

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Third Reader

House Bill 1339

(Chair, Judiciary Committee)(By Request - Departmental  
 - Human Services)

Judiciary

Judicial Proceedings

Child Support - Guidelines

This departmental bill delays, until July 1, 2022, the effective date for provisions of law that (1) revise the schedule of basic child support obligations used to calculate child support amounts under the State’s child support guidelines; (2) alter the definition of “potential income” under State child support guidelines; (3) establish circumstances under which a court may decline to establish a child support obligation; and (4) require a court to take specified actions if there is a dispute as to whether a parent is “voluntarily impoverished.” These provisions were enacted by Chapters 383 and 384 of 2020 and are set to take effect October 1, 2021. **The bill takes effect July 1, 2021.**

Fiscal Summary

**State Effect:** State expenditures decrease by a total of \$105,000 in FY 2022, reflecting the elimination of unanticipated computer programming needs that otherwise would have been incurred, as discussed below. Federal fund revenues decrease by \$69,300, reflecting federal matching funds that otherwise would have been received.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
FF Revenue	(\$69,300)	\$0	\$0	\$0	\$0
GF Expenditure	(\$35,700)	\$0	\$0	\$0	\$0
FF Expenditure	(\$69,300)	\$0	\$0	\$0	\$0
Net Effect	\$35,700	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** The Department of Human Services (DHS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

## Analysis

**Current Law/Background:** Chapters 383 and 384 of 2020 made numerous changes to statutory provisions regarding child support obligations, as discussed in greater detail below. The changes are set to take effect October 1, 2021, and have prospective application only.

### *Child Support – In General*

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 child support statute establishes a rebuttable presumption that the amount of child support that would result 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.

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. Chapters 383 and 384 of 2020, among other changes, expand the current schedule to include monthly incomes of up to \$30,000.

### *Potential Income and Voluntary Impoverishment*

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 is unable to work because of a physical or mental disability or is caring for a child younger than age two for whom the parents are jointly and severally responsible. “Potential income” means income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, recent work history, occupational qualifications, prevailing job opportunities, and earnings levels in the community.

Under Chapters 383 and 384, “potential income” means income attributed to a parent determined by the parent’s employment potential and probable earnings level based on, but not limited to, the parent’s (1) age; (2) physical and behavioral condition; (3) educational attainment; (4) special training or skills; (5) literacy; (6) residence; (7) occupational qualifications and job skills; (8) employment and earnings history; (9) record of efforts to obtain and retain employment; and (10) criminal record and other employment barriers. It also considers employment opportunities in the community where the parent lives, including the status of the job market, prevailing earnings levels, and the availability of employers willing to hire the parent. “Potential income” also considers the parent’s assets, actual income from any source, and any other factor bearing on the parent’s ability to obtain funds for child support.

The Acts establish that “voluntarily impoverished” means that a parent has made the free and conscious choice, not compelled by factors beyond the parent’s control, to render the parent without adequate resources. If there is a dispute as to whether a parent is voluntarily impoverished, the court must (1) make a finding as to whether, based on the totality of the circumstances, the parent is voluntarily impoverished and (2) if the court finds that the parent is voluntarily impoverished, consider the factors specified above in determining the amount of potential income that should be imputed to the parent.

Under Chapters 383 and 384, the court may decline to establish a child support order if the parent who would have the obligation to pay child support (1) lives with the child who would be the subject of the order and is contributing to the support of the child or (2) is unemployed, has no financial resources from which to pay child support, and meets one of other specified criteria, including being incarcerated or institutionalized in a psychiatric care facility. The fact that a parent meets or ceases to meet the criteria described constitutes a material change of circumstances for the purpose of a modification of a child support award.

**State/Local Fiscal Effect:** State expenditures decrease by a total of \$105,000 in fiscal 2022 (\$69,300 federal funds/\$35,700 general funds) for programming costs that are not necessary if the provisions of Chapters 383 and 384 are delayed. Federal fund revenues also decrease by \$69,300, reflecting matching funds associated with the child support enforcement expenditures.

DLS advises that the fiscal and policy notes for Senate Bill 847 and House Bill 946 of 2020 (Chapters 384 and 383, respectively) did not anticipate a material effect on State or local finances. However, at that time, DHS also anticipated that a new child support management system, implemented as part of MD THINK, would be available by October 1, 2021, (the effective date of the Acts) and that necessary computer programming to reflect Chapters 383 and 384 could be incorporated into the scheduled implementation. Because of unanticipated delays in this project, if Chapters 383 and 384 take effect as scheduled,

DHS will need to incorporate their changes into not only the new system but also the existing child support enforcement system, at an estimated cost of \$105,000 in fiscal 2022.

The delayed implementation of Chapters 383 and 384 does not otherwise materially affect State or local finances.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - March 10, 2021  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Child Support - Guidelines

BILL NUMBER: HB1339

PREPARED BY: Maryland Department of Human Services

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

**OR**

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS