### **UNOFFICIAL COPY OF HOUSE BILL 455**

D4 HB 508/05 - JUD

6lr0751 CF 6lr0752

By: **Delegate Dumais** Introduced and read first time: January 27, 2006 Assigned to: Judiciary

## A BILL ENTITLED

# 1 AN ACT concerning

2	Family Law - Child Support - Deviation from Child Support Guidelines
3 4 5 6	FOR the purpose of establishing certain factors that a court is required to consider when determining whether the application of the child support guidelines would be unjust or inappropriate in a particular case; and generally relating to the child support guidelines.
7 8 9 10 11	BY repealing and reenacting, with amendments, Article - Family Law Section 12-202(a) Annotated Code of Maryland (2004 Replacement Volume and 2005 Supplement)
12 13	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
14	Article - Family Law
15	12-202.
	(a) (1) Subject to the provisions of paragraph (2) of this subsection, in any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle.
	(2) (i) There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in this subtitle is the correct amount of child support to be awarded.
22 23	(ii) The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.
24 25	(iii) In determining whether the application of the guidelines would be unjust or inappropriate in a particular case, the court may consider:
26 27	1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of

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1 mortgages or marital debts, payment of college education expenses, the terms of any 2 use and possession order or right to occupy to the family home under an agreement, 3 any direct payments made for the benefit of the children required by agreement or 4 order, or any other financial considerations set out in an existing separation or 5 property settlement agreement or court order; [and] 2. the presence in the household of either parent of other 6 7 children to whom that parent owes a duty of support and the expenses for whom that 8 parent is directly contributing; THE VALUE OF ALL OF THE ASSETS IN WHICH EITHER 9 3. 10 PARENT HAS AN INTEREST; AND 11 4. THE ENTITLEMENT OF THE CHILD TO A STANDARD OF 12 LIVING THAT IS SUBSTANTIALLY SIMILAR TO THAT WHICH THE CHILD WOULD HAVE 13 HAD IF THE PARENTS HAD REMAINED TOGETHER. 14 The presumption may not be rebutted solely on the basis of (iv) 15 evidence of the presence in the household of either parent of other children to whom 16 that parent owes a duty of support and the expenses for whom that parent is directly 17 contributing. 18 1. If the court determines that the application of the (v) guidelines would be unjust or inappropriate in a particular case, the court shall make 19 20 a written finding or specific finding on the record stating the reasons for departing 21 from the guidelines. 22 2. The court's finding shall state: 23 A. the amount of child support that would have been required 24 under the guidelines; 25 how the order varies from the guidelines; Β. C. how the finding serves the best interests of the child; and 26 27 D. in cases in which items of value are conveyed instead of a 28 portion of the support presumed under the guidelines, the estimated value of the 29 items conveyed. SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 30

31 October 1, 2006.

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