

ASSEMBLY, No. 2299

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 27, 2019

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

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District 33 (Hudson)

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SYNOPSIS

Directs the suspension, by operation of law, of certain offenders' child support obligations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2020)

1 AN ACT concerning child support payments and amending
2 P.L.2009, c.328 and supplementing chapter 17 of Title 2A of the
3 New Jersey Statutes and Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. Every money judgment or order for
9 support of a child shall be suspended, by operation of law, for any
10 period exceeding 90 consecutive days in which obligor is
11 incarcerated or placed in detention, unless either of the following
12 conditions exist:

13 (1) The person owing support has the means to pay support
14 while incarcerated or placed in detention.

15 (2) The person owing support was incarcerated or placed in
16 detention for an offense constituting domestic violence, as defined
17 in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19),
18 against the obligee, or an offense involving the child who is the
19 subject of the child support order or for an offense that could be
20 enjoined by a protective order, or as a result of failure to comply
21 with a court order to pay child support.

22 b. The child support obligation shall resume after the court has
23 had the opportunity to conduct a review of then existing
24 circumstances, which shall occur following the release of the person
25 from incarceration. This section does not preclude a person owing
26 support from seeking a modification of the child support order.

27 c. (1) A local child support agency enforcing a child support
28 order under Title IV-D may, upon written notice of the proposed
29 adjustment to the support obligor and obligee along with a blank
30 form provided for the support obligor or obligee to object to the
31 administrative adjustment to the local child support agency,
32 administratively adjust account balances for a money judgment or
33 order for support of a child suspended pursuant to subsection a. of
34 this section if all of the following occurs:

35 (a) The child support agency verifies that arrears and interest
36 were accrued in violation of this section.

37 (b) The child support agency verifies that neither of the
38 conditions set forth in subparagraph (1) or (2) of subsection a. exist.

39 (c) Neither the support obligor nor obligee objects, within 30
40 days of receipt of the notice of proposed adjustment, whether in
41 writing or by telephone, to the administrative adjustment by the
42 local child support agency.

43 (2) If either the support obligor or obligee objects to the
44 administrative adjustment set forth in this subsection, the child
45 support agency shall not adjust the order, but shall file a motion
46 with the court to seek to adjust the arrears and shall serve copies of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the motion on the parties, who may file an objection to the agency's
2 motion with the court. The obligor's arrears shall not be adjusted
3 unless the court approves the adjustment.

4 (3) The child support agency may perform this adjustment
5 without regard to whether it was enforcing the child support order
6 at the time the parent owing support qualified for relief under this
7 section.

8 d. This section does not prohibit the local child support agency
9 or a party from petitioning a court for a determination of child
10 support or arrears amounts.

11 e. For purposes of this section, the following definitions shall
12 apply:

13 (1) "Incarcerated" includes, but is not limited to, confinement to
14 a State correctional facility, a county jail or a State juvenile facility
15 operated by the Juvenile Justice Commission.

16 (2) "Placed in detention" means placed by a court in a State
17 juvenile facility operated by the Juvenile Justice Commission.

18 (3) "Suspend" means that the payment due on the current child
19 support order, an arrears payment on a preexisting arrears balance,
20 or interest on arrears created during a qualifying period of
21 incarceration or detention pursuant to this section is, by operation of
22 law, set to zero dollars for the period in which the person owing
23 support is incarcerated or placed in detention.

24 f. This section applies to every money judgment or child
25 support order issued or modified on or after the enactment of this
26 section.

27 g. The Department of Human Services Child Support Program
28 shall, in consultation with the Probation Division of the
29 Administrative Offices of the Courts, develop forms to implement
30 this section.

