

[Third Reprint]
ASSEMBLY, No. 80

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen KAVANAUGH, COHEN
and Senator Matheussen

1 AN ACT concerning child support and amending P.L.1988, c.111 ¹and
2 P.L.1990, c.92¹.

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

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:

¹ Assembly AJU committee amendments adopted June 10, 1996.

² Assembly floor amendments adopted June 24, 1996.

³ Senate floor amendments adopted December 15, 1997.

1 modified by the court only if the result of not doing so would be unjust
 2 ¹[.]¹ due to a substantial change of physical custody ¹or emancipation
 3 status¹ of the child or other factors. ¹Other factors shall be limited to
 4 extraordinary circumstances including, but not limited to a medically
 5 documented mental or physical disability which prevented the obligor
 6 from making a timely application ²or other extraordinary
 7 circumstances of a non-medical nature² .¹ The non-modification
 8 provision of this section is intended to be curative and shall apply to
 9 all orders entered before, on and after the effective date of this act.

10 ³(c) In cases involving the retroactive modification of an order for
 11 child support or portions of an order which are allocated for child
 12 support, the court shall not require restitution of monies not related to
 13 the order.³

14 (cf: P.L.1993, c.45 s.1)

15
 16 ¹2. Section 5 of P.L.1990, c.92 (C.2A:17-56.9a) is amended to
 17 read as follows:

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

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

35 This section applies to IV-D orders for child support payments and
 36 is not intended to compel review of all other child support orders
 37 every three years.¹

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

39
 40 ¹[2.] 3.¹ This act shall take effect immediately.

41
 42
 43
 44
 45 Permits retroactive modification of child support under certain
 46 circumstances.