

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 **at any**
6 **time following conception as defined in KRS 311.7701**. The action may be brought
7 in the county in which the child ~~resides~~, **mother**, or ~~where 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.
- 15 (3) A written finding or specific finding on the record that the application of the
16 guidelines would be unjust or inappropriate in a particular case shall be sufficient to
17 rebut the presumption and allow for an appropriate adjustment of the guideline
18 award if based upon one (1) or more of the following criteria:
- 19 (a) A child's extraordinary medical or dental needs;
- 20 (b) A child's extraordinary educational, job training, or special needs;
- 21 (c) Either parent's own extraordinary needs, such as medical expenses;
- 22 (d) The independent financial resources, if any, of the child or children;
- 23 (e) Combined monthly adjusted parental gross income in excess of the Kentucky
24 child support guidelines;
- 25 (f) The parents of the child, having demonstrated knowledge of the amount of
26 child support established by the Kentucky child support guidelines, have
27 agreed to child support different from the guideline amount. However, no

1 such agreement shall be the basis of any deviation if public assistance is being
2 paid on behalf of a child under the provisions of Part D of Title IV of the
3 Federal Social Security Act; and

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

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

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

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

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

1 their combined monthly adjusted parental gross income, the cost of health
2 care coverage for the child, in addition to the support ordered under the child
3 support guidelines.

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

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

10 1. A judicial directive designating which parent shall have financial
11 responsibility for providing health care coverage for the dependent
12 child, which shall include but not be limited to health care coverage,
13 payments of necessary health care deductibles or copayments;

14 2. If appropriate, cash medical support. "Cash medical support" means an
15 amount to be paid toward the cost of health care coverage, fixed
16 payments for ongoing medical costs, extraordinary medical expenses, or
17 any combination thereof; and

18 3. A statement providing that if the designated parent's health care
19 coverage provides for covered services for dependent children beyond
20 the age of majority, then any unmarried children up to twenty-five (25)
21 years of age who are full-time students enrolled in and attending an
22 accredited educational institution and who are primarily dependent on
23 the insured parent for maintenance and support shall be covered.

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

- 1 (8) (a) For purposes of this section, "reasonable in cost" means that the cost of
2 coverage to the responsible parent does not exceed five percent (5%) of his or
3 her gross income. The five percent (5%) standard shall apply to the cost of
4 adding the child to an existing policy, the difference in the cost between a
5 single and a family policy, or the cost of acquiring a separate policy to cover
6 the child. If the parties agree or the court finds good cause exists, the court
7 may order health care coverage in excess of five percent (5%) of the parent's
8 gross income.
- 9 (b) For purposes of this section, "accessible" means that there are providers who
10 meet the health care needs of the child and who are located no more than sixty
11 (60) minutes or sixty (60) miles from the child's primary residence, except
12 that nothing shall prohibit use of a provider located more than sixty (60)
13 minutes or sixty (60) miles from the child's primary residence.
- 14 (9) The cost of extraordinary medical expenses shall be allocated between the parties in
15 proportion to their combined monthly adjusted parental gross incomes.
16 "Extraordinary medical expenses" means uninsured expenses in excess of two
17 hundred fifty dollars (\$250) per child per calendar year. "Extraordinary medical
18 expenses" includes but is not limited to the costs that are reasonably necessary for
19 medical, surgical, dental, orthodontal, optometric, nursing, and hospital services;
20 for professional counseling or psychiatric therapy for diagnosed medical disorders;
21 and for drugs and medical supplies, appliances, laboratory, diagnostic, and
22 therapeutic services.
- 23 (10) The court order shall include the Social Security numbers, provided in accordance
24 with KRS 403.135, of all parties subject to a support order.
- 25 (11) In any case administered by the Cabinet for Health and Family Services, if the
26 parent ordered to provide health care coverage is enrolled through an insurer but
27 fails to enroll the child under family coverage, the other parent or the Cabinet for

1 Health and Family Services may, upon application, enroll the child.

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

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

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

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