

1 AN ACT relating to child support.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 403.211 is amended to read as follows:

- 4 (1) An action to establish or enforce child support may be initiated by the parent,
5 custodian, or agency substantially contributing to the support of the child. The
6 action may be brought in the county in which the child ~~resides~~, **mother**, or ~~where~~
7 ~~the~~ defendant resides.
- 8 (2) At the time of initial establishment of a child support order, whether temporary or
9 permanent, or in any proceeding to modify a support order, the child support
10 guidelines in KRS 403.212 or 403.2121 shall serve as a rebuttable presumption for
11 the establishment or modification of the amount of child support. Courts may
12 deviate from the guidelines where their application would be unjust or
13 inappropriate. Any deviation shall be accompanied by a written finding or specific
14 finding on the record by the court, specifying the reason for the deviation. **A child**
15 **support order shall be retroactive pursuant to Sections 2 and 3 of this Act.**
- 16 (3) A written finding or specific finding on the record that the application of the
17 guidelines would be unjust or inappropriate in a particular case shall be sufficient to
18 rebut the presumption and allow for an appropriate adjustment of the guideline
19 award if based upon one (1) or more of the following criteria:
- 20 (a) A child's extraordinary medical or dental needs;
 - 21 (b) A child's extraordinary educational, job training, or special needs;
 - 22 (c) Either parent's own extraordinary needs, such as medical expenses;
 - 23 (d) The independent financial resources, if any, of the child or children;
 - 24 (e) Combined monthly adjusted parental gross income in excess of the Kentucky
25 child support guidelines;
 - 26 (f) The parents of the child, having demonstrated knowledge of the amount of
27 child support established by the Kentucky child support guidelines, have

1 agreed to child support different from the guideline amount. However, no
2 such agreement shall be the basis of any deviation if public assistance is being
3 paid on behalf of a child under the provisions of Part D of Title IV of the
4 Federal Social Security Act; and

5 (g) Any similar factor of an extraordinary nature specifically identified by the
6 court which would make application of the guidelines inappropriate.

7 (4) "Extraordinary" as used in this section shall be determined by the court in its
8 discretion.

9 (5) When a party has defaulted or the court is otherwise presented with insufficient
10 evidence to determine gross income, the court shall order child support based upon
11 the needs of the child or the previous standard of living of the child, whichever is
12 greater. An order entered by default or due to insufficient evidence to determine
13 gross income may be modified upward and arrearages awarded from the date of the
14 original order if evidence of gross income is presented within two (2) years which
15 would have established a higher amount of child support pursuant to the child
16 support guidelines set forth in KRS 403.212 or 403.2121.

17 (6) The court shall allocate between the parents, in proportion to their combined
18 monthly adjusted parental gross income, reasonable and necessary child care costs
19 incurred due to employment, job search, or education leading to employment, in
20 addition to the amount ordered under the child support guidelines.

21 (7) (a) Pursuant to 45 C.F.R. sec. 303.31(a)(2), for the purposes of this section,
22 "health care coverage" includes fee for service, health maintenance
23 organization, preferred provider organization, and other types of private
24 health insurance and public health care coverage under which medical
25 services could be provided to a dependent child. If health care coverage is
26 reasonable in cost and accessible to either parent at the time the request for
27 coverage is made, the court shall order the parent to obtain or maintain

1 coverage, and the court shall allocate between the parents, in proportion to
2 their combined monthly adjusted parental gross income, the cost of health
3 care coverage for the child, in addition to the support ordered under the child
4 support guidelines.

5 (b) A parent, who has one hundred percent (100%) of the combined monthly
6 adjusted parental gross income, shall be entitled to a reduction in gross
7 income of the entire amount of premiums incurred and paid.

8 (c) The court shall order the cost of health care coverage of the child to be paid
9 by either or both parents of the child regardless of who has physical custody.

10 The court order shall include:

- 11 1. A judicial directive designating which parent shall have financial
12 responsibility for providing health care coverage for the dependent
13 child, which shall include but not be limited to health care coverage,
14 payments of necessary health care deductibles or copayments;
- 15 2. If appropriate, cash medical support. "Cash medical support" means an
16 amount to be paid toward the cost of health care coverage, fixed
17 payments for ongoing medical costs, extraordinary medical expenses, or
18 any combination thereof; and
- 19 3. A statement providing that if the designated parent's health care
20 coverage provides for covered services for dependent children beyond
21 the age of majority, then any unmarried children up to twenty-five (25)
22 years of age who are full-time students enrolled in and attending an
23 accredited educational institution and who are primarily dependent on
24 the insured parent for maintenance and support shall be covered.

