

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1248
Judiciary

(Delegate Malone)

Child Support Guidelines - Presumption of Full-Time Work at Minimum Wage
Rate

This bill establishes a rebuttable presumption under the child support guidelines that a parent is able to work 40 hours per week at the minimum wage rate as set by statute.

Fiscal Summary

State Effect: The bill does not materially impact child support collection efforts or the workload of the circuit courts. Potential minimal increase in special fund revenues to the extent that the bill increases child support collections for specified individuals.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law:

Child Support Guidelines

In a proceeding to establish or modify child support, whether *pendente lite* or permanent, the court is required to use the child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. The current schedule uses the combined monthly adjusted actual income of both parents and the number of children for whom support is required to determine the basic child support obligation.

The actual adjusted income is calculated from the “actual income” earned by both parents. “Actual income” means income from any source and includes salaries, wages, pensions, and other income types, as specified. The court also has authority to consider severance pay, gifts, capital gains, or prizes as actual income depending on the circumstances of the case. Actual income does not include benefits received from means-tested public assistance programs. “Adjusted actual income,” which is the basis for determining the basic child support obligation, is calculated from actual income minus preexisting reasonable child support obligations actually paid and, except as specified, alimony or maintenance obligations actually paid.

If a parent is voluntarily impoverished, child support may be calculated based on a determination of potential income. A determination of potential income may not be made for a parent who (1) is unable to work because of a physical or mental disability or (2) is caring for a child younger than age two for whom the parents are jointly and severally responsible.

The child support statute establishes a rebuttable presumption that the amount of child support which results from the application of the child support guidelines is the correct amount of child support that the court is to award. The presumption may be rebutted, however, by evidence that the application of the guidelines would be unjust or inappropriate in a particular case. If the court determines that application of the guidelines would be unjust or inappropriate in a particular case, the court must make a written finding or specific finding on the record that states the reasons for departure from the guidelines, as required by statute.

Minimum Wage

State law specifies that an employee must be paid the greater of the federal minimum wage (which is \$7.25 per hour) or \$8.75 per hour. Under Chapter 262 of 2014, the State minimum wage is scheduled to increase on an incremental basis over the next two years to \$9.25 per hour as of July 1, 2017, and \$10.10 per hour as of July 1, 2018.

However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment, including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of \$7.25 or 85% of the State minimum wage. Exceptions to the minimum wage requirement also exist for a training wage and a disabled employee of a sheltered workshop under specified conditions. Statutory provisions regarding wages do not apply to specified categories of employees, including those defined as administrative, executive, or professional.

State Revenues: Temporary Cash Assistance (TCA) recipients must assign their support rights to the State and federal governments as partial reimbursement for payments made on behalf of the children of the obligor. As a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Special fund revenues may increase to the extent that higher amounts of child support are ordered and collected. Any such impact cannot be reliably quantified beforehand, but is not anticipated to be material.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mm/kdm

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