
By: **Delegate Flanagan**

Introduced and read first time: February 10, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support - Voluntary Impoverishment - Incarceration**

3 FOR the purpose of establishing that a court may consider voluntary impoverishment
4 as a result of incarceration for a criminal conviction as grounds for the
5 modification of a child support award; establishing that the court may consider
6 voluntary impoverishment as a material change in circumstances in a child
7 support matter; providing that a parent who is voluntarily impoverished may be
8 required to use other assets to satisfy a child support obligation; providing that
9 certain child support obligations may accrue during a parent's incarceration and
10 may be due and owing upon the parent's release; and generally relating to child
11 support.

12 BY repealing and reenacting, with amendments,
13 Article - Family Law
14 Section 12-104, 12-202(b), and 12-204(b)
15 Annotated Code of Maryland
16 (1999 Replacement Volume)

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

19 **Article - Family Law**

20 12-104.

21 (a) The court may modify a child support award subsequent to the filing of a
22 motion for modification and upon a showing of a material change of circumstance.

23 (b) THE COURT MAY CONSIDER VOLUNTARY IMPOVERISHMENT AS A RESULT
24 OF INCARCERATION FOR A CRIMINAL CONVICTION AS GROUNDS FOR MODIFICATION.

25 (C) The court may not retroactively modify a child support award prior to the
26 date of the filing of the motion for modification.

1 12-202.

2 (b) (1) Subject to the provisions of [paragraph] PARAGRAPHS (2) AND (3) of
3 this subsection, the adoption of the guidelines set forth in this subtitle may be
4 grounds for requesting a modification of a child support award based on a material
5 change in circumstances.

6 (2) The adoption of the guidelines set forth in this subtitle may not be
7 grounds for requesting a modification of a child support award based on a material
8 change in circumstances unless the use of the guidelines would result in a change in
9 the award of 25% or more.

10 (3) THE COURT MAY CONSIDER VOLUNTARY IMPOVERISHMENT AS A
11 MATERIAL CHANGE IN CIRCUMSTANCES.

12 12-204.

13 (b) (1) Except as provided in paragraph [(2)] (4) of this subsection, if a
14 parent is voluntarily impoverished, child support may be calculated based on a
15 determination of potential income.

16 (2) IF A PARENT IS VOLUNTARILY IMPOVERISHED, THE PARENT MAY BE
17 REQUIRED TO USE ANY OTHER ASSETS WITHIN THE PARENT'S POSSESSION OR
18 CONTROL TO SATISFY A CHILD SUPPORT OBLIGATION.

19 (3) IF A PARENT IS INCARCERATED, AND TO THE EXTENT ANY CHILD
20 SUPPORT OBLIGATION REMAINS UNPAID BY ASSETS, ANY CHILD SUPPORT
21 OBLIGATION ESTABLISHED EITHER BEFORE OR DURING INCARCERATION, MAY
22 ACCRUE DURING THE PERIOD OF INCARCERATION AND MAY BE DUE AND OWING
23 UPON THE RELEASE OF THE PARENT FROM INCARCERATION.

24 (4) A determination of potential income may not be made for a parent
25 who:

26 (i) is unable to work because of a physical or mental disability; or

27 (ii) is caring for a child under the age of 2 years for whom the
28 parents are jointly and severally responsible.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1999.