

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 732
Judiciary

(Delegates Dumais and Malone)

Judicial Proceedings

Child Support Guidelines - Revision

This bill revises the schedule of basic child support obligations used to calculate child support amounts under the State’s child support guidelines. The bill has prospective application and applies only to cases filed on or after the October 1, 2019 effective date.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Judiciary. Any programming changes for the Department of Human Services (DHS) can be handled with existing budgeted resources. It is assumed that any effect on special fund revenues is not material.

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

Small Business Effect: None.

Analysis

Bill Summary: The current schedule is expanded to include monthly incomes of up to \$30,000; the schedule also specifies amounts for monthly incomes between \$0 and \$1,200. The bill authorizes the court, when considering whether the application of the guidelines would be unjust or inappropriate in a particular case, to consider whether an obligor’s monthly child support obligation would leave the obligor with a monthly actual income below the 2019 federal poverty level for an individual. The bill alters the definition of “basic child support obligation” to mean the base amount due for child support calculated using the combined adjusted actual incomes of both parents as adjusted by the self-support reserve (SSR). “Self-support reserve” means the adjustment to a basic child support

obligation ensuring that a child support obligor maintains a minimum amount of monthly income, after payment of child support, federal and state income taxes, and Federal Insurance Contribution Act taxes, of at least 110% of the 2019 Federal Poverty Level for an individual.

Current Law: 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. “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.

The maximum combined monthly income subject to the schedule is \$15,000. For parental incomes above this amount, the court may use its discretion in setting the amount of child support. For monthly incomes up to \$1,250, the schedule provides for a basic child support obligation of \$20 to \$150 per month, based on the resources and living expenses of the obligor and the number of children due support. Although an SSR is built into the guidelines schedule, it is not specifically delineated or defined.

The child support statute establishes a rebuttable presumption that the amount of child support that 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 is unjust or inappropriate in a particular case. In determining whether the application of the guidelines is unjust or inappropriate, the court may consider specified factors, including the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing. If the court determines that application of the guidelines is 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.

Background: The State’s child support guidelines were last revised pursuant to Chapters 262 and 263 of 2010. Federal regulations require states, as a condition of receiving Title IV-D funds, to review their child support guidelines at least once every four years; the 2016 review was completed in 2016. After the review noted areas of potential improvement, the Child Support Guidelines Advisory Committee, coordinated by DHS, began meeting in 2017 to further review the guidelines in light of the best interests of the State’s children and families. Multiple subcommittees were formed to facilitate the committee’s work. The Low-Income Subcommittee found that although current guidelines

recommend a discretionary order amount between \$20 and \$150 for cases in which the combined parental incomes are below \$1,250 per month, the amount of child support awarded was higher than \$150 in over 40% of cases reviewed. The subcommittee made several recommendations, including (1) listing specific schedule amounts for low-end incomes; (2) including \$0 in the lowest income bracket; (3) beginning the minimum obligation for one child at \$50 and increasing the obligation by the proportional cost of raising additional children; and (4) updating the SSR and noting when it is used within the guideline schedule. The High-Income Subcommittee recommended expanding the schedule to include incomes up to \$30,000 per month in order to promote uniformity of child support outcomes for families and better reflect current economic data.

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. Accordingly, special fund revenues are impacted to the extent that child support ordered and collected in these cases differs from what would have been ordered and collected under current law. Any impact on child support collections involving TCA recipients cannot be reliably quantified but is not expected to materially impact State finances.

Additional Information

Prior Introductions: None.

Cross File: SB 763 (Senator Smith) - Judicial Proceedings.

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

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