§ 111-n. Review and cost of living adjustment of support orders. 1. Orders subject to review. In accordance with the timeframes set forth in subdivision three of this section, the support collection unit shall conduct a review for adjustment purposes of:

(a) all orders of support being enforced pursuant to this title on behalf of persons in receipt of family assistance; and

(b) those orders of support being enforced pursuant to this title on behalf of persons not in receipt of family assistance, for which a request for a cost of living adjustment review has been received from either party to the order.

2. Definitions. For purposes of this section, the following definitions shall be used:

(a) "Adjusted child support obligation amount" shall mean the sum of the cost of living adjustment and the support obligation amount contained in the order under review.

(b) "Adjusted order" shall mean an order issued by the support collection unit reflecting a change to the obligation amount of the most recently issued order of support made on behalf of a child in receipt of family assistance or child support enforcement services pursuant to section one hundred eleven-g of this title.

(c) "Cost of living adjustment" shall mean the amount by which the support obligation is changed as the result of a review, and shall be determined based upon annual average changes to 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 years preceding the year of the review, as follows:

(1) Identify the CPI-U "percent change from the previous annual average" for each year preceding the year of the review, beginning with and including the later of the year in which the most recent order was issued or nineteen hundred ninety-four, and calculate the sum of the percentages for those years.

(2) Where the sum as calculated pursuant to subparagraph one of this paragraph equals or exceeds ten percent, multiply the support obligation in the order under review by such percentage. The product is the cost of living adjustment.

(d) "Order" shall mean an original, modified, or adjusted order of

support; or, after a hearing in response to objections to a cost of living adjustment as set forth in an adjusted order of support, the order of support reflecting the application of the child support standards pursuant to section two hundred forty of the domestic relations law or section four hundred thirteen of the family court act, or an order of no adjustment.

(e) "Review" shall mean the calculation of the cost of living adjustment and the adjusted child support obligation amount by the support collection unit for the most recently issued order of support made on behalf of a child in receipt of family assistance, or child support enforcement services pursuant to section one hundred eleven-g of this title.

3. Timeframes. The review of support orders for cost of living adjustment purposes shall be conducted by the support collection unit in accordance with the following timeframes:

(a) For all orders of support on behalf of persons in receipt of family assistance, a review shall be conducted during the second calendar year following the year in which the order was issued, or the current year, whichever is later. Any cost of living adjustment resulting from a review shall be effective sixty days following the date of the adjusted order, or twenty-four months after the date of the order under review, whichever is later.

(b) For all orders of support on behalf of persons not in receipt of family assistance, a review shall be conducted during the second calendar year following the year in which the order was issued, or the current year, whichever is later; provided, however, that no such review shall occur unless a request for such review has been received from a party to the order. Any cost of living adjustment resulting from a review shall be effective sixty days following the date of the adjusted order, or twenty-four months after the date of the order under review, whichever is later.

4. Adjustment process. (a) A cost of living adjustment shall be made by the support collection unit with respect to each order of support under review, if the sum of the annual average changes of the consumer price index for all urban consumers (CPI-U), as published by the United

States department of labor bureau of labor statistics, is ten percent or greater. The child support obligation amount, as increased by the cost of living adjustment calculated during the review, shall be rounded to the nearest dollar. In the event that the sum of the annual average changes of the CPI-U is less than ten percent, no cost of living adjustment shall occur.

(b) Upon the conclusion of the adjustment review, the support collection unit shall issue and send an adjusted order by first class mail to the parties. The cost of living adjustment and the adjusted child support obligation amount as calculated by the review shall be reflected in the adjusted order. The child support obligation amount contained in the adjusted order shall be due and owing on the date the first payment is due under the terms of the order of support which was reviewed and adjusted occurring on or after the effective date of the adjusted order.

(c) The support collection unit shall provide a copy of the adjusted order to the court which issued the most recent order of support, which shall append it to the order.

5. Objections. (a) Where there is an objection to a cost of living adjustment, either party or the support collection unit shall have thirty-five days from the date of mailing of the adjusted order by the support collection unit to submit to the court identified thereon written objections, requesting a hearing on the adjustment of the order of support.

(b) If objections are submitted timely to the court, the cost of living adjustment shall not take effect, and a hearing shall be scheduled by the court. The hearing shall be conducted and a determination made by the court pursuant to section two hundred forty-c of the domestic relations law or section four hundred thirteen-a of the family court act.

(c) Where no objection has been timely raised to a cost of living adjustment as reflected in an adjusted order, such adjusted order shall become final without further review by the court or any judge or support magistrate thereof.

6. Adjusted order - form. The adjusted order shall contain the

following information:

(a) the caption of the order of support subject to the review, the date of such order, and the court in which it was entered;

(b) the identification, telephone number, and address of the support collection unit which conducted the review;

(c) the cost of living adjustment and the adjusted child support obligation amount as calculated during the review of the order, and a statement that such amount shall be due and owing on the date the first payment is due under the term of the order of support which was reviewed and adjusted, occurring on or after the effective date of the adjusted order;

(d) the definition of cost of living adjustment;

(e) a statement that the child support obligation amount, as increased by the cost of living adjustment, has been rounded to the nearest dollar;

(f) a statement that all other provisions of the order of support which was reviewed and adjusted remain in full force and effect;

(g) a statement that the application of a cost of living adjustment in no way limits, restricts, expands, or impairs the rights of any party to file for a modification of a child support order as otherwise provided by law;

(h) a statement that where either party objects to the cost of living adjustment, the party has the right to be heard by the court and to present evidence to the court which the court will consider in adjusting the child support order in compliance with section four hundred thirteen of the family court act or section two hundred forty of the domestic relations law, known as the child support standards act; provided, however, that written objections are filed with the court within thirty-five days from the date the adjusted order was mailed by the support collection unit; that when filing objections the objecting party should attach a copy of the adjusted order, if available; and

(i) a statement that where any party fails to provide, and update upon any change, the support collection unit with a current address to which an adjusted order can be sent, the support obligation amount contained therein shall become due and owing on the date the first payment is due under the order of support which was reviewed and adjusted occurring on or after the effective date of the adjusted order, regardless of whether

or not the party has received a copy of the adjusted order.

7. Notice of right to review. On or after the first day of January, nineteen hundred ninety-eight, any order of support twenty-four or more months old which was issued on behalf of a child in receipt of family assistance or child support enforcement services pursuant to section one hundred eleven-g of this title, is eligible for a cost of living adjustment every two years. The support collection unit shall notify the parties to the order of their right to make a written request to the support collection unit for a cost of living adjustment of such support order. Such notice shall contain the amount of the cost of living adjustment, the amount of the adjusted child support obligation, the applicable CPI-U used in the calculation of that amount, the address and telephone number of the support collection unit where assistance can be obtained in commencing an adjustment review, and other information deemed necessary and relevant by the department, and shall be sent to the parties by first class mail at their last known address, and shall contain a reply form and envelope with postage pre-paid. The support collection unit shall provide the notice described herein not less than once every two years.