25 (d) If health care coverage is not reasonable in cost and accessible at the time the
26 request for the coverage is made, the court order shall provide for cash
27 medical support until health care coverage becomes reasonable in cost and

1 accessible.

2 (8) (a) For purposes of this section, "reasonable in cost" means that the cost of
3 coverage to the responsible parent does not exceed five percent (5%) of his or
4 her gross income. The five percent (5%) standard shall apply to the cost of
5 adding the child to an existing policy, the difference in the cost between a
6 single and a family policy, or the cost of acquiring a separate policy to cover
7 the child. If the parties agree or the court finds good cause exists, the court
8 may order health care coverage in excess of five percent (5%) of the parent's
9 gross income.

10 (b) For purposes of this section, "accessible" means that there are providers who
11 meet the health care needs of the child and who are located no more than sixty
12 (60) minutes or sixty (60) miles from the child's primary residence, except
13 that nothing shall prohibit use of a provider located more than sixty (60)
14 minutes or sixty (60) miles from the child's primary residence.

15 (9) The cost of extraordinary medical expenses shall be allocated between the parties in
16 proportion to their combined monthly adjusted parental gross incomes.
17 "Extraordinary medical expenses" means uninsured expenses in excess of two
18 hundred fifty dollars (\$250) per child per calendar year. "Extraordinary medical
19 expenses" includes but is not limited to the costs that are reasonably necessary for
20 medical, surgical, dental, orthodontal, optometric, nursing, and hospital services;
21 for professional counseling or psychiatric therapy for diagnosed medical disorders;
22 and for drugs and medical supplies, appliances, laboratory, diagnostic, and
23 therapeutic services.

24 (10) The court order shall include the Social Security numbers, provided in accordance
25 with KRS 403.135, of all parties subject to a support order.

26 (11) In any case administered by the Cabinet for Health and Family Services, if the
27 parent ordered to provide health care coverage is enrolled through an insurer but

1 fails to enroll the child under family coverage, the other parent or the Cabinet for
2 Health and Family Services may, upon application, enroll the child.

3 (12) In any case administered by the cabinet, information received or transmitted shall
4 not be published or be open for public inspection, including reasonable evidence of
5 domestic violence or child abuse if the disclosure of the information could be
6 harmful to the custodial parent or the child of the parent. Necessary information and
7 records may be furnished as specified by KRS 205.175.

8 (13) In the case in which a parent is obligated to provide health care coverage, and
9 changes employment, and the new employer provides health care coverage, the
10 Cabinet for Health and Family Services shall transfer notice of the provision for
11 coverage for the child to the employer, which shall operate to enroll this child in the
12 obligated parent's health plan, unless the obligated parent contests the notice as
13 specified by KRS Chapter 13B.

14 (14) Notwithstanding any other provision of this section, any wage or income shall not
15 be exempt from attachment or assignment for the payment of current child support
16 or owed or to-be-owed child support.

17 (15) A payment of money received by a child as a result of a parental disability shall be
18 credited against the child support obligation of the parent. A payment shall not be
19 counted as income to either parent when calculating a child support obligation. An
20 amount received in excess of the child support obligation shall be credited against a
21 child support arrearage owed by the parent that accrued subsequent to the date of
22 the parental disability, but shall not be applied to an arrearage that accrued prior to
23 the date of disability. The date of disability shall be as determined by the paying
24 agency.

25 ➔Section 2. KRS 403.160 is amended to read as follows:

26 (1) In a proceeding for dissolution of marriage or for legal separation, or in a
27 proceeding for disposition of property or for maintenance or support following

1 dissolution of the marriage by a court which lacked personal jurisdiction over the
2 absent spouse, either party may move for temporary maintenance. The motion shall
3 be accompanied by an affidavit setting forth the factual basis for the motion and the
4 amounts requested.

5 (2) (a) In a proceeding for dissolution of marriage, legal separation, or child support,
6 either party, with notice to the opposing party, may move for temporary child
7 support. The motion shall be accompanied by an affidavit setting forth the
8 number of children of the marriage and the information required to calculate
9 the combined adjusted parental gross income set forth in KRS 403.212, and
10 the Social Security numbers, provided in accordance with KRS 403.135, of all
11 parties subject to the motion. The court shall, within fourteen (14) days from
12 the filing of said motion, order an amount of temporary child support based
13 upon the child support guidelines as provided by law, and the ordered child
14 support shall be retroactive to:

15 1. The date of the filing of the motion unless otherwise ordered by the
16 court; or

17 2. *Nine (9) months prior to the birth of the child if the order is entered*
18 *within the first year after the birth of the child.*

