
By: **Delegates Gordon, Doory, and Montague**
Introduced and read first time: February 4, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Support - Counsel Fees**

3 FOR the purpose of providing that certain counsel fees incurred on behalf of a child
4 are added to the basic child support obligation and imposed on either or both
5 parents in a certain manner; making certain conforming changes; and generally
6 relating to child support and counsel fees.

7 BY repealing and reenacting, without amendments,
8 Article - Family Law
9 Section 1-202 and 12-204(g), (h), and (i)
10 Annotated Code of Maryland
11 (1999 Replacement Volume and 2001 Supplement)

12 BY adding to
13 Article - Family Law
14 Section 12-204(j)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 12-204(j), (k), and (l)
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2001 Supplement)

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

24 **Article - Family Law**

25 1-202.

26 In an action in which custody, visitation rights, or the amount of support of a
27 minor child is contested, the court may:

1 (1) appoint to represent the minor child counsel who may not represent
2 any party to the action; and

3 (2) impose against either or both parents counsel fees.

4 12-204.

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

9 (2) Child care expenses shall be:

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

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

14 1. the level required to provide quality care from a licensed
15 source; or

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

19 (3) Additional child care expenses may be considered if a child has
20 special needs.

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

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

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

29 (2) any expenses for transportation of the child between the homes of the
30 parents.

31 (J) ANY COUNSEL FEES INCURRED ON BEHALF OF A CHILD UNDER § 1-202 OF
32 THIS TITLE SHALL BE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION AND
33 SHALL BE IMPOSED AGAINST EITHER OR BOTH PARENTS AS ORDERED UNDER §
34 1-202(2) OF THIS TITLE.

35 [(j)] (K) (1) Upon the expiration of a use and possession order or the
36 expiration of the right to occupy the family home under a separation or property

1 settlement agreement and upon motion of either party, the court shall review the
2 child support award.

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

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

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

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

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

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

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

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

38 (i) the parent making direct payments to the provider of the
39 service; or

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2002.