

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 328

(Senator Grosfeld, *et al.*)

Judicial Proceedings

Judiciary

Family Law - Child Support Guidelines

This bill revises the schedule of basic child support obligations used to calculate the amount of a child support award under child support guidelines. It adjusts the monthly income for the self-support reserve to \$850 for low-income noncustodial parents. The adoption or revision of the guidelines may be grounds for requesting a modification of a child support award provided that the use of the guidelines would result in a change of 25% or more in the award.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources. No impact on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In a proceeding to establish or modify child support, whether pendente lite or permanent, the court is required to use child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. The basic obligation is based on the number of children and is divided between parents in proportion to their adjusted actual incomes. The maximum combined monthly income subject to the schedule is \$10,000. For parental income above \$10,000, the Court of Appeals indicated in *Voishan v. Palma*, 327 Md. 318, 331-332 (1992):

[T]he guidelines do establish a rebuttable presumption that the maximum support award under the schedule is the minimum which should be awarded in cases above the schedule. Beyond this the trial judge should examine the needs of the child in light of the parent's resources and determine the amount of support necessary to ensure that the child's standard of living does not suffer because of the parents' separation. Further, the judge should give some consideration to the Income Shares method of apportioning the child support obligation.

For monthly incomes that do not exceed \$600, the schedule provides for a basic child support obligation of \$20 to \$50 per month, based on the resources and living expenses of the obligor and the number of children due support.

Background: On or before January 1, 1993, and at least every four years after that date, the Child Support Enforcement Administration (CSEA) of the Department of Human Resources (DHR) is required to review the child support guidelines to ensure the determination of appropriate child support award amounts and to report its findings and recommendations to the General Assembly.

The current Maryland child support guidelines are based on the income shares model, which was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The income shares model is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children. A child's portion of such expenditures includes spending for goods only used by the child, such as clothing, as well as a share of goods used in common by the family, such as housing, food, furnishings, and recreation.

The current Maryland schedule was developed in 1988 and was based on the economic estimates of child-rearing expenditures as a proportion of household consumption developed by Dr. Thomas Espenshade. The Espenshade estimates were derived from national data on household expenditures from the 1972-73 *Consumer Expenditure Survey* conducted by the U.S. Bureau of Labor Statistics.

The existing self-support reserve is equivalent to \$481 net per month, the 1988 federal poverty level for one person. The 2003 federal poverty level for one person is \$748 per month. The proposed guidelines set the self-support reserve at \$850 per month.

According to CSEA, a self-support reserve allows a noncustodial parent to retain a minimal amount of income before being assessed a full percentage of child support.

According to the Office of Child Support Enforcement of the U.S. Department of Health and Human Services, a majority of states and the District of Columbia use the income shares model for child support.

State Fiscal Effect: CSEA has the original guideline table in its child support enforcement system and advises that minimal costs would be associated with changing to a new schedule.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 284 from the 2002 session. HB 284 passed the House as amended and was referred to the Judicial Proceedings Committee, where it received an unfavorable report. A similar bill, HB 822, was introduced in the 2001 session. It received an unfavorable report from the Judiciary Committee. Another similar bill, SB 380, from the 2001 session, received an unfavorable report from the Judicial Proceedings Committee.

Cross File: HB 604 (Delegate Dumais) – Judiciary.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Human Resources, U. S. Department of Health and Human Services (Office of Child Support Enforcement), Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510