19 (b) Upon a showing of good cause, either party may move the court to enter an
20 order for temporary child support without written or oral notice to the adverse
21 party. After reviewing the affidavit required by paragraph (a) of this
22 subsection, the court may issue a temporary child support order based upon
23 the child support guidelines. The order shall provide that the order becomes
24 effective seven (7) days following service of the order and movant's affidavit
25 upon the adverse party unless the adverse party, within the seven (7) day
26 period, files a motion for a hearing before the court. The motion for hearing
27 shall be accompanied by the affidavit required by paragraph (a) of this

1 subsection. Pending the hearing, the adverse party shall pay child support in
2 an amount based upon the guidelines and the adverse party's affidavit. The
3 child support order entered following the hearing shall be retroactive to:

4 1. The date of the filing of the motion for temporary support unless
5 otherwise ordered by the court; or

6 2. *Nine (9) months prior to the birth of the child if the order is entered*
7 *within the first year after the birth of the child.*

8 (3) As part of a motion for temporary maintenance or support or by independent
9 motion accompanied by affidavit, either party may request the court to issue a
10 temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

11 (4) If the court or agent of the court is made aware that there is reasonable evidence of
12 domestic violence or child abuse, the court shall determine whether disclosure to
13 any other person of the information could be harmful to the parent or child, and if
14 the court determines that disclosure to any person could be harmful, the court and
15 its agents shall not make the disclosure.

16 (5) On the basis of the showing made and in conformity with KRS 403.200, the court
17 may issue a temporary injunction or restraining order and an order for temporary
18 maintenance in amounts and on terms just and proper in the circumstances.

19 (6) A temporary order or temporary injunction:

20 (a) Does not prejudice the rights of the parties or the child which are to be
21 adjudicated at subsequent hearings in the proceeding;

22 (b) May be revoked or modified before final decree on a showing of the facts
23 necessary to revocation or modification under the circumstances; and

24 (c) Terminates when the final decree is entered or when the petition for
25 dissolution or legal separation is voluntarily dismissed.

26 ➔Section 3. KRS 406.025 is amended to read as follows:

27 (1) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity

1 affidavit by the mother and alleged father, obtained through the hospital-based
2 paternity program, and submitted to the state registrar of vital statistics, paternity
3 shall be rebuttably presumed for the earlier of sixty (60) days or the date of an
4 administrative or judicial proceeding relating to the child, including a proceeding to
5 establish a child support order.

6 (2) Upon completion of a signed, notarized, voluntary acknowledgment-of-paternity
7 affidavit by the mother and alleged father obtained outside of the hospital and
8 submitted to the state registrar of vital statistics, paternity shall be rebuttably
9 presumed for the earlier of sixty (60) days or the date of an administrative or
10 judicial proceeding relating to the child, including a proceeding to establish a child
11 support order following the date of signatures on the notarized affidavit.

12 (3) Pending an administrative or judicial determination of parentage, or upon a signed,
13 notarized, voluntary acknowledgment-of-paternity form having been transmitted by
14 the local registrar and received by the Vital Statistics Branch, a temporary support
15 order shall be issued upon motion of any party if paternity is indicated by genetic
16 testing or other clear and convincing evidence.

17 (4) The motion shall be accompanied by an affidavit setting forth the factual basis for
18 the motion and the amounts requested.

19 (5) The court shall, within fourteen (14) days from the filing of the motion, order an
20 amount of temporary child support based upon the child support guidelines as
21 provided by KRS 403.212 or 403.2121. The ordered child support shall be
22 retroactive to:

23 (a) The date of the filing of the motion to move the court to enter an order for
24 temporary child support without written or oral notice to the adverse party; or

25 (b) Nine (9) months prior to the birth of the child if the order is entered within
26 the first year after the birth of the child.

27 (6) The order shall provide that the order becomes effective seven (7) days following

1 service of the order and movant's affidavit upon the adverse party unless the
2 adverse party, within the seven (7) day period, files a motion for a hearing before
3 the court. The motion for hearing shall be accompanied by the affidavit required by
4 KRS 403.160(2)(a). Pending the hearing, the adverse party shall pay child support
5 in an amount based upon the guidelines and the adverse party's affidavit. The child
6 support order entered following the hearing shall be retroactive to:

7 (a) The date of the filing of the motion for temporary support unless otherwise
8 ordered by the court; or

9 (b) Nine (9) months prior to the birth of the child if the order is entered within
10 the first year after the birth of the child.

11 ~~(7)(6)~~ Unless good cause is shown, court or administratively ordered child support
12 shall continue until final judicial or administrative determination of paternity.