

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 74

(Senator Grosfeld, *et al.*)

Judicial Proceedings

Judiciary

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Family Law - Child Support - Deviation from Child Support Guidelines

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This bill expands the factors that may be considered by a court in determining whether the application of child support guidelines would be unjust or inappropriate by providing that the court may consider the value of all the assets in which either parent has an interest.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund expenditures for the Judiciary to handle more complex trials that may occur under this bill.

**Local Effect:** Potential minimal increase in general fund expenditures for the Judiciary to handle more complex trials that may occur under this bill.

**Small Business Effect:** None.

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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 child support guidelines. The basic child support obligation is established by a schedule provided in statute. There is a rebuttable presumption that the amount of child support established by application of the guidelines is the correct amount of child support. The presumption may be rebutted by evidence that application of the guidelines would be unjust or inappropriate in a specific case.

In determining whether application of child support guidelines would be unjust or inappropriate, the court may consider the following:

- the terms of any existing separation or property settlement agreement or court order, including provisions regarding mortgages or marital debts, college expenses, the family home, required direct payments to children, or other financial considerations, as specified; and
- the presence of other children in the household of either parent to whom that parent owes a duty of support and expenses for whom that parent is directly contributing.

The presumption may not be rebutted solely on the basis of the presence of other children in the household of either parent to whom that parent owes a duty of support and for whom that parent is directly contributing.

If a court determines that application of the child support guidelines would be unjust or inappropriate in a specific case, the court must make a written finding or a specific finding on the record stating the reasons for departing from the guidelines. The court's finding must state the amount of child support that would have been required under the guidelines, how the order varies from the guidelines, and how the finding serves the child's best interests. In addition, in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the court's finding must state the estimated value of the items conveyed.

**State and Local Fiscal Effect:** General fund expenditures could increase minimally for the Judiciary under this bill. Consideration of the additional factor when determining the appropriateness of the child support guidelines could result in longer, more complex trials. However, because the bill authorizes, but does not mandate, consideration of this additional factor and the factor is to be applied only to cases where the appropriateness of the child support guidelines is an issue, the fiscal impact on the courts is expected to be minimal.

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### **Additional Information**

**Prior Introductions:** This bill is a reintroduction of SB 367/HB 508 of 2005. SB 367 was given an unfavorable report by the Judicial Proceedings Committee and HB 508 was given an unfavorable report by the Judiciary Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 24, 2006  
ncs/jr Revised - Senate Third Reader - March 21, 2006

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