

[First Reprint]  
ASSEMBLY, No. 80

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen KAVANAUGH and COHEN

1 AN ACT concerning child support and amending P.L.1988, c.111 <sup>1</sup>and  
2 P.L.1990, c.92<sup>1</sup>.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1988, c.111 (C.2A:17-56.23a) is amended to  
8 read as follows:

9 1. Any payment or installment of an order for child support, or  
10 those portions of an order which are allocated for child support,  
11 whether ordered in this State or in another state, shall be fully  
12 enforceable and entitled to full faith and credit and shall be a judgment  
13 by operation of law on and after the date it is due. No payment or  
14 installment of an order for child support, or those portions of an order  
15 which are allocated for child support established prior to or  
16 subsequent to the effective date of P.L.1993, c.45 (C.2A:17-56.23a),  
17 shall be retroactively modified by the court except as follows:

18 (a) An order for child support or portions of an order which are  
19 allocated for child support may be retroactively modified by the court  
20 with respect to the period during which there is a pending application  
21 for modification, but only from the date the notice of motion was  
22 mailed either directly or through the appropriate agent. The written  
23 notice will state that a change of circumstances has occurred and a  
24 motion for modification of the order will be filed within 45 days. In  
25 the event a motion is not filed within the 45-day period, modification  
26 shall be permitted only from the date the motion is filed with the court.

27 (b) With respect to a period during which there was no pending  
28 application for modification, an order for child support or portions of  
29 an order which are allocated for child support may be retroactively  
30 modified by the court only if the result of not doing so would be unjust  
31 <sup>1</sup>[.]<sup>1</sup> due to a substantial change of physical custody <sup>1</sup>or emancipation

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AJU committee amendments adopted June 10, 1996.

1 status<sup>1</sup> of the child or other factors. <sup>1</sup>Other factors shall be limited to  
2 extraordinary circumstances including, but not limited to a medically  
3 documented mental or physical disability which prevented the obligor  
4 from making a timely application.<sup>1</sup> The non-modification provision of  
5 this section is intended to be curative and shall apply to all orders  
6 entered before, on and after the effective date of this act.  
7 (cf: P.L.1993, c.45)

8  
9 <sup>1</sup>2. Section 5 of P.L.1990, c.92 (C.2A:17-56.9a) is amended to  
10 read as follows:

11 5. At least once every three years all IV-D orders for child support  
12 payments shall be subject to review in accordance with the rules  
13 promulgated by the IV-D Agency in consultation with the Supreme  
14 Court. Such review shall take into account any changes in the  
15 financial situation or related circumstances of both parties and whether  
16 the order of child support is in full compliance with the Child Support  
17 Guidelines set forth in the Rules Governing the Courts of the State of  
18 New Jersey, R.5:6A.

19 Upon completing the review and if a change in the amount of child  
20 support is recommended, the State IV-D or designee shall so notify  
21 the obligor and obligee in writing of the child support amount that is  
22 recommended. The obligor and obligee shall be afforded not less than  
23 30 days after such notification to file with the IV-D agency and the  
24 court a challenge to such proposed adjustment or determination. The  
25 child support amount will be adjusted accordingly by the court if either  
26 party does not challenge the recommended award within the prescribed  
27 time or fails to show good cause why the adjustment should not occur.

28 This section applies to IV-D orders for child support payments and  
29 is not intended to compel review of all other child support orders  
30 every three years.<sup>1</sup>

31 (cf: P.L.1990, c.92, s.5)

32  
33 <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect immediately.

34  
35  
36 \_\_\_\_\_  
37  
38 Permits retroactive modification of child support under certain  
39 circumstances.