31 h. On or before January 1, 2019, the Department of Human
32 Services Child Support Program, and the Probation Division of the
33 Administrative Offices of the Courts shall conduct an evaluation of
34 the effectiveness of the administrative adjustment process
35 authorized by this section and shall report the results of the review,
36 as well as any recommended changes, to the President of the Senate
37 and the Speaker of the General Assembly, and the Assembly
38 Judiciary Committee and the Senate Judiciary Committee. The
39 evaluation shall include a review of the ease of the process to both
40 the obligor and obligee, as well as an analysis of the number of
41 cases administratively adjusted, the number of cases adjusted in
42 court, and the number of cases not adjusted.

43

44 2. Section 8 of P.L.2009, c.328 (C.30:4-8.9) is amended to read
45 as follows:

46 8. The Department of Corrections, through the Office of
47 Transitional Services, shall, in addition to any other information

provided during the intake process to a defendant sentenced to a period of incarceration, advise the defendant about any child support orders and judgments entered against him by the New Jersey Superior Court, **and** provide information on how he may petition the court for a temporary modification of these financial obligations~~and~~, and notify him that every money judgment or order for support of a child shall be suspended, by operation of law, for any period exceeding 90 consecutive days in which obligor is incarcerated unless one of the following condition exists:

(1) The person owing support has the means to pay support while incarcerated.

(2) The person owing support was incarcerated for an offense constituting domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), against the obligee, or an offense involving the child who is the subject of the child support order or for an offense that could be enjoined by a protective order, or as a result of failure to comply with a court order to pay child support.

The Administrative Office of the Courts shall provide sample forms and instructions for the self-represented modification of child support orders to the Department of Corrections.

(cf: P.L.2009, c.328, s.8)

3. (New section) The Juvenile Justice Commission, shall, in addition to any other information provided during the intake process to a juvenile adjudicated delinquent placed in detention, advise the juvenile about any child support orders and judgments entered against him by the New Jersey Superior Court, provide information on how he may petition the court for a temporary modification of these financial obligations, and notify him that every money judgment or order for support of a child shall be suspended, by operation of law, for any period exceeding 90 consecutive days in which obligor is placed in detention unless one of the following condition exists:

(1) The person owing support has the means to pay support while in detention.

(2) The person owing support was placed in detention for an offense constituting domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), against the obligee, or an offense involving the child who is the subject of the child support order or for an offense that could be enjoined by a protective order, or as a result of failure to comply with a court order to pay child support.

The Administrative Office of the Courts shall provide sample forms and instructions for the self-represented modification of child support orders to the Juvenile Justice Commission.

4. This act shall take effect immediately.

STATEMENT

In New Jersey, at present, the preferred course of action in cases where a parent who has been ordered to pay child support, has been sentenced to a lengthy period of incarceration, is to defer any action on an application for modification of the order of child support. At the end of the incarceration, the court conducts a review of then-existing circumstances to determine the appropriate ruling on the motion.

This bill directs that a money judgment or order of child support shall be suspended, by operation of law, for any period exceeding 90 consecutive days in which the obligor is incarcerated, unless enumerated conditions exist. The conditions are: (1) the person owing support has the means to pay support while incarcerated; or (2) the person owing support was incarcerated for an offense constituting domestic violence, as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), against the obligee, or an offense involving the child who is the subject of the child support order or for an offense that could be enjoined by a protective order, or as a result of failure to comply with a court order to pay child support. The bill preserves the current status of the law in New Jersey concerning the resumption of the child support obligation. Moreover, the bill does not prohibit a person owing support from seeking a modification of the child support order

The bill would further amend N.J.S.A.30:4-8.9 to direct the Department of Corrections to notify a defendant, during the intake process, that every money judgment or order for support of a child shall be suspended, by operation of law, for any period exceeding 90 consecutive days in which obligor is incarcerated unless a condition exists to warrant not imposing the suspension.

The bill also provides for juveniles who are placed in detention to be notified that every money judgment or order for support of a child shall be suspended, by operation of law, for any period exceeding 90 consecutive days in which obligor is in detention unless a condition exists to warrant not imposing the suspension.

This bill is based on a similar 2015 enactment in California.