
By: **Delegate Holmes**

Introduced and read first time: February 8, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Support - Active Duty Reserve Officers and Enlisted**
3 **Reservists**

4 FOR the purpose of requiring the court to modify a child support award in cases in
5 which the obligor is a reserve officer or enlisted reservist who has been called to
6 active duty under certain circumstances; authorizing the court to consider
7 whether either parent is a reserve officer or enlisted reservist who has been
8 called to active duty when determining whether the application of the child
9 support guidelines would be unjust or inappropriate in a particular case; and
10 generally relating to child support.

11 BY adding to

12 Article - Family Law

13 Section 12-104.1

14 Annotated Code of Maryland

15 (2004 Replacement Volume and 2005 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Family Law

18 Section 12-202

19 Annotated Code of Maryland

20 (2004 Replacement Volume and 2005 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Family Law**

24 12-104.1.

25 IN A CHILD SUPPORT CASE IN WHICH THE OBLIGOR IS A RESERVE OFFICER OR
26 AN ENLISTED RESERVIST WHO HAS BEEN CALLED TO ACTIVE DUTY, THE COURT
27 SHALL MODIFY THE CHILD SUPPORT AWARD ON RECEIVING PROOF OF:

28 (1) THE ORDERS CALLING THE OBLIGOR TO ACTIVE DUTY; AND

1 (2) THE OBLIGOR'S CHANGE IN INCOME.

2 12-202.

3 (a) (1) Subject to the provisions of paragraph (2) of this subsection, in any
4 proceeding to establish or modify child support, whether pendente lite or permanent,
5 the court shall use the child support guidelines set forth in this subtitle.

6 (2) (i) There is a rebuttable presumption that the amount of child
7 support which would result from the application of the child support guidelines set
8 forth in this subtitle is the correct amount of child support to be awarded.

9 (ii) The presumption may be rebutted by evidence that the
10 application of the guidelines would be unjust or inappropriate in a particular case.

11 (iii) In determining whether the application of the guidelines would
12 be unjust or inappropriate in a particular case, the court may consider:

13 1. the terms of any existing separation or property
14 settlement agreement or court order, including any provisions for payment of
15 mortgages or marital debts, payment of college education expenses, the terms of any
16 use and possession order or right to occupy to the family home under an agreement,
17 any direct payments made for the benefit of the children required by agreement or
18 order, or any other financial considerations set out in an existing separation or
19 property settlement agreement or court order; [and]

20 2. the presence in the household of either parent of other
21 children to whom that parent owes a duty of support and the expenses for whom that
22 parent is directly contributing[.]; AND

23 3. WHETHER EITHER PARENT IS A RESERVE OFFICER OR AN
24 ENLISTED RESERVIST WHO HAS BEEN CALLED TO ACTIVE DUTY.

25 (iv) The presumption may not be rebutted solely on the basis of
26 evidence of the presence in the household of either parent of other children to whom
27 that parent owes a duty of support and the expenses for whom that parent is directly
28 contributing.

29 (v) 1. If the court determines that the application of the
30 guidelines would be unjust or inappropriate in a particular case, the court shall make
31 a written finding or specific finding on the record stating the reasons for departing
32 from the guidelines.

33 2. The court's finding shall state:

34 A. the amount of child support that would have been required
35 under the guidelines;

36 B. how the order varies from the guidelines;

1 C. how the finding serves the best interests of the child; and

2 D. in cases in which items of value are conveyed instead of a
3 portion of the support presumed under the guidelines, the estimated value of the
4 items conveyed.

5 (b) (1) Subject to the provisions of paragraph (2) of this subsection, the
6 adoption or revision of the guidelines set forth in this subtitle may be grounds for
7 requesting a modification of a child support award based on a material change in
8 circumstances.

9 (2) The adoption or revision of the guidelines set forth in this subtitle
10 may not be grounds for requesting a modification of a child support award based on a
11 material change in circumstances unless the use of the guidelines would result in a
12 change in the award of 25% or more.

13 (c) On or before January 1, 1993, and at least every 4 years after that date,
14 the Child Support Enforcement Administration of the Department of Human
15 Resources shall:

16 (1) review the guidelines set forth in this subtitle to ensure that the
17 application of the guidelines results in the determination of appropriate child support
18 award amounts; and

19 (2) report its findings and recommendations to the General Assembly,
20 subject to § 2-1246 of the State Government Article.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2006.