
By: **Senator Hafer**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Support Guidelines - Work-Related Child Care**
3 **Expenses**

4 FOR the purpose of deducting actual child care expenses incurred on behalf of a child
5 due to employment or job search of either parent from actual income of a parent
6 for purposes of calculating adjusted actual income under the child support
7 guidelines; repealing a requirement that a court add actual child care expenses
8 to the basic child support obligation and divide the expenses between the
9 parents in proportion to their adjusted actual incomes; providing for the
10 application of this Act; and generally relating to work-related child care
11 expenses under the child support guidelines.

12 BY repealing and reenacting, without amendments,
13 Article - Family Law
14 Section 12-201(c)(1)
15 Annotated Code of Maryland
16 (1991 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 12-201(d) and 12-204(a), (h), (i), (j), (k), and (l)
20 Annotated Code of Maryland
21 (1991 Replacement Volume and 1997 Supplement)

22 BY repealing
23 Article - Family Law
24 Section 12-204(g)
25 Annotated Code of Maryland
26 (1991 Replacement Volume and 1997 Supplement)

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

1 **Article - Family Law**

2 12-201.

3 (c) (1) "Actual income" means income from any source.

4 (d) "Adjusted actual income" means actual income minus:

5 (1) preexisting reasonable child support obligations actually paid;

6 (2) except as provided in § 12-204(a)(2) of this subtitle, alimony or
7 maintenance obligations actually paid; [and]

8 (3) the actual cost of providing health insurance coverage for a child for
9 whom the parents are jointly and severally responsible; AND

10 (4) ACTUAL CHILD CARE EXPENSES INCURRED ON BEHALF OF A CHILD
11 DUE TO EMPLOYMENT OR JOB SEARCH OF EITHER PARENT.

12 12-204.

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

17 (2) (i) If one or both parents have made a request for alimony or
18 maintenance in the proceeding in which a child support award is sought, the court
19 shall decide the issue and amount of alimony or maintenance before determining the
20 child support obligation under these guidelines.

21 (ii) If the court awards alimony or maintenance, the amount of
22 alimony or maintenance awarded shall be considered actual income for the recipient
23 of the alimony or maintenance and shall be subtracted from the income of the payor
24 of the alimony or maintenance under § 12-201(d)(2) of this subtitle before the court
25 determines the amount of a child support award.

26 (3) (I) ACTUAL CHILD CARE EXPENSES INCURRED ON BEHALF OF A
27 CHILD DUE TO EMPLOYMENT OR JOB SEARCH OF EITHER PARENT UNDER §
28 12-201(D)(4) OF THIS SUBTITLE SHALL BE:

29 1. DETERMINED BY ACTUAL FAMILY EXPERIENCE, UNLESS
30 THE COURT DETERMINES THAT THE ACTUAL FAMILY EXPERIENCE IS NOT IN THE
31 BEST INTEREST OF THE CHILD; OR

32 2. IF THERE IS NO ACTUAL FAMILY EXPERIENCE OR IF THE
33 COURT DETERMINES THAT ACTUAL FAMILY EXPERIENCE IS NOT IN THE BEST
34 INTEREST OF THE CHILD:

35 A. THE LEVEL REQUIRED TO PROVIDE QUALITY CARE FROM
36 A LICENSED SOURCE; OR

1 B. IF THE CUSTODIAL PARENT CHOOSES QUALITY CHILD
2 CARE WITH AN ACTUAL COST OF AN AMOUNT LESS THAN THE LEVEL REQUIRED TO
3 PROVIDE QUALITY CARE FROM A LICENSED SOURCE, THE ACTUAL COST OF THE
4 CHILD CARE EXPENSE.

5 (II) ADDITIONAL CHILD CARE EXPENSES MAY BE CONSIDERED IF A
6 CHILD HAS SPECIAL NEEDS.

7 [(g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child care
8 expenses incurred on behalf of a child due to employment or job search of either
9 parent shall be added to the basic obligation and shall be divided between the parents
10 in proportion to their adjusted actual incomes.

11 (2) Child care expenses shall be:

12 (i) determined by actual family experience, unless the court
13 determines that the actual family experience is not in the best interest of the child; or

14 (ii) if there is no actual family experience or if the court determines
15 that actual family experience is not in the best interest of the child:

16 1. the level required to provide quality care from a licensed
17 source; or

18 2. if the custodial parent chooses quality child care with an
19 actual cost of an amount less than the level required to provide quality care from a
20 licensed source, the actual cost of the child care expense.

21 (3) Additional child care expenses may be considered if a child has
22 special needs.]

23 [(h) (G) Any extraordinary medical expenses incurred on behalf of a child
24 shall be added to the basic child support obligation and shall be divided between the
25 parents in proportion to their adjusted actual incomes.

26 [(i) (H) By agreement of the parties or by order of court, the following
27 expenses incurred on behalf of a child may be divided between the parents in
28 proportion to their adjusted actual incomes:

29 (1) any expenses for attending a special or private elementary or
30 secondary school to meet the particular educational needs of the child; or

31 (2) any expenses for transportation of the child between the homes of the
32 parents.

33 [(j) (I) (1) Upon the expiration of a use and possession order or the
34 expiration of the right to occupy the family home under a separation or property
35 settlement agreement and upon motion of either party, the court shall review the
36 child support award.

1 (2) If the allocation of financial responsibility for the family home was a
2 factor in departing from the guidelines under subsection (a) of this section, the court
3 may modify the child support, if appropriate in all the circumstances, upon the
4 expiration of the use and possession order or the expiration of the right to occupy the
5 family home under a separation or property settlement agreement.

6 [(k)] (J) (1) Except in cases of shared physical custody, each parent's child
7 support obligation shall be determined by adding each parent's respective share of the
8 basic child support obligation, work-related child care expenses, extraordinary
9 medical expenses, and additional expenses under subsection [(i)] (H) of this section.

10 (2) The custodial parent shall be presumed to spend that parent's total
11 child support obligation directly on the child or children.

12 (3) The noncustodial parent shall owe that parent's total child support
13 obligation as child support to the custodial parent minus any ordered payments
14 included in the calculations made directly by the noncustodial parent on behalf of the
15 child or children for work-related child care expenses, extraordinary medical
16 expenses, or additional expenses under subsection [(i)] (H) of this section.

17 [(l)] (K) (1) In cases of shared physical custody, the adjusted basic child
18 support obligation shall first be divided between the parents in proportion to their
19 respective adjusted actual incomes.

20 (2) Each parent's share of the adjusted basic child support obligation
21 shall then be multiplied by the percentage of time the child or children spend with the
22 other parent to determine the theoretical basic child support obligation owed to the
23 other parent.

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

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

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

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

38 (5) The amount owed under paragraph (3) of this subsection may not
39 exceed the amount that would be owed under subsection [(k)] (J) of this section if the
40 obligor parent were a noncustodial parent.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
2 to cases to establish or modify child support filed on or after the effective date of this
3 Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1998.