

1 AN ACT relating to child support enforcement of health care coverage.

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) 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 shall serve as a rebuttable presumption for the  
11 establishment or modification of the amount of child support. Courts may deviate  
12 from the guidelines where their application would be unjust or inappropriate. Any  
13 deviation shall be accompanied by a written finding or specific finding on the  
14 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.

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 ~~private~~ health care  
25 ~~insurance~~ coverage is reasonable in cost and accessible to either parent at the  
26 time the request for coverage is made, the court shall order the parent to  
27 obtain or maintain coverage, and the court shall allocate between the parents,

1 in proportion to their combined monthly adjusted parental gross income, the  
2 cost of health care ~~[insurance]~~ coverage for the child, in addition to the  
3 support ordered under the child 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 ~~[private]~~ health care  
13 ~~[insurance]~~ coverage, payments of necessary health care deductibles or  
14 copayments;

15 2. If appropriate, cash medical support. "Cash medical support" means an  
16 amount to be paid toward the cost of health care ~~[insurance]~~ coverage  
17 ~~that is provided by a public entity, including the Kentucky Children's~~  
18 ~~Health Insurance Program or the Kentucky Medicaid program, or~~  
19 ~~another parent or person with whom the child resides through~~  
20 ~~employment or otherwise],~~ fixed payments for ongoing medical costs,  
21 extraordinary medical expenses, or any combination thereof; and

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

- 1 (d) If ~~private~~ health care ~~insurance~~ coverage is not reasonable in cost and  
2 accessible at the time the request for the coverage is made, the court order  
3 shall provide for cash medical support until ~~private~~ health care ~~insurance~~  
4 coverage becomes reasonable in cost and accessible.
- 5 (8) (a) For purposes of this section, "reasonable in cost" means that the cost of  
6 coverage to the responsible parent does not exceed five percent (5%) of his or  
7 her gross income. The five percent (5%) standard shall apply to the cost of  
8 adding the child to an existing policy, the difference in the cost between a  
9 single and a family policy, or the cost of acquiring a separate policy to cover  
10 the child. If the parties agree or the court finds good cause exists, the court  
11 may order ***health care***~~medical~~ coverage in excess of five percent (5%) of the  
12 parent's gross income.
- 13 (b) For purposes of this section, "accessible" means that there are providers who  
14 meet the health care needs of the child and who are located no more than sixty  
15 (60) minutes or sixty (60) miles from the child's primary residence, except that  
16 nothing shall prohibit use of a provider located more than sixty (60) minutes  
17 or sixty (60) miles from the child's primary residence.
- 18 (9) The cost of extraordinary medical expenses shall be allocated between the parties in  
19 proportion to their combined monthly adjusted parental gross incomes.  
20 "Extraordinary medical expenses" means uninsured expenses in excess of one  
21 hundred dollars (\$100) per child per calendar year. "Extraordinary medical  
22 expenses" includes but is not limited to the costs that are reasonably necessary for  
23 medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for  
24 professional counseling or psychiatric therapy for diagnosed medical disorders; and  
25 for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic  
26 services.
- 27 (10) The court order shall include the Social Security numbers, provided in accordance

- 1 with KRS 403.135, of all parties subject to a support order.
- 2 (11) In any case administered by the Cabinet for Health and Family Services, if the  
3 parent ordered to provide health care coverage is enrolled through an insurer but  
4 fails to enroll the child under family coverage, the other parent or the Cabinet for  
5 Health and Family Services may, upon application, enroll the child.
- 6 (12) In any case administered by the cabinet, information received or transmitted shall  
7 not be published or be open for public inspection, including reasonable evidence of  
8 domestic violence or child abuse if the disclosure of the information could be  
9 harmful to the custodial parent or the child of the parent. Necessary information and  
10 records may be furnished as specified by KRS 205.175.
- 11 (13) In the case in which a parent is obligated to provide health care ~~insurance~~  
12 ~~coverage~~, and changes employment, and the new employer provides health care  
13 ~~insurance~~ coverage, the Cabinet for Health and Family Services shall transfer  
14 notice of the provision for coverage for the child to the employer, which shall  
15 operate to enroll this child in the obligated parent's health plan, unless the obligated  
16 parent contests the notice as specified by KRS Chapter 13B.
- 17 (14) Notwithstanding any other provision of this section, any wage or income shall not  
18 be exempt from attachment or assignment for the payment of current child support  
19 or owed or to-be-owed child support.
- 20 (15) A payment of money received by a child as a result of a parental disability shall be  
21 credited against the child support obligation of the parent. A payment shall not be  
22 counted as income to either parent when calculating a child support obligation. An  
23 amount received in excess of the child support obligation shall be credited against a  
24 child support arrearage owed by the parent that accrued subsequent to the date of  
25 the parental disability, but shall not be applied to an arrearage that accrued prior to  
26 the date of disability. The date of disability shall be as determined by the paying  
27 agency.