

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1059

(Delegate Dumais, *et al.*)

Judiciary

Family Law - Child Support - Age of Majority - Postsecondary Education

This bill provides that a person who has attained the age of 18 and is enrolled in secondary school or full-time in a postsecondary educational institution has the right to receive support and maintenance from both parents until the person becomes 23, if that event occurs before other emancipating circumstances. An “institution of post-secondary education” means a school or other institution that offers an educational program in the State for individuals who are at least 16 years old and who have graduated from or left elementary school. The bill’s provisions are considered to be a material change of circumstances for purposes of modifying child support orders issued before the bill’s effective date.

Fiscal Summary

State Effect: The Department of Human Resources could verify the enrollment status of individuals receiving child support with existing budgeted resources. The Judiciary could handle any modifications of child support orders within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The age of majority is 18 years. A person who is 18 is considered an adult for all purposes and has the same rights, capacities, and powers as persons 21 years or older had before July 1, 1973. The term “minor” refers to persons who are younger than 18 years of age. The parents of a minor child are both responsible for their child’s

support, welfare, and education, and each parent has the same powers and duties as the other parent in relation to the child. A person who is 18 and enrolled in secondary school is considered a minor and has the right to receive support and maintenance from both parents until the person dies, marries, is emancipated, graduates from or is no longer enrolled in secondary school, or becomes 19, whichever occurs first. Currently, a court lacks the authority to order child support payments for a person who is 19 years of age or older, unless the parents agree to continue support.

In the Education Article of the Maryland Annotated Code, “institution of post-secondary education” is defined as a school or other institution that offers an educational program in the State for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school. An institution of post-secondary education does not include an adult education, high school equivalency, apprenticeship, or on-the-job training program.

Background: According to the National Conference of State Legislatures, states vary the termination date of child support. Thirty-four states, including Maryland, allow continuation of child support until the age of 19 if the child is a high school student. Others states extend child support to ages 20 or 21. The District of Columbia, Indiana, Massachusetts, Mississippi, Missouri, New York, and Oregon establish the termination of child support at 21 and require the payment of college expenses until the child reaches that age. In Hawaii, support terminates at 18, but may be extended until the age of 23 if the child is enrolled in an accredited postsecondary educational institution. For the states that terminate child support at age 18 or 19, a majority, including Maryland, authorize courts to enforce parental agreements to pay for college expenses beyond age 18.

Additional Information

Prior Introductions: A similar bill, SB 153 of 2000, received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Human Resources, National Conference of State Legislatures, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2004
lc/jr

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