

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:17-56.23a

(Child support, overdue--modify)

LAWS OF: 1988

CHAPTER: 111

Bill No: S1510

Sponsor(s): Dalton

Date Introduced: Pre-filed

Committee: Assembly: -----

Senate: Judiciary

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: July 11, 1988

Senate: June 20, 1988

Date of Approval: August 22, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

974.901 New Jersey. Commission on child support  
C33 Findings and recommendations...  
October, 1986. Trenton, 1986  
(See pp. especially pp. 43-44)

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STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator DALTON

1 AN ACT concerning child support enforcement and supplementing  
P.L. 1985, c. 278 (C. 2A:17-56.26 et al.).

3

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

1. <sup>1</sup>[Every order of a court for alimony, maintenance, or child  
7 support, whether issued in this State or in another state, is fully  
enforceable on and after the date the obligation becomes due and  
9 is a judgment by operation of law with the full force, effect, and  
attributes of a judgment of the State including the ability to be  
11 enforced, and may not be subject to retroactive modification by  
the court. The court may permit modification with respect to  
13 any period during which the obligor has pending a motion for  
modification, but only from the date that notice of motion has  
15 been given either directly or through the appropriate agent to the  
obligee. Overdue support may include support which is owed on  
17 behalf of a child who is not a minor child.]

Any payment or installment of an order for child support, <sup>2</sup>or  
19 those portions of an order which are allocated for child support,<sup>2</sup>  
whether ordered in this State or in another state, shall be fully  
21 enforceable and entitled to full faith and credit and shall be a  
judgment by operation of law on and after the date it is due. No  
23 payment or installment of an order for child support <sup>2</sup>,or those  
portions of an order which are allocated for child support,<sup>2</sup> shall  
25 be retroactively modified by the court except for the period  
during which the party seeking relief has pending an application  
27 for modification, but only from the date of mailing the notice of  
motion to the court or from the date of mailing written notice to  
29 the other party either directly or through the appropriate agent.  
The written notice will state that a change of circumstances has  
31 occurred and a motion for modification of the order will be filed  
within 45 days. In the event a motion is not filed within the 45

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SJU committee amendments adopted May 9, 1988.

<sup>2</sup> Senate floor amendments adopted June 16, 1988.

1 day period, modification shall be permitted only from the date  
2 the motion is filed with the court.<sup>1</sup>

3 2. This act shall take effect on the 90th day following  
4 enactment.

5

7

DOMESTIC RELATIONS

Children

9

10 Provides that overdue child support obligations shall not be  
11 retroactively modified.

SENATE, No. 1510  
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator DALTON

1 AN ACT concerning child support enforcement and  
supplementing P.L. 1985, c. 278 (C. 2A:17-56.26 et al.).

3

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

1. Every order of a court for alimony, maintenance, or child  
7 support, whether issued in this State or in another state, is fully  
enforceable on and after the date the obligation becomes due  
9 and is a judgment by operation of law with the full force, effect,  
and attributes of a judgment of the State including the ability to  
11 be enforced, and may not be subject to retroactive modification  
by the court. The court may permit modification with respect  
13 to any period during which the obligor has pending a motion for  
modification, but only from the date that notice of motion has  
15 been given either directly or through the appropriate agent to  
the obligee. Overdue support may include support which is owed  
17 on behalf of a child who is not a minor child.

2. This act shall take effect on the 90th day following  
19 enactment.

21

STATEMENT

23

This bill supplements the New Jersey "Support Enforcement  
25 Act of 1985" to provide that overdue child support obligations  
shall not be retroactively modified unless a written motion has  
27 been filed. This is consistent with the recent law, (P.L. 99-509  
S9103) sponsored by Senator Bill Bradley, which mandates that  
29 every state enact such a provision for any child support order.

New Jersey is only one of six states which allows retroactive  
31 modification of support by case law. The Governor's  
Commission on Child Support heard extensive testimony that  
33 child support owed to the child and the custodial parent is often  
retroactively modified, causing an unjust hardship on the

1 family. There are circumstances, such as the loss of  
2 employment by the obligor parent, which may justify a change in  
3 the amount of future support due. In order for modifications to  
4 occur in an equitable manner for all parties, the obligor parent  
5 should be required to officially notify the custodial parent and  
6 the court or other entity which issued the order that a  
7 modification is sought. This procedure is necessary to ensure  
8 that debts that accumulate to children and families are treated  
9 with the highest regard. This bill applies to orders for alimony,  
10 maintenance, and child support, since many of the orders are  
11 combined into a single payment. Without such a provision, the  
12 State would not be in compliance with the federal regulatory  
13 requirements (45 C.F.R. 305.42) from the Office of Child  
14 Support Enforcement in the Department of Health and Human  
15 Services.

17

## DOMESTIC RELATIONS

19

### Children

21 Provides that overdue child support obligations shall not be  
retroactively modified.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 1510**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 9, 1988

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1510.

As amended by the committee, this bill provides that a court order for child support would be treated as judgment against the obligor parent which is enforceable on and after the date the support obligation becomes due.

The bill also provides that an order for child support may only be modified from the date an application for modification is mailed to the court or from the date which written notice is mailed to the other party or an appropriate agent. The written notice shall indicate the change of circumstances and state that a motion for modification will be filed within 45 days. In the event a motion is not filed within 45 days, modification will be permitted only from the date the motion is filed.

Enactment of this bill or similar legislation by each state is required by recently adopted federal legislation amending the Social Security Act. The deadline for enactment of such legislation by the states was April 1, 1988.

By amendment, the committee deleted language which would have made the provisions of the bill applicable to orders for alimony and maintenance.