

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 928

(Senator Stone)

Judicial Proceedings

Judiciary

Family Law - Child Support Guidelines - Third Party Payments

This bill alters the definition of “income” under the child support guidelines to include any third party payment paid to or for a minor child as a result of the obligor’s disability, retirement, or other compensable claim.

The bill provides that when a disability, retirement, or other third party dependency benefit is paid to or for the child of an obligor who is disabled, retired, or receiving benefits from any source due to a compensable claim, the amount of the compensation must be set off against the child support obligation calculated using the guidelines. However, if the amount paid to or for a child exceeds the current child support obligation, the excess payment must be credited to any existing child support arrearage that accrued after the effective date the benefits were awarded. The excess payment may not be credited to any future child support obligation. Revision of the child support guidelines may be grounds for requesting a modification of a child support award if it would result in a change in the award of 25% or more.

Fiscal Summary

State Effect: Potential minimal reduction in special fund revenues to the extent that the bill reduces collection of child support. No effect on expenditures.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: “Income” means the actual income of a parent if the parent is employed to full capacity, or potential income, if the parent is voluntarily impoverished. “Actual income” generally means income from any source and includes the types of compensation specified in statute. A court is also authorized to consider severance pay, capital gains, gifts, or prizes as actual income, depending on circumstances of the case. “Actual income” does not include benefits received from public assistance programs. “Actual adjusted income” means actual income minus obligations as specified in statute.

The basic child support obligation must be determined in accordance with the schedule of basic child support obligations as specified in statute and divided between the parents in proportion to their adjusted actual incomes. If a parent is voluntarily impoverished, child support may be calculated based on a determination of potential income, except for a parent who is unable to work due to a physical or mental disability or due to caring for a child less than two years old, if the parents are jointly and severally responsible for the child.

State Revenues: Special fund revenues could be reduced to the extent that the bill reduces child support collections. Temporary cash assistance (TCA) recipients must assign their support rights to the State and federal governments as partial reimbursement for TCA payments made on behalf of the children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, the State and federal governments would share equally in any reduction in collection revenues. Any such reduction cannot be quantified at this time due to the unavailability of data. This impact of this bill on collection of current child support and arrearages is expected to be minimal.

Additional Information

Prior Introductions: None. However, provisions from this bill were contained in SB 380 of the 2001 session. SB 380 was referred to the Judicial Proceedings Committee, where it received an unfavorable report.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 22, 2004
ncs/hlb Revised - Senate Third Reader - April 7, 2004

Analysis by: Karen D. Morgan

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