

HOUSE BILL 265

D4
HB 648/06 – JUD

71r0510

By: **Delegate Dumais**
Introduced and read first time: January 29, 2007
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Support – Health Insurance**

3 FOR the purpose of requiring that, in determining a child support obligation, any
4 actual cost of providing health insurance coverage for a child for whom the
5 parents are jointly and severally responsible be added to the basic child support
6 obligation and divided by the parents in proportion to their adjusted actual
7 incomes; adding health insurance expenses to the list of items that must be
8 added together in determining each parent's child support obligation, under
9 certain circumstances; making certain conforming changes; altering a certain
10 definition; and generally relating to child support.

11 BY repealing and reenacting, without amendments,
12 Article – Family Law
13 Section 12–201(a), (b), (d), (e), and (f) and 12–204(a) and (g)
14 Annotated Code of Maryland
15 (2006 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 12–201(c) and 12–204(h), (l), and (m)
19 Annotated Code of Maryland
20 (2006 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Family Law**

2 12–201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) (1) “Actual income” means income from any source.

5 (2) For income from self–employment, rent, royalties, proprietorship of
6 a business, or joint ownership of a partnership or closely held corporation, “actual
7 income” means gross receipts minus ordinary and necessary expenses required to
8 produce income.

9 (3) “Actual income” includes:

10 (i) salaries;

11 (ii) wages;

12 (iii) commissions;

13 (iv) bonuses;

14 (v) dividend income;

15 (vi) pension income;

16 (vii) interest income;

17 (viii) trust income;

18 (ix) annuity income;

19 (x) Social Security benefits;

20 (xi) workers’ compensation benefits;

21 (xii) unemployment insurance benefits;

22 (xiii) disability insurance benefits;

1 (xiv) for the obligor, any third party payment paid to or for a
2 minor child as a result of the obligor's disability, retirement, or other compensable
3 claim;

4 (xv) alimony or maintenance received; and

5 (xvi) expense reimbursements or in-kind payments received by a
6 parent in the course of employment, self-employment, or operation of a business to the
7 extent the reimbursements or payments reduce the parent's personal living expenses.

8 (4) Based on the circumstances of the case, the court may consider the
9 following items as actual income:

10 (i) severance pay;

11 (ii) capital gains;

12 (iii) gifts; or

13 (iv) prizes.

14 (5) "Actual income" does not include benefits received from
15 means-tested public assistance programs, including temporary cash assistance,
16 Supplemental Security Income, food stamps, and transitional emergency, medical, and
17 housing assistance.

18 (c) "Adjusted actual income" means actual income minus:

19 (1) preexisting reasonable child support obligations actually paid; **AND**

20 (2) except as provided in § 12-204(a)(2) of this subtitle, alimony or
21 maintenance obligations actually paid[]; and

22 (3) the actual cost of providing health insurance coverage for a child
23 for whom the parents are jointly and severally responsible].

24 (d) "Adjusted basic child support obligation" means an adjustment of the
25 basic child support obligation for shared physical custody.

26 (e) "Basic child support obligation" means the base amount due for child
27 support based on the combined adjusted actual incomes of both parents.

1 (f) "Combined adjusted actual income" means the combined monthly
2 adjusted actual incomes of both parents.

3 12-204.

4 (a) (1) The basic child support obligation shall be determined in
5 accordance with the schedule of basic child support obligations in subsection (e) of this
6 section. The basic child support obligation shall be divided between the parents in
7 proportion to their adjusted actual incomes.

8 (2) (i) If one or both parents have made a request for alimony or
9 maintenance in the proceeding in which a child support award is sought, the court
10 shall decide the issue and amount of alimony or maintenance before determining the
11 child support obligation under these guidelines.

12 (ii) If the court awards alimony or maintenance, the amount of
13 alimony or maintenance awarded shall be considered actual income for the recipient of
14 the alimony or maintenance and shall be subtracted from the income of the payor of
15 the alimony or maintenance under § 12-201(c)(2) of this subtitle before the court
16 determines the amount of a child support award.

