

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 or where the  
7 defendant resides.

8 (2) ***Notwithstanding the Kentucky Rules of Civil Procedure or any other provision of***  
9 ***law, a child shall not:***

10 ***(a) Initiate, intervene in, or otherwise become a party to an action under this***  
11 ***section or in any related dissolution of marriage proceeding; or***

12 ***(b) Receive child support payments directly, unless the child is emancipated due***  
13 ***to age and still eligible for support in accordance with subsection (3) of***  
14 ***Section 2 of this Act.***

15 **(3)** At the time of initial establishment of a child support order, whether temporary or  
16 permanent, or in any proceeding to modify a support order, the child support  
17 guidelines in KRS 403.212 or 403.2122 shall serve as a rebuttable presumption for  
18 the establishment or modification of the amount of child support. Courts may  
19 deviate from the guidelines where their application would be unjust or  
20 inappropriate. Any deviation shall be accompanied by a written finding or specific  
21 finding on the record by the court~~[-]~~ specifying the reason for the deviation.

22 ~~**(4)**~~~~**(3)**~~ A written finding or specific finding on the record that the application of the  
23 guidelines would be unjust or inappropriate in a particular case shall be sufficient to  
24 rebut the presumption and allow for an appropriate adjustment of the guideline  
25 award if based upon one (1) or more of the following criteria:

26 (a) A child's extraordinary medical or dental needs;

27 (b) A child's extraordinary educational, job training, or special needs;

- 1 (c) Either parent's own extraordinary needs, such as medical expenses;
- 2 (d) The independent financial resources, if any, of the child or children;
- 3 (e) Combined monthly adjusted parental gross income in excess of the Kentucky
- 4 child support guidelines;
- 5 (f) The parents of the child, having demonstrated knowledge of the amount of
- 6 child support established by the Kentucky child support guidelines, have
- 7 agreed to child support different from the guideline amount. However, ~~if no~~
- 8 ~~such~~ **an** agreement shall **not** be the basis of any deviation if public assistance
- 9 is being paid on behalf of a child under the provisions of Part D of Title IV of
- 10 the Federal Social Security Act;
- 11 (g) Failure by one (1) party to consistently exercise the court-ordered timesharing
- 12 schedule or timesharing agreement between the parents; and
- 13 (h) Any similar factor of an extraordinary nature specifically identified by the
- 14 court which would make application of the guidelines inappropriate.
- 15 ~~(5)~~~~(4)~~ "Extraordinary" as used in this section shall be determined by the court in its
- 16 discretion.
- 17 ~~(6)~~~~(5)~~ When a party has defaulted or the court is otherwise presented with
- 18 insufficient evidence to determine gross income, the court shall order child support
- 19 based upon the needs of the child or the previous standard of living of the child,
- 20 whichever is greater. An order entered by default or due to insufficient evidence to
- 21 determine gross income may be modified upward and arrearages awarded from the
- 22 date of the original order if evidence of gross income is presented within two (2)
- 23 years, which would have established a higher amount of child support pursuant to
- 24 the child support guidelines set forth in KRS 403.212 or 403.2122.
- 25 ~~(7)~~~~(6)~~ The court shall allocate between the parents, in proportion to their combined
- 26 monthly adjusted parental gross income, reasonable and necessary child care costs
- 27 incurred due to employment, job search, or education leading to employment, in

1 addition to the amount ordered under the child support guidelines.

2 ~~(8)(7)~~ (a) Pursuant to 45 C.F.R. sec. 303.31(a)(2), ~~for the purposes of~~ **as used in**  
3 this section, "health care coverage" includes fee for service, health  
4 maintenance organization, preferred provider organization, and other types of  
5 private health insurance and public health care coverage under which medical  
6 services could be provided to a dependent child. If health care coverage is  
7 reasonable in cost and accessible to either parent at the time the request for  
8 coverage is made, the court shall:

9 1. Order the parent to obtain or maintain coverage; ~~and the court shall~~  
10 2. Allocate between the parents, in proportion to their combined monthly  
11 adjusted parental gross income, the cost of health care coverage for the  
12 child, in addition to the support ordered under the child support  
13 guidelines.

