

Department of Legislative Services  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

Senate Bill 156

(Chairman, Judicial Proceedings Committee)

(By Request – Departmental – Human Resources)

Judicial Proceedings

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**Family Law - Child Support Guidelines**

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This departmental bill revises the schedule of basic child support obligations used to calculate the amount of a child support award under the child support guidelines. It updates the current schedule, increases the combined monthly income subject to the schedule to \$20,000, and alters the definition of “extraordinary medical expenses” to mean uninsured expenses over \$250 per child, per year.

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**Fiscal Summary**

**State Effect:** Special fund revenues would increase to the extent that the bill increases the collection of child support for Temporary Cash Assistance (TCA) recipients. The bill’s requirements could be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** The Department of Human Resources has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** In a proceeding to establish or modify child support, whether *pendente lite* or permanent, the court is required to use the 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 the

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 \$850, the schedule provides for a basic child support obligation of \$20 to \$150 per month, based on the resources and living expenses of the obligor and the number of children due support.

“Extraordinary medical expenses” means uninsured expenses over \$100 for a single illness or condition.

**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. This bill reflects CSEA's most recent recommendations for changes in the child support guidelines. The recommendations are drawn from an evaluation of Maryland's child support schedule completed by Policy Studies, Inc. in November 2004.

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.

This bill adjusts the schedule of basic child support obligations to reflect more recent economic research on child-rearing expenditures, and to incorporate changes in federal and State income taxes and Social Security requirements that have occurred since the existing schedule was developed. According to CSEA, it is not uncommon for the combined monthly income of parents to exceed \$10,000, so the maximum combined monthly income subject to the proposed schedule is \$20,000.

The proposed new child support schedule would still be based on the Income Shares model, but updated with what are called the “Betson-Rothbarth” measurements of child-rearing costs. In addition:

- measurements of child-rearing costs are converted to 2004 price levels;
- average expenditures for child care, health insurance, and extraordinary medical expenses are subtracted from the total proportion of household expenditures allocated to child-rearing costs;
- the measurements are converted to net income; and
- the updated schedule is converted from net income to gross income by using the tax withholding tables for a single obligor.

Under the proposed schedule, support orders involving one child are increased for all income levels. Orders involving two or more children increase at the lower and middle incomes and decrease at higher incomes. The breakpoint between increases and decreases is a combined gross monthly income of \$5,600. The updated schedule factors in out-of-pocket expenses of up to \$250 for medical expenses per child.

According to Policy Studies, Inc., 34 states, including Maryland, use the Income Shares model for child support. Thirteen states use a percentage of obligor income to determine child support. Three states use the Melson formula for child support (similar to the Income Shares model but with additional elements based on self-support needs and primary support obligations). One state and the District of Columbia use a hybrid

approach to determine child support levels. Recently, the states of Arizona, North Carolina, Oregon, and Tennessee revised their child support schedules.

**State Fiscal Effect:** Special fund revenues could increase to the extent the bill increases child support collections. TCA recipients must assign their support rights to the State and federal government 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. Any such increase cannot be quantified at this time due to unavailability of data.

CSEA has the original guidelines table in its child support enforcement system and advises that minimal costs would be associated with changing to the new schedule.

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### **Additional Information**

**Prior Introductions:** Other bills have been introduced to revise the child support guidelines, but they contained different support calculations and other provisions not contained in this bill. HB 284 from the 2002 session passed the House as amended and was referred to the Judicial Proceedings Committee, where it received an unfavorable report. HB 822 was introduced in the 2001 session and received an unfavorable report from the Judiciary Committee. SB 380, from the 2001 session, received an unfavorable report from the Judicial Proceedings Committee.

**Cross File:** None.

**Information Source(s):** Department of Human Resources; U. S. Department of Health and Human Services (Office of Child Support Enforcement); Policy Studies, Inc. *Thomson FindLaw*; Department of Legislative Services

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