

# SENATE BILL 638

D4

9lr1525  
CF 9lr1391

---

By: **Senator Smith**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Child Support – Shared Physical Custody**

3 FOR the purpose of establishing a certain formula for the calculation of a certain child  
4 support obligation under the child support guidelines when a parent with shared  
5 physical custody keeps the child or children overnight a certain number of times in  
6 a year; altering a certain definition; defining a certain term; providing for the  
7 application of this Act; and generally relating to child support.

8 BY repealing and reenacting, without amendments,

9 Article – Family Law

10 Section 12–201(a), (d), and (e) and 12–204(a)(1) and (f)

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2018 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Family Law

15 Section 12–201(n) and 12–204(m)

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2018 Supplement)

18 BY adding to

19 Article – Family Law

20 Section 12–201(o)

21 Annotated Code of Maryland

22 (2012 Replacement Volume and 2018 Supplement)

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

25 **Article – Family Law**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 12-201.

2 (a) In this subtitle the following words have the meanings indicated.

3 (d) “Adjusted basic child support obligation” means an adjustment of the basic  
4 child support obligation for shared physical custody.

5 (e) “Basic child support obligation” means the base amount due for child support  
6 based on the combined adjusted actual incomes of both parents.

7 (n) (1) “Shared physical custody” means that each parent keeps the child or  
8 children overnight for more than [35%] **25%** of the year and that both parents contribute  
9 to the expenses of the child or children in addition to the payment of child support.

10 (2) Subject to paragraph (1) of this subsection, the court may base a child  
11 support award on shared physical custody:

12 (i) solely on the amount of visitation awarded; and

13 (ii) regardless of whether joint custody has been granted.

14 **(O) “SHARED PHYSICAL CUSTODY ADJUSTMENT” MEANS THE ADJUSTMENT**  
15 **MADE TO A THEORETICAL ADJUSTED BASIC CHILD SUPPORT OBLIGATION IN A**  
16 **SHARED PHYSICAL CUSTODY CASE WHEN A PARENT KEEPS THE CHILD OR CHILDREN**  
17 **OVERNIGHT FOR MORE THAN 25% (AT LEAST 92 OVERNIGHTS), BUT LESS THAN 30%**  
18 **(NOT MORE THAN 109 OVERNIGHTS), OF THE YEAR.**

19 12-204.

20 (a) (1) The basic child support obligation shall be determined in accordance  
21 with the schedule of basic child support obligations in subsection (e) of this section. The  
22 basic child support obligation shall be divided between the parents in proportion to their  
23 adjusted actual incomes.

24 (f) The adjusted basic child support obligation shall be determined by multiplying  
25 the basic child support obligation by one and one-half.

26 (m) (1) In cases of shared physical custody, the adjusted basic child support  
27 obligation shall first be divided between the parents in proportion to their respective  
28 adjusted actual incomes.

29 (2) **(I)** Each parent’s share of the adjusted basic child support obligation  
30 shall then be multiplied by the percentage of time the child or children spend with the other  
31 parent to determine the theoretical basic child support obligation owed to the other parent.

32 **(II) 1. WHEN A PARENT WITH SHARED PHYSICAL CUSTODY**

1 **KEEPS THE CHILD OR CHILDREN OVERNIGHT FOR MORE THAN 25% (AT LEAST 92**  
2 **OVERNIGHTS), BUT LESS THAN 30% (NOT MORE THAN 109 OVERNIGHTS), OF THE**  
3 **YEAR, THAT PARENT'S THEORETICAL BASIC CHILD SUPPORT OBLIGATION SHALL BE**  
4 **INCREASED BY THE AMOUNT OF THE SHARED PHYSICAL CUSTODY ADJUSTMENT**  
5 **SPECIFIED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

6 **2. THE SHARED PHYSICAL CUSTODY ADJUSTMENT**  
7 **SHALL BE CALCULATED BY MULTIPLYING THE THEORETICAL BASIC CHILD SUPPORT**  
8 **OBLIGATION FOR A PARENT DESCRIBED IN SUBSUBPARAGRAPH 1 OF THIS**  
9 **SUBPARAGRAPH BY:**

10 **A. 0.10, WHEN THE PARENT KEEPS THE CHILD OR**  
11 **CHILDREN OVERNIGHT FOR MORE THAN 25% (AT LEAST 92 OVERNIGHTS), BUT LESS**  
12 **THAN 26% (NOT MORE THAN 94 OVERNIGHTS), OF THE YEAR;**

13 **B. 0.08, WHEN THE PARENT KEEPS THE CHILD OR**  
14 **CHILDREN OVERNIGHT FOR MORE THAN 26% (AT LEAST 95 OVERNIGHTS), BUT LESS**  
15 **THAN 27% (NOT MORE THAN 98 OVERNIGHTS), OF THE YEAR;**

16 **C. 0.06, WHEN THE PARENT KEEPS THE CHILD OR**  
17 **CHILDREN OVERNIGHT FOR MORE THAN 27% (AT LEAST 99 OVERNIGHTS), BUT LESS**  
18 **THAN 28% (NOT MORE THAN 102 OVERNIGHTS), OF THE YEAR;**

19 **D. 0.04, WHEN THE PARENT KEEPS THE CHILD OR**  
20 **CHILDREN OVERNIGHT FOR MORE THAN 28% (AT LEAST 102 OVERNIGHTS), BUT**  
21 **LESS THAN 29% (NOT MORE THAN 105 OVERNIGHTS), OF THE YEAR; OR**

22 **E. 0.02, WHEN THE PARENT KEEPS THE CHILD OR**  
23 **CHILDREN OVERNIGHT FOR MORE THAN 29% (AT LEAST 106 OVERNIGHTS), BUT**  
24 **LESS THAN 30% (NOT MORE THAN 109 OVERNIGHTS), OF THE YEAR.**

25 (3) Subject to the provisions of paragraphs (4) and (5) of this subsection,  
26 the parent owing the greater amount under paragraph (2) of this subsection shall owe the  
27 difference in the 2 amounts as child support.

28 (4) In addition to the amount of the child support owed under paragraph  
29 (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this  
30 section, health insurance expenses under subsection (h)(1) of this section, extraordinary  
31 medical expenses under subsection (h)(2) of this section, or additional expenses under  
32 subsection (i) of this section, the expense shall be divided between the parents in proportion  
33 to their respective adjusted actual incomes. The parent not incurring the expense shall pay  
34 that parent's proportionate share to:

35 (i) the parent making direct payments to the provider of the service;

1 or

2 (ii) the provider directly, if a court order requires direct payments to  
3 the provider.

4 (5) The amount owed under paragraph (3) of this subsection may not  
5 exceed the amount that would be owed under subsection (1) of this section.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to  
7 cases filed on or after the effective date of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2019.