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

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

20 1. A judicial directive designating which parent shall have financial  
21 responsibility for providing health care coverage for the dependent  
22 child, which shall include but not be limited to health care coverage ~~and~~ **or**  
23 payments of necessary health care deductibles or copayments;  
24 2. If appropriate, cash medical support. "Cash medical support" means an  
25 amount to be paid toward the cost of health care coverage, fixed  
26 payments for ongoing medical costs, extraordinary medical expenses, or  
27 any combination thereof; and

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

7           (d) If health care coverage is not reasonable in cost and accessible at the time the  
8 request for the coverage is made, the court order shall provide for cash  
9 medical support until health care coverage becomes reasonable in cost and  
10 accessible.

11 ~~(9)~~~~(8)~~           (a) As used in~~For purposes of~~ this section, "reasonable in cost" means that  
12 the cost of coverage to the responsible parent does not exceed five percent  
13 (5%) of his or her gross income. The five percent (5%) standard shall apply to  
14 the cost of adding the child to an existing policy, the difference in the cost  
15 between a single and a family policy, or the cost of acquiring a separate policy  
16 to cover the child. If the parties agree or the court finds good cause exists, the  
17 court may order health care coverage in excess of five percent (5%) of the  
18 parent's gross income.

19           (b) As used in~~For purposes of~~ this section, "accessible" means that there are  
20 providers who meet the health care needs of the child and who are located no  
21 more than sixty (60) minutes or sixty (60) miles from the child's primary  
22 residence, except that this section~~nothing~~ shall not prohibit use of a provider  
23 located more than sixty (60) minutes or sixty (60) miles from the child's  
24 primary residence.

25 ~~(10)~~~~(9)~~           The initial two hundred fifty dollars (\$250) of medical expenses shall be  
26 covered by the parent who maintains health insurance for the child or children  
27 subject to the order per calendar year, unless the parties have agreed otherwise.

1 ~~(11)~~~~(10)~~ (a) The cost of extraordinary medical expenses shall be allocated between  
2 the parties in proportion to their combined monthly adjusted parental gross  
3 incomes.

4 (b) 1. "Extraordinary medical expenses" means uninsured expenses in excess  
5 of two hundred fifty dollars (\$250) for the child or children subject to  
6 the order per calendar year.

7 2. "Extraordinary medical expenses" includes but is not limited to the costs  
8 that are reasonably necessary for:

9 a. Medical, surgical, dental, orthodontal, optometric, nursing, and  
10 hospital services;~~for~~

11 b. Professional counseling or psychiatric therapy for diagnosed  
12 medical disorders; and~~for~~

13 c. Drugs and medical supplies, appliances, laboratory, diagnostic,  
14 and therapeutic services.

15 ~~(12)~~~~(11)~~ The court order shall include the Social Security numbers, provided in  
16 accordance with KRS 403.135, of all parties subject to a support order.

17 ~~(13)~~~~(12)~~ In any case administered by the Cabinet for Health and Family Services, if the  
18 parent ordered to provide health care coverage is enrolled through an insurer but  
19 fails to enroll the child under family coverage, the other parent or the Cabinet for  
20 Health and Family Services may, upon application, enroll the child.

21 ~~(14)~~~~(13)~~ In any case administered by the cabinet, information received or transmitted  
22 shall not be published or be open for public inspection, including reasonable  
23 evidence of domestic violence or child abuse if the disclosure of the information  
24 could be harmful to the custodial parent or the child of the parent. Necessary  
25 information and records may be furnished as specified by KRS 205.175.

26 ~~(15)~~~~(14)~~ In the case in which a parent is obligated to provide health care coverage, and  
27 changes employment, and the new employer provides health care coverage, the

1 Cabinet for Health and Family Services shall transfer notice of the provision for  
2 coverage for the child to the employer, which shall operate to enroll this child in the  
3 obligated parent's health plan, unless the obligated parent contests the notice as  
4 specified by KRS Chapter 13B.

5 ~~(16)~~~~(15)~~ Notwithstanding any other provision of this section, any wage or income shall  
6 not be exempt from attachment or assignment for the payment of current ~~child~~  
7 ~~support or~~ owed, or to-be-owed child support.

8 ~~(17)~~~~(16)~~ A payment of money received by a child as a result of a parental disability  
9 shall be credited against the child support obligation of the parent. A payment shall  
10 not be counted as income to either parent when calculating a child support  
11 obligation. An amount received in excess of the child support obligation shall be  
12 credited against a child support arrearage owed by the parent that accrued  
13 subsequent to the date of the parental disability, but shall not be applied to an  
14 arrearage that accrued prior to the date of disability. The date of disability shall be  
15 as determined by the paying agency.

