§ 439. Support magistrates. * (a) The chief administrator of the courts shall provide, in accordance with subdivision (f) of this section, for the appointment of a sufficient number of support magistrates to hear and determine support proceedings. Except as hereinafter provided, support magistrates shall be empowered to hear, determine and grant any relief within the powers of the court in any proceeding under this article, articles five, five-A, five-B and five-C and sections two hundred thirty-four and two hundred thirty-five of this act, and objections raised pursuant to section five thousand two hundred forty-one of the civil practice law and rules. Support magistrates shall not be empowered to hear, determine and grant any relief with respect to issues specified in section four hundred fifty-five of this article, issues of contested parentage involving claims of equitable estoppel, custody, visitation including visitation as a defense, determinations of parentage made pursuant to section 581-407 of this act, and orders of protection or exclusive possession of the home, which shall be referred to a judge as provided in subdivision (b) or (c) of this section. Where an order of filiation is issued by a judge in a paternity proceeding and child support is in issue, the judge, or support magistrate upon referral from the judge, shall be authorized to immediately make a temporary or final order of support, as applicable. A support magistrate shall have the authority to hear and decide motions and issue summonses and subpoenas to produce persons pursuant to section one hundred fifty-three of this act, hear and decide proceedings and issue any order authorized by subdivision (g) of section five thousand two hundred forty-one of the civil practice law and rules, issue subpoenas to produce prisoners pursuant to section two thousand three hundred two of the civil practice law and rules and make a determination that any person before the support magistrate is in violation of an order of the court as authorized by section one hundred fifty-six of this act subject to confirmation by a judge of the court who shall impose any punishment for such violation as provided by law. A determination by a support magistrate that a person is in willful violation of an order under subdivision three of section four hundred fifty-four of this article and that recommends commitment shall be transmitted to the parties, accompanied by findings of fact, but the determination shall have no force and effect until confirmed by a judge of the court.

* NB Effective until August 31, 2027

* (a) The chief administrator of the courts shall provide, in accordance with subdivision (f) of this section, for the appointment of a sufficient number of support magistrates to hear and determine support proceedings. Except as hereinafter provided, support magistrates shall be empowered to hear, determine and grant any relief within the powers of the court in any proceeding under this article, articles five, five-A, and five-B and sections two hundred thirty-four and two hundred thirty-five of this act, and objections raised pursuant to section five thousand two hundred forty-one of the civil practice law and rules. Support magistrates shall not be empowered to hear, determine and grant any relief with respect to issues specified in section four hundred fifty-five of this article, issues of contested paternity involving claims of equitable estoppel, custody, visitation including visitation as a defense, and orders of protection or exclusive possession of the home, which shall be referred to a judge as provided in subdivision (b) or (c) of this section. Where an order of filiation is issued by a judge in a paternity proceeding and child support is in issue, the judge, or support magistrate upon referral from the judge, shall be authorized to immediately make a temporary or final order of support, as applicable. A support magistrate shall have the authority to hear and decide motions and issue summonses and subpoenas to produce persons pursuant to section one hundred fifty-three of this act, hear and decide proceedings and issue any order authorized by subdivision (g) of section five thousand two hundred forty-one of the civil practice law and rules, issue subpoenas to produce prisoners pursuant to section two thousand three hundred two of the civil practice law and rules and make a determination that any person before the support magistrate is in violation of an order of the court as authorized by section one hundred fifty-six of this act subject to confirmation by a judge of the court who shall impose any punishment for such violation as provided by law. A determination by a support magistrate that a person is in willful violation of an order under subdivision three of section four hundred fifty-four of this article and that recommends commitment shall be transmitted to the parties, accompanied by findings of fact, but the determination shall have no force and effect until confirmed by a judge of the court.

