

SUPPORT HB 36 WITH AMENDMENT

January 16, 2020

To: Chair Luke Clippinger and House Judiciary Com. Members
From: Phil Caroom, A.A.Co.Circuit Court (Senior) judge

HB 36, commendably, seeks to eliminate the possibility that juveniles and their parents should not be penalized for poverty. For this reason, I support the bill. However, I also offer one other consideration for possible amendment as to retaining the child support provision.

In my experience as a juvenile judge hearing delinquency cases for more 18 years, this scenario would occur with some regularity, perhaps a few times per year, in my courtroom:

A juvenile with a history of unmanageable behavior and prior offenses (sometimes, offenses against a parent or family members) would have earned a brief visit to juvenile detention or to juvenile commitment, designed to get his or her attention and incentivize subsequent cooperation with probation and parental supervision. BUT, when I as juvenile judge began to explain the conditions for the child's return home, the parent(s) sometimes strenuously would object to the child returning home at all. They, initially, refused to permit the child to return home, suggesting instead that the Court should keep him or her in commitment or foster care. This behavior was not limited to low income parents; some employed parents with good income initially would be too stubborn to give their child another chance at home.

Only when I as juvenile judge explained to such a parent the possible child support order, the recalcitrant parent often would reconsider and give the child another chance at home with probation and intensive family counseling— provided by the Department of Juvenile Service (DJS) at much lower cost.

Foster care costs run nearly \$1,000 per month per child, if no other services are added. Delinquency commitment costs the State of Maryland more than 10 times that—over \$13,000 per month per child. Importantly, unnecessary foster care or commitments can lead to worse outcomes for juveniles than their return home with less costly counseling and probation services.

What would prevent the Courts from impoverishing a parent by requiring him or her to pay excessive child support? The Maryland child support guidelines apply to such a decision, pursuant to Maryland case law. See In re Joshua W., 394 Md.App. 486 (1986). Under the child support guidelines statute, judges must consider the parent's income, but also must exclude any public assistance income. See Md.Code, Family Law Art., sec. 12-201(b)(5). Further, judges are directed to approve "deviation" below the recommended guidelines support amount when in the child's best interests—for example, to make sure that parent's household doesn't incur hardship that would impact the child. Id., sec.12-202. Bottom end guidelines support may be as low as \$20 per month. Id., sec. 12-204.

A juvenile judge potentially might abuse one statutory provision as to child support guidelines, permitting the court to impute "potential income" to an unemployed parent. Id., sec. 12-201(m). An amendment to HB36 might specify that the juvenile court may not apply sec. 12-201(m) to assess support against an unemployed parent.

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PLEASE NOTE: This testimony is not submitted on behalf of the Md. Judiciary or of Md.Alliance for Justice Reform.