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SB 674/96 - JPR

1997 Regular Session
7lr1383

By: Senator Stone

Introduced and read first time: January 9, 1997
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Support Guidelines**

3 FOR the purpose of altering a provision of law to establish certain standards the court
4 should use in determining whether the application of certain child support
5 guidelines would be unjust or inappropriate in a particular case; establishing certain
6 factors that a court should consider in applying those standards; and generally
7 relating to the appropriate use of child support guidelines in certain cases.

8 BY repealing and reenacting, with amendments,
9 Article - Family Law
10 Section 12-202(a)
11 Annotated Code of Maryland
12 (1991 Replacement Volume and 1996 Supplement)

13 Preamble

14 WHEREAS, Section 12-202(a)(2)(ii) of the Family Law Article provides that, in
15 any proceeding to establish or modify child support, a court need not apply the child
16 support guidelines if the application of those guidelines "would be unjust or
17 inappropriate in a particular case"; and

18 WHEREAS, The current law does not provide sufficient standards or guidance for
19 the courts to make an adequate determination regarding the appropriateness of the child
20 support guidelines in a case; and

21 WHEREAS, It is desirable to provide guidance to courts and to litigants regarding
22 a court's proper determination with respect to child support guidelines in order to award
23 child support orders that are fair to all the parties concerned and foster good
24 relationships between parents and their children; now, therefore,

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Family Law**

2 12-202.

3 (a) (1) Subject to the provisions of paragraph (2) of this subsection, in any
4 proceeding to establish or modify child support, whether pendente lite or permanent, the
5 court shall use the child support guidelines set forth in this subtitle.

6 (2) (i) There is a rebuttable presumption that the amount of child
7 support which would result from the application of the child support guidelines set forth
8 in this subtitle is the correct amount of child support to be awarded.

9 (ii) The presumption may be rebutted by evidence that the application
10 of the guidelines would be unjust or inappropriate in a particular case.

11 (iii) In determining whether the application of the guidelines would be
12 unjust or inappropriate in a particular case, the court [may consider] SHALL USE THE
13 FOLLOWING STANDARDS:

- 14 1. THE BEST INTERESTS OF THE CHILD;
- 15 2. THE ABILITY OF BOTH PARENTS IN MEETING THEIR OWN
16 DAILY NECESSARY LIVING NEEDS; AND
- 17 3. THE INTERESTS OF BOTH PARENTS IN DEVELOPING A
18 HEALTHY RELATIONSHIP WITH THE CHILD WHO IS THE SUBJECT OF THE CHILD
19 SUPPORT DETERMINATION.

20 (IV) IN APPLYING THE STANDARDS PROVIDED IN SUBPARAGRAPH
21 (III) OF THIS PARAGRAPH, THE COURT SHALL CONSIDER THE FOLLOWING FACTORS:

- 22 1. THE AGE, HEALTH, EDUCATION, EMPLOYMENT
23 QUALIFICATIONS AND REQUIREMENTS, AND THE HOURS OF EMPLOYMENT OF THE
24 NONCUSTODIAL PARENT PROVIDING CHILD SUPPORT;
- 25 2. THE EMPLOYMENT OPPORTUNITIES IN THE COMMUNITY
26 IN WHICH THE NONCUSTODIAL PARENT RESIDES;
- 27 3. THE DAILY NECESSARY LIVING NEEDS OF THE
28 CUSTODIAL PARENT AND NONCUSTODIAL PARENT;
- 29 4. THE STATUS OF THE CHILD'S RELATIONSHIP WITH BOTH
30 THE NONCUSTODIAL PARENT AND THE CUSTODIAL PARENT;
- 31 5. THE LEGAL DEBT OBLIGATIONS OF THE NONCUSTODIAL
32 PARENT;
- 33 6. THE ASSETS AND THE NET WORTH OF THE
34 NONCUSTODIAL PARENT;
- 35 7. THE DAILY NECESSARY LIVING NEEDS OF THE CHILD;
- 36 8. THE AGE, HEALTH, EDUCATION, AND EMPLOYMENT
37 QUALIFICATIONS OF THE CHILD;

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1 9. THE LEGAL DEBT OBLIGATIONS OF THE CHILD;

2 10. THE ASSETS AND THE NET WORTH OF THE CHILD;

3 [1.] 11. the terms of any existing separation or property
4 settlement agreement or court order, including any provisions for payment of mortgages
5 or marital debts, payment of college education expenses, the terms of any use and
6 possession order or right to occupy to the family home under an agreement, any direct
7 payments made for the benefit of the children required by agreement or order, or any
8 other financial considerations set out in an existing separation or property settlement
9 agreement or court order; and

10 [2.] 12. the presence in the household of either parent of other
11 children to whom that parent owes a duty of support and the expenses for whom that
12 parent is directly contributing.

13 [(iv)] (V) 1. If the court determines that the application of the
14 guidelines would be unjust or inappropriate in a particular case, the court shall make a
15 written finding or specific finding on the record stating the reasons for departing from the
16 guidelines.

17 2. The court's finding shall state:

18 A. the amount of child support that would have been required
19 under the guidelines;

20 B. how the order varies from the guidelines;

21 C. how the finding serves the best interests of the child; and

22 D. in cases in which items of value are conveyed instead of a
23 portion of the support presumed under the guidelines, the estimated value of the items
24 conveyed.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.