* NB Effective August 31, 2027

(b) In any proceeding to establish paternity which is heard by a support magistrate, the support magistrate shall advise the mother and putative father of the right to be represented by counsel and shall advise the mother and putative father of their right to blood grouping or other genetic marker or DNA tests in accordance with section five hundred thirty-two of this act. The support magistrate shall order that such tests be conducted in accordance with section five hundred thirty-two of this act. The support magistrate shall be empowered to hear and determine all matters related to the proceeding including the making of an order of filiation pursuant to section five hundred forty-two of this act and an application to change the name of the child pursuant to section sixty of the civil rights law, provided, however, that where the respondent denies paternity and paternity is contested on the grounds of equitable estoppel, the support magistrate shall not be empowered to determine the issue of paternity, but shall transfer the proceeding to a judge of the court for a determination of the issue of paternity. Where an order of filiation is issued by a judge in a paternity proceeding and child support is in issue, the judge, or support magistrate upon referral from the judge, shall be authorized to immediately make a temporary or final order of support, as applicable. Whenever an order of filiation is made by a support magistrate, the support magistrate also shall make a final or temporary order of support.

(c) The support magistrate, in any proceeding in which issues specified in section four hundred fifty-five of this act, or issues of custody, visitation, including visitation as a defense, orders of protection or exclusive possession of the home are present or in which paternity is contested on the grounds of equitable estoppel, shall make a temporary order of support and refer the proceeding to a judge. Upon determination of such issue by a judge, the judge may make a final determination of the issue of support, or immediately refer the proceeding to a support magistrate for further proceedings regarding child support or other matters within the authority of the support magistrate.

(d) Rules of evidence shall be applicable in proceedings before a support magistrate. A support magistrate shall have the power to issue

subpoenas, to administer oaths and to direct the parties to engage in and permit such disclosure as will expedite the disposition of issues. The assignment of proceedings and matters to support magistrates, the conduct of the trial before a support magistrate, the contents and filing of a support magistrate's findings of fact and decision and all matters incidental to proceedings before support magistrates shall be in accordance with rules provided for by the chief administrator of the courts. Proceedings held before a support magistrate may be recorded mechanically as provided by the chief administrator of the courts. A transcript of such proceeding may be made available in accordance with the rules of the chief administrator of the courts.

(e) The determination of a support magistrate shall include findings of fact and, except with respect to a determination of a willful violation of an order under subdivision three of section four hundred fifty-four of this article where commitment is recommended as provided in subdivision (a) of this section, a final order which shall be entered and transmitted to the parties. Specific written objections to a final order of a support magistrate may be filed by either party with the court within thirty days after receipt of the order in court or by personal service, or, if the objecting party or parties did not receive the order in court or by personal service, thirty-five days after mailing or electronic transmission of the order to such party or parties. A party filing objections shall arrange for the service by a non-party over the age of eighteen of a copy of such objections upon the opposing party, who shall have thirteen days from such service to file a written rebuttal to such objections, which shall be served by a non-party over the age of eighteen upon the other party. Proof of service upon the opposing party shall be filed with the court at the time of filing of objections and any rebuttal. Within thirty-five days after the objection is filed, the judge, based upon a review of the objections and the rebuttal, if any, shall (i) remand one or more issues of fact to the support magistrate, (ii) make, with or without holding a new hearing, the judge's own findings of fact and order, or (iii) deny the objections. Pending review of the objections and the rebuttal, if any, the order of the support magistrate shall be in full force and effect and no stay of such order shall be granted. In the event a new order is issued, payments made by the respondent in excess of the new

order shall be applied as a credit to future support obligations. The final order of a support magistrate, after objections and the rebuttal, if any, have been reviewed by a judge, may be appealed pursuant to article eleven of this act.

(f) The chief administrator shall promulgate written rules for the selection, appointment, reappointment, compensation and training of support magistrates, who shall be attorneys admitted to the practice of law in this state for at least three years and who shall be knowledgeable with respect to the family court and federal and state support law and programs. Support magistrates shall be appointed on a full-time basis for a term of three years and may be reappointed for subsequent terms which shall be five years in length, except that the rules promulgated hereunder may permit the appointment of an acting support magistrate to serve during a support magistrate's authorized leave of absence. Where it is determined that the employment of a full-time support magistrate is not required, one or more counties may agree to share the services of a full-time support magistrate or a support magistrate may be appointed to serve within one or more counties on a part-time basis.