STATE OF NEW YORK

8389

2025-2026 Regular Sessions

IN ASSEMBLY

May 13, 2025

Introduced by M. of A. BURROUGHS -- read once and referred to the Committee on Judiciary

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:

Section 1. Subparagraph 3 of paragraph (b) of subdivision 1 of section 240 of the domestic relations law, as added by chapter 215 of the laws of 2009, is amended to read as follows:

(3) When the person on whose behalf the petition is brought is a child in accordance with paragraph (c) of this subdivision, health insurance benefits shall be considered "reasonable in cost" if the cost of health insurance benefits does not exceed five percent of [~~the combined parental~~] either parent's gross income. The cost of health insurance benefits shall refer to the cost of the premium and deductible attributable to adding the child or children to existing coverage or the difference between such costs for self-only and family coverage. Provided, however, the presumption that the health insurance benefits are reasonable in cost may be rebutted upon a finding that the cost is unjust or inappropriate which finding shall be based on the circumstances of the case, the cost and comprehensiveness of the health insurance benefits for which the child or children may otherwise be eligible, and the best interests of the child or children. In no instance shall health insurance benefits be considered "reasonable in cost" if a parent's share of the cost of extending such coverage would reduce the income of that parent below the self-support reserve. Health insurance benefits are "reasonably accessible" if the child lives within the geographic area covered by the plan or lives within thirty minutes or thirty miles of travel time from the child's residence to the services covered by the

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

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health insurance benefits or through benefits provided under a reciprocal agreement; provided, however, this presumption may be rebutted for good cause shown including, but not limited to, the special health needs of the child. The court shall set forth such finding and the reasons therefor in the order of support.

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

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

(3) "Child support percentage" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

(D) child support actually paid pursuant to court order or written agreement on behalf of any child for whom the parent has a legal duty of support and who is not subject to the instant action,
(E) public assistance,
(F) supplemental security income,
(G) New York city or Yonkers income or earnings taxes actually paid, [~~and~~]
(H) federal insurance contributions act (FICA) taxes actually paid[~~.~~], **(I) New York state income or earnings taxes actually paid, (J) federal income or earnings taxes actually paid, and (K) health insurance costs actually paid.**

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

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

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

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

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

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

(g) Where the court finds that the non-custodial parent's [~~pro rata share of the~~] basic child support obligation is unjust or inappropriate, the court shall order the non-custodial parent to pay such amount of child support as the court finds just and appropriate, and the court shall set forth, in a written order, the factors it considered; the amount of [~~each party's pro rata share of~~] the **non-custodial parent's** basic child support obligation; and the reasons that the court did not order the basic child support obligation. Such written order may not be waived by either party or counsel; provided, however, and notwithstanding any other provision of law, the court shall not find that the non-custodial parent's [~~pro rata~~] share of such obligation is unjust or inappropriate on the basis that such share exceeds the portion of a public assistance grant which is attributable to a child or children. Where the non-custodial parent's income is less than or equal to the

poverty income guidelines amount for a single person as reported by the federal department of health and human services, unpaid child support arrears in excess of five hundred dollars shall not accrue.

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

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

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

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

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

(3) "Child support percentage" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) public assistance,

(F) supplemental security income,

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

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

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

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

(K) health insurance costs actually paid.

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

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

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

(3) [~~Where the combined parental~~] **The non-custodial parent's** income [~~exceeds~~] **shall be capped at** the dollar amount set forth in subparagraph two of this paragraph[~~, the~~]**. The** court [~~shall~~] **may** determine the amount of child support for the amount of the [~~combined parental~~] **non-custodial parent's** income in excess of such dollar amount through consideration of

the factors set forth in paragraph (f) of this subdivision and/or the child support percentage.

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

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

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

§ 15. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.