purposes of enforcement
28 and shall be deemed income to the non-custodial parent. After determin-
29 ing the amount of the recurring payments ordered to be paid to the non-
30 custodial parent pursuant to this section by the custodial parent, and
31 the amount of the basic child support obligation to be paid to the
32 custodial parent by the non-custodial parent, the court in its
33 discretion may deduct the smaller payment from the larger payment so
34 that there is only one payment to be made hereunder.

35 § 3. This act shall take effect on the ninetieth day after it shall
36 have become a law.