

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 68
Judiciary

(Delegate Franchot)

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 postsecondary 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 postsecondary 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 postsecondary education does not include an adult education, high school equivalency, apprenticeship, or on-the-job training program.

Background: According to a survey of state legislation through 2003 completed by the National Conference of State Legislatures, states vary the termination date of child support. Thirty-six states, including Maryland, allow continuation of child support up to the age of 19 if the child is a high school student. Four states (Georgia, Minnesota, North Carolina, and West Virginia) terminate support at ages 18 or 19, but require support payments until the age of 20 if the child is still in high school. Wyoming terminates support at age 18 but mandates continuation for a child in high school until the age of 21. Louisiana terminates support at 19, but for a developmentally disabled child enrolled in a secondary school, support must continue until the age of 22.

Other states extend mandatory child support up to age 23 if the child is enrolled in a postsecondary institution. The District of Columbia, Indiana, Mississippi, 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. Missouri terminates support at age 18 but mandates financial support for a child enrolled in vocational school or college until the child reaches 22. Connecticut requires support of a child enrolled in college until the child reaches 23, while Massachusetts requires support of a child enrolled in an education program until the child reaches 23.

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: This bill is a reintroduction of HB 1059 of the 2004 session. HB 1059 was referred to the Judiciary Committee but was then withdrawn.

Cross File: None.

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

Fiscal Note History: First Reader - January 17, 2005
mam/jr

Analysis by: Karen D. Morgan

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