17 (g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child
18 care expenses incurred on behalf of a child due to employment or job search of either
19 parent shall be added to the basic obligation and shall be divided between the parents
20 in proportion to their adjusted actual incomes.

21 (2) Child care expenses shall be:

22 (i) determined by actual family experience, unless the court
23 determines that the actual family experience is not in the best interest of the child; or

24 (ii) if there is no actual family experience or if the court
25 determines that actual family experience is not in the best interest of the child:

26 1. the level required to provide quality care from a
27 licensed source; or

28 2. if the custodial parent chooses quality child care with
29 an actual cost of an amount less than the level required to provide quality care from a
30 licensed source, the actual cost of the child care expense.

31 (3) Additional child care expenses may be considered if a child has
32 special needs.

1 (h) (1) **ANY ACTUAL COST OF PROVIDING HEALTH INSURANCE**
2 **COVERAGE FOR A CHILD FOR WHOM THE PARENTS ARE JOINTLY AND**
3 **SEVERALLY RESPONSIBLE SHALL BE ADDED TO THE BASIC CHILD SUPPORT**
4 **OBLIGATION AND SHALL BE DIVIDED BY THE PARENTS IN PROPORTION TO**
5 **THEIR ADJUSTED ACTUAL INCOMES.**

6 (2) Any extraordinary medical expenses incurred on behalf of a child
7 shall be added to the basic child support obligation and shall be divided between the
8 parents in proportion to their adjusted actual incomes.

9 (1) (1) Except in cases of shared physical custody, each parent's child
10 support obligation shall be determined by adding each parent's respective share of the
11 basic child support obligation, work-related child care expenses, **HEALTH**
12 **INSURANCE EXPENSES**, extraordinary medical expenses, and additional expenses
13 under subsection (i) of this section.

14 (2) The custodial parent shall be presumed to spend that parent's total
15 child support obligation directly on the child or children.

16 (3) The noncustodial parent shall owe that parent's total child support
17 obligation as child support to the custodial parent minus any ordered payments
18 included in the calculations made directly by the noncustodial parent on behalf of the
19 child or children for work-related child care expenses, **HEALTH INSURANCE**
20 **EXPENSES**, extraordinary medical expenses, or additional expenses under subsection
21 (i) of this section.

22 (m) (1) In cases of shared physical custody, the adjusted basic child
23 support obligation shall first be divided between the parents in proportion to their
24 respective adjusted actual incomes.

25 (2) Each parent's share of the adjusted basic child support obligation
26 shall then be multiplied by the percentage of time the child or children spend with the
27 other parent to determine the theoretical basic child support obligation owed to the
28 other parent.

29 (3) Subject to the provisions of paragraphs (4) and (5) of this
30 subsection, the parent owing the greater amount under paragraph (2) of this
31 subsection shall owe the difference in the 2 amounts as child support.

32 (4) In addition to the amount of the child support owed under
33 paragraph (3) of this subsection, if either parent incurs child care expenses under

1 subsection (g) of this section, **HEALTH INSURANCE EXPENSES UNDER SUBSECTION**
2 **(H)(1) OF THIS SECTION**, extraordinary medical expenses under subsection [(h)]
3 **(H)(2)** of this section, or additional expenses under subsection (i) of this section, the
4 expense shall be divided between the parents in proportion to their respective adjusted
5 actual incomes. The parent not incurring the expense shall pay that parent's
6 proportionate share to:

7 (i) the parent making direct payments to the provider of the
8 service; or

9 (ii) the provider directly, if a court order requires direct
10 payments to the provider.

11 (5) The amount owed under paragraph (3) of this subsection may not
12 exceed the amount that would be owed under subsection (l) of this section if the obligor
13 parent were a noncustodial parent.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2007.