

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 776
Judiciary

(Delegate Holmes)

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

This bill requires the court to modify a child support award in a child support case if the obligor is a reserve officer or an enlisted reservist who has been called to active duty. The court must receive proof of the orders calling the obligor to active duty and the obligor's change in income. The bill also expands the factors a court may consider in determining whether the application of child support guidelines would be unjust or inappropriate to include whether either parent is a reserve officer or an enlisted reservist who has been called to active duty.

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. The Department of Human Resources could handle the bill's requirements with existing resources.

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.

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.

The adoption or revision of 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. On or before January 1, 1993 and at least every four years thereafter, the Child Support Enforcement Administration (CSEA) must review the guidelines to ensure that application of the guidelines results in the determination of appropriate child support award amounts. CSEA must report its findings to the General Assembly.

The court has authority to modify a child support award subsequent to the filing of a motion for modification and upon the showing of a 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.

Background: The last evaluation of Maryland's child support schedule was commissioned by the Department of Human Resources and completed by Policy Studies, Inc. in November 2004. The department's recommendations for changes to the existing child support guidelines were contained in Senate Bill 156 of 2005, which received an unfavorable report from the Judicial Proceedings Committee.

State and Local Fiscal Effect: General fund expenditures could increase minimally for the Judiciary under this bill. Consideration of the expanded factors 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, the use of these expanded factors, and the factors are 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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