

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 145
Judiciary

(Delegate Kelley, *et al.*)

Judicial Proceedings

Family Law - Child Support - Modification Hearing

This bill provides for an automatic modification hearing when any child subject to a child support order for the support of multiple children attains the age of 18 years.

The bill specifies that it does not apply to child support orders or modifications of child support orders issued before the bill's October 1 effective date.

Fiscal Summary

State Effect: Minimal reduction in special fund revenues to the extent the bill reduces collection of child support. Minimal increase in general fund expenditures for additional clerical and trial time to handle modification hearings.

Local Effect: Minimal expenditure increase due to additional modification hearings.

Small Business Effect: None.

Analysis

Bill Summary: Any child support order or modification of a child support order for the support of multiple children must state the dates on which each child subject to the order will attain the age of 18.

Unless the parties have waived the right to a modification hearing by written agreement, the court shall schedule a modification hearing within 30 days after the date on which any child subject to the order turns 18. The court must give notice to the parties of the date and time of the modification hearing in accordance with the Maryland Rules. The notice

must contain a provision authorizing each party to file a waiver of the right to a modification hearing.

The court must hold a modification hearing unless by written agreement both parties have waived the right to a modification hearing or both parties have waived, in writing, the right to a modification hearing by filing a waiver as described above.

The date on which the court makes a motion described above is considered to be the date of the filing of the motion for modification.

Current Law: In any proceeding to establish or modify child support, whether *pendente lite* or permanent, the court is required to use the child support guidelines established in statute. There is a rebuttable presumption that the amount of child support set forth in the guidelines is the correct amount of child support. The presumption may be rebutted in a specific case by evidence that application of the guidelines would be unjust or inappropriate. To determine whether the application of guidelines would be unjust or inappropriate, among the factors the court may consider is the presence in the household of either parent of other children to whom that parent owes a duty of support and for whom the parent is directly contributing. However, the presumption may not be rebutted solely due to the presence of the other children to whom either parent owes a duty of support and to whom either parent is making contributions.

If the court determines that application of the child support guidelines would be unjust or inappropriate, the court must make a written finding or finding on the record stating the reasons for departing from the guidelines. The adoption or revision of the child support guidelines may be grounds for requesting a modification of a child support award based on a material change in circumstances if the use of the guidelines would result in a change of at least 25% in the award.

The court may modify a child support award after the filing of a motion for modification and the showing of a material change in circumstances. However, the court may not retroactively modify a child support award prior to the date of the filing of the motion for modification.

State Revenues: Special fund revenues could be reduced to the extent that the bill reduces child support collections. The Child Support Enforcement Administration (CSEA) advises that for federal fiscal 2005, 30,415 Temporary Cash Assistance (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. 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 any reduction in collection revenues. Any such

reduction cannot be quantified at this time due to the unavailability of data. The impact on collections is expected to be minimal.

State and Local Expenditures:

Judiciary: It is expected that general fund expenditures could increase minimally in the Judiciary from additional modification hearings. In fiscal 2005, the courts opened 24,188 child support order cases and issued 20,285 orders establishing child support. The Judiciary does not maintain statistics on how many divorce and annulment cases include child support orders, nor does the Judiciary track the number of child support orders involving families with multiple children. The Judiciary advises that CSEA manages the child support order docket, prepares the documentation for modifications requested by parents, and tracks when children become eligible for emancipation.

CSEA advises that local child support offices prepare casework for requested modification, in cooperation with the local State's Attorneys, review the financial circumstances of the parties, review support guidelines, and submit recommendations on disposition to the court. As a result, general fund expenditures could minimally increase to accommodate the additional modification hearings that could occur under this bill. The courts could be required to take additional testimony on the earnings of the parties, and the costs of any special needs the children may have.

Department of Human Resources: CSEA estimates that 1,750 additional modifications annually could be processed under this bill's provisions. CSEA advises that it currently handles about 90% of the modification caseload statewide. About 20% of all modification cases involve families with multiple children who would be subject to the provisions of this bill. The remaining modification cases are handled through private attorneys.

CSEA currently prepares a monthly emancipation report that is sent to the local offices that documents all children that are scheduled to become emancipated and are subject to child support orders. Local child support offices have the option to issue notifications to parents about an upcoming emancipation and the need to submit a motion for modification. In fiscal 2007, CSEA plans to centralize the emancipation report process and send notices to all parents regarding their emancipated children.

Of the 1,750 additional cases annually, 500 could likely occur in Baltimore City. Because the Baltimore City child support office is managed through a private contract, the additional caseload would have to be absorbed within their existing resources. The metropolitan counties of Anne Arundel, Baltimore, Montgomery and Prince George's could each have an additional 250 cases annually, for an additional 1,000 cases annually. The remainder of the State could generate an additional total of 250 cases annually.

Although additional resources could be required for the scheduling of cases, the completion of case documentation and meetings with the parties, it is anticipated that the local offices of CSEA could handle this additional workload with existing resources. Also, the additional caseload would be reduced to the extent that parents waive their right to modification hearings. The extent to which waiver of hearings would impact the caseload cannot be quantified at time.

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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