

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 654  
Judiciary

(Delegate Dumais)

Judicial Proceedings

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**Family Law - Child Support - Settlement of Arrearages**

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This bill provides that in a case where a child support recipient assigns his/her right to child support in exchange for Temporary Cash Assistance (TCA), there is a presumption that it is in the best interest of the State for the Child Support Enforcement Administration (CSEA) to accept an amount less than the total arrearage as full settlement of a child support obligation, if the obligor and the subject child have resided together for at least the 12 months immediately preceding the settlement request and the recipient who made the assignment is deceased, incapacitated, or otherwise unavailable to reside with the obligor and the child. A recipient who assigns his/her right to child support may not be considered incapacitated or otherwise unavailable due solely to a change in legal or physical custody of the child.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in special fund revenues to the extent the bill increases child support collections.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** If CSEA considers it to be in the best interest of the State, in a case where a child support recipient assigns his/her right to child support in exchange for TCA, CSEA may accept an amount that is less than the total arrearage as full settlement of a

child support obligation. In a case in which an assignment is made, there is a presumption that it is in the best interest of the State to accept as full settlement an amount that is less than the total arrearage under specified circumstances. The presumption that it is in the best interest of the State to accept as full settlement less than the total amount of the arrearage from a TCA recipient applies if:

- the obligor, the TCA recipient, and the child who is the subject of the support order have resided together for at least the 12 months immediately preceding a request for settlement;
- the obligor has been supporting the child for at least the 12 months immediately preceding a request for settlement; and
- the gross income of the obligor is less than 225% of the federal poverty level.

If CSEA does not accept in full settlement of an arrearage in child support payments an amount that is less than the total arrearage, CSEA must notify the obligor of the decision and of the obligor's right to appeal the decision to the Office of Administrative Hearings.

**Background:** The Administrative Office of the Courts advises that in a recent child support case, *Harvey v. Marshall* 389 Md. 243 (2004) the father was living with the children because one of the mothers was incapacitated and one of the other mothers had died. However, the presumption that acceptance of less than full settlement would be in the best interest of the State did not apply because under current law, the obligor must be living with both the original child support recipient and the child. In the *Harvey* case, the Court of Appeals made the following observation in a footnote to the decision:

...the enacted legislation...might not apply, by its plain language to Harvey's situation...[the law] 'rewards parents who are fulfilling their parental responsibilities by living with and providing for their children'...This concept of 'family formation,' however, apparently applies only to those circumstances where the obligor and the obligee reunite. Because the record indicates that the mother of one of Harvey's pertinent children is deceased...there may not be a presumption that forgiveness of Harvey's arrearage, with respect to that child, would be 'in the best interest of the State.' (*Harvey v. Marshall* 389 Md. 243 at 287, fn. 26)

**State Revenues:** Special fund revenues could increase to the extent that the bill increases collections for child support arrearages. Any such effect is assumed to be minimal. Accepting less than full payment of arrearages in those situations rather than requiring total payment may mean a greater number of collected child support debts. CSEA advises that for federal fiscal 2005, 30,415 TCA cases were processed. TCA recipients must assign their support payments to the State and federal governments 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. Accordingly, the State and federal governments would share equally in collection revenues. Any such potential reduction cannot be quantified at this time due to the unavailability of data.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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