

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