
By: **Delegates Gordon and Simmons**

Introduced and read first time: January 29, 2003

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 by a certain guardian
4 ad litem appointed to act on behalf of a child shall be added to the basic child
5 support obligation and imposed on either or both parents in a certain manner;
6 making certain conforming changes; and generally relating to child support and
7 counsel fees.

8 BY repealing and reenacting, without amendments,
9 Article - Family Law
10 Section 1-202 and 12-204(g), (h), and (i)
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2002 Supplement)

13 BY adding to
14 Article - Family Law
15 Section 12-204(j)
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2002 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Family Law
20 Section 12-204(j), (k), and (l)
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2002 Supplement)

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

1 **Article - Family Law**

2 1-202.

3 In an action in which custody, visitation rights, or the amount of support of a
4 minor child is contested, the court may:5 (1) appoint to represent the minor child counsel who may not represent
6 any party to the action; and

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

8 12-204.

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

13 (2) Child care expenses shall be:

14 (i) determined by actual family experience, unless the court
15 determines that the actual family experience is not in the best interest of the child; or16 (ii) if there is no actual family experience or if the court determines
17 that actual family experience is not in the best interest of the child:18 1. the level required to provide quality care from a licensed
19 source; or20 2. if the custodial parent chooses quality child care with an
21 actual cost of an amount less than the level required to provide quality care from a
22 licensed source, the actual cost of the child care expense.23 (3) Additional child care expenses may be considered if a child has
24 special needs.25 (h) Any extraordinary medical expenses incurred on behalf of a child shall be
26 added to the basic child support obligation and shall be divided between the parents
27 in proportion to their adjusted actual incomes.28 (i) By agreement of the parties or by order of court, the following expenses
29 incurred on behalf of a child may be divided between the parents in proportion to
30 their adjusted actual incomes:31 (1) any expenses for attending a special or private elementary or
32 secondary school to meet the particular educational needs of the child; or33 (2) any expenses for transportation of the child between the homes of the
34 parents.

1 (J) ANY COUNSEL FEES INCURRED BY A GUARDIAN AD LITEM APPOINTED TO
2 ACT ON BEHALF OF A CHILD UNDER § 1-202 OF THIS ARTICLE SHALL BE ADDED TO
3 THE BASIC CHILD SUPPORT OBLIGATION AND SHALL BE IMPOSED AGAINST EITHER
4 OR BOTH PARENTS AS ORDERED UNDER § 1-202(2) OF THIS ARTICLE.

5 [(j)] (K) (1) Upon the expiration of a use and possession order or the
6 expiration of the right to occupy the family home under a separation or property
7 settlement agreement and upon motion of either party, the court shall review the
8 child support award.

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

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

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

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

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

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

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

37 (4) In addition to the amount of the child support owed under paragraph
38 (3) of this subsection, if either parent incurs child care expenses under subsection (g)
39 of this section, extraordinary medical expenses under subsection (h) of this section, or
40 additional expenses under [subsection (i)] SUBSECTIONS (I) AND (J) of this section,
41 the expense shall be divided between the parents in proportion to their respective

1 adjusted actual incomes. The parent not incurring the expense shall pay that parent's
2 proportionate share to:

3 (i) the parent making direct payments to the provider of the
4 service; or

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2003.