16 **(18) Child support payments shall be directed to the parent, custodian, or agency**  
17 **substantially contributing to the support of the child.**

18 ➔Section 2. KRS 403.213 is amended to read as follows:

19 (1) The Kentucky child support guidelines may be used by the parent, custodian, or  
20 agency substantially contributing to the support of the child as the basis for periodic  
21 updates of child support obligations and for modification of child support orders for  
22 health care. The provisions of any decree respecting child support may be modified  
23 only as to installments accruing subsequent to the filing of the motion for  
24 modification and only upon a showing of a material change in circumstances that is  
25 substantial and continuing.

26 (2) Application of the Kentucky child support guidelines to the circumstances of the  
27 parties at the time of the filing of a motion or petition for modification of the child

1 support order which results in equal to or greater than a fifteen percent (15%)  
2 change in the amount of support due per month shall be rebuttably presumed to be a  
3 material change in circumstances. Application which results in less than a fifteen  
4 percent (15%) change in the amount of support due per month shall be rebuttably  
5 presumed not to be a material change in circumstances. For the one (1) year period  
6 immediately following enactment of this statute, the presumption of material  
7 change shall be a twenty-five percent (25%) change in the amount of child support  
8 due rather than ~~the~~ fifteen percent (15%) ~~stated above~~.

9 (3) (a) Unless otherwise agreed in writing or expressly provided in the decree,  
10 provisions for the support of a child shall be terminated by emancipation of  
11 the child unless the child is a high school student when he or she reaches the  
12 age of eighteen (18). In cases where the child becomes emancipated because  
13 of age, but not due to marriage, while still a high school student, the court-  
14 ordered support shall continue while the child is a high school student, but not  
15 beyond completion of the school year during which the child reaches the age  
16 of nineteen (19) years.

17 **(b) Notwithstanding any other provision of law or court interpretation, a child**  
18 **support order shall not be entered, continued, or made retroactive for any**  
19 **period after the child has reached the age of eighteen (18), unless the child**  
20 **was under the age of eighteen (18) at the time the action to establish or**  
21 **enforce child support was initiated.**

22 (c) Provisions for the support of the child shall not be terminated by the death of  
23 a parent obligated to support the child. If a parent obligated to pay support  
24 dies, the amount of support may be modified, revoked, or commuted to a  
25 lump-sum payment, to the extent just and appropriate in the circumstances.  
26 Emancipation of the child shall not terminate the obligation of child support  
27 arrearages that accrued while the child was an unemancipated minor.

- 1 (4) The child support guidelines table shall be reviewed at least once every four (4)  
2 years by a commission consisting of the following persons:
- 3 (a) The secretary of the Cabinet for Health and Family Services or a supervisory  
4 staff person designated by him or her;
  - 5 (b) Two (2) members of the Kentucky Bar Association who have at least six (6)  
6 consecutive years' experience and are presently practicing domestic relations  
7 cases, one (1) member from a metropolitan or large urban area and one (1)  
8 member from a less populated area;
  - 9 (c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky  
10 Supreme Court, one (1) from a metropolitan or large urban area, and one (1)  
11 from a less populated area;
  - 12 (d) One (1) District Judge appointed by the Chief Justice of the Kentucky  
13 Supreme Court;
  - 14 (e) Two (2) county attorneys appointed by the president of the County Attorneys  
15 Association, one (1) from a metropolitan or large urban area and one (1) from  
16 a less populated area;
  - 17 (f) The Attorney General or his or her designee, who shall be an attorney from  
18 his or her office;
  - 19 (g) One (1) person who is a custodial parent;
  - 20 (h) One (1) person who is a noncustodial parent;
  - 21 (i) One (1) person who is a parent with split custody; and
  - 22 (j) One (1) child advocate.

23 The members designated in paragraphs (g) to (j) of this subsection shall be  
24 appointed by the Governor from a list of three (3) names for each category  
25 submitted by the Cabinet for Health and Family Services. If the status of one (1) of  
26 these members changes, the member shall be replaced through appointment by the  
27 Governor from a list of three (3) names submitted by the cabinet.

- 1 (5) The commission shall make a recommendation to the Kentucky General Assembly
- 2 to ensure that the child support guidelines table results in a determination of
- 3 appropriate child support amounts.