

Modification of Child Support Orders

With all the attention to the bills signed by Governor Patterson regarding divorce grounds, maintenance and attorney's fees, another bill was passed on July 16, 2010 which made some sweeping changes to modification of child support. The changes affect only agreements or orders entered into after the effective date of the changes, October 12, 2010.

Before, a parent had a high burden to challenge a prior order or agreement of child support. Agreed-upon child support was especially hard to change and required proof of an unreasonable and unanticipated change in circumstances, a very high burden. The new law makes it much easier to change child support orders.

To modify child support, no matter whether a judge determined the support or the parties agreed to the amount and the amount was incorporated into a court order, all that a party needs to show is a basic "substantial change in circumstances." This will be determined on a case-by-case basis, but on its face it is much easier to show than the old standard.

The new law provides that orders of support may also be changed if either party's income has changed by 15% or more; in other words, if either party's income goes up or down by at least 15%, the earlier order can be modified. However, if there is a 15% reduction in income, the party claiming the loss of pay has to show that it "was involuntary and the party has made diligent attempts to secure employment commensurate with his or her education, ability, and experience."

Even if a person doesn't have a substantial change in circumstances or a change in income of 15% or more, the mere passage of three years since the last order entitles either party to modification of the support award. This is not too different from the old standard when support was payable through the support collection unit.

This new law does not affect those with current child support orders. Those with child support agreements or orders dated before October 12, 2010 still face the harder burden of changing their orders. There are some ways to change those orders, so please contact me if you would like to discuss how and whether you should seek to modify your support order.

Please read my articles on other laws recently passed affecting divorce situations, including [new no-fault grounds for divorce](#), [attorney's fees](#), and [calculation of temporary maintenance payments \(formerly called alimony\)](#).