

Department of Legislative Services
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 965

(Senator Lee)

Judicial Proceedings

Family Law - Age of Majority - Jurisdiction of Court

This bill requires an equity court to retain jurisdiction for the purpose of ordering support, in accordance with the child support guidelines, for a child who has reached age 18 and who is enrolled in a secondary school. An equity court must also retain jurisdiction for purposes of ordering support, as specified, from either parent for a “young adult” who is not enrolled in secondary school.

Fiscal Summary

State Effect: General and federal fund expenditures likely increase beginning in FY 2019, as discussed below. Federal fund revenues increase correspondingly with federal fund expenditures. Minimal increase in special fund revenues, as discussed below.

Local Effect: The bill is not anticipated to materially impact the operations or finances of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: An equity court must retain jurisdiction for the purpose of ordering child support for a child who has reached age 18 and is enrolled in secondary school. Support terminates on the first to occur of the following events: (1) the child dies; (2) the child marries; (3) the child is emancipated; (4) the child graduates from or is no longer enrolled in secondary school; or (5) the child reaches age 19. The bill repeals general provisions regarding the right of an individual who has reached age 18 and enrolled in secondary school to receive support and maintenance from both parents until the first of one of the aforementioned events occurs.

A “young adult” is an individual over whom the court previously has exercised jurisdiction in a divorce or custody proceeding as a minor who has attained the age of 18. In determining an award of support for a “young adult,” the court must consider (1) the ability of the parents to pay; (2) the current contribution of each parent of the young adult; (3) whether the parents have minor children for whom they are responsible; (4) whether the young adult has a developmental, emotional, or intellectual disability that may hinder the ability of the young adult to succeed independently; (5) the employment status and income of the young adult; (6) if unemployed, the ability of the young adult to become gainfully employed; (7) the current housing status of the young adult; (8) the young adult’s need for support and the likelihood that the young adult will require assistance from the State in the absence of parental support; and (9) any other source of income or support that the young adult may receive. The court must also consider (1) the enrollment status of the young adult at an institute of postsecondary education and the availability of financial aid from other sources; (2) the young adult’s preparation for, aptitude for, and commitment to postsecondary education; and (3) the institution of postsecondary education in which the child is enrolled.

If the court determines that an award of support is warranted, it may calculate the award by deducting the income contribution of the young adult from the young adult’s overall necessary expenses and assigning the remainder to each parent as the court determines is fair and equitable. A parent or young adult may petition the court for an order of support or for a modification to an existing order on a showing of a material change of circumstance. Support terminates on the first to occur of the following: (1) the young adult dies; (2) the young adult marries; or (3) the young adult reaches age 23. The bill may not be interpreted to require a court to grant an order of support for a young adult.

An “institution of postsecondary education” means a school or other institution that offers an educational or vocational training program for individuals who are at least age 16 and who have graduated from or left elementary or secondary school.

Current Law: An equity court has jurisdiction over specified matters, including the support of a child. Generally, a court can require a parent to support a child only until the child reaches the age of majority. See *Quarles v. Quarles*, 62 Md. 394, 403 (1985). Article 1, § 24 of the Annotated Code of Maryland establishes that the age of majority is age 18. A person who is age 18 and is enrolled in secondary school is considered a minor, however, and has the right to receive support and maintenance from both of the person’s parents until the first of the following events occurs:

- the person dies;
- the person marries;
- the person is emancipated;

- the person graduates from or is no longer enrolled in secondary school; or
- the person attains the age of 19.

If parents contractually obligate themselves to support a child for a longer period of time, and the parties consent to have the agreement incorporated or merged into a judgment, the court can enforce such an obligation. See *Corry v. O'Neill*, 105 Md. App. 112 (1995).

Background: According to a survey of states completed by the National Conference of State Legislatures in 2014 (the latest information readily available), state laws vary widely as to the duty of parents to provide support for postsecondary education expenses. For example, at least nine states (Connecticut, Illinois, Iowa, Massachusetts, New Jersey, New York, Oregon, South Carolina, and Washington) specifically authorize a court to require parents to provide support for postsecondary education expenses. If a child is enrolled at an institution of higher education, Missouri requires parental support to continue until the child completes his or her education or reaches age 21, whichever occurs first. Other states, including Maryland, authorize courts to enforce parental agreements to pay for college expenses beyond the age of majority.

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 child support is ordered and collected for longer periods of time. Any such impact cannot be quantified due to the unavailability of data, but is not anticipated to be significant.

Federal fund revenues increase correspondingly with any federal fund expenditures, as discussed below, to reflect matching child support revenues.

State Expenditures: The Department of Human Services (DHS) has previously advised for similar bills that additional resources are needed, as the child support caseload likely increases once support may be ordered for individuals older than age 18. DHS may also need to expand its call center contract to accommodate an increase in calls regarding child support. However, a reliable estimate on specific staffing and contractual costs is not possible beforehand, as it depends on how frequently judges award support pursuant to the bill's provisions and the number of cases which would have otherwise been closed had a child no longer been eligible for support under current law. *For illustrative purposes only*, for every additional caseworker needed, expenditures increase by at least \$58,000 annually, of which 34% will be supported by general funds and 66% with federal funds.

Because the extension of the court's jurisdiction may result in additional hearings, expenditures of the circuit courts and the Judiciary *may* increase minimally. However, any

increase is not likely to materially impact the finances of the circuit court or the Judiciary. The Judiciary can also absorb minimal programming costs that occur only in fiscal 2019 and make any necessary form revisions with existing budgeted resources.

Additional Information

Prior Introductions: HB 955 of 2017, a similar bill, received an unfavorable report from the House Judiciary Committee. HB 677 of 2016, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 1100, received an unfavorable report from the Senate Judicial Proceedings Committee. Similar bills were also considered in the 2012, 2011, 2009, 2005, 2004, and 2000 sessions.

Cross File: HB 1152 (Delegate Hill, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Human Services; National Conference of State Legislatures; Department of Legislative Services

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