

HOUSE BILL 265

D4
HB 648/06 – JUD

71r0510

By: **Delegate Dumais**

Introduced and read first time: January 29, 2007

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 27, 2007

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume)

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

4 **Article – Family Law**

5 12–201.

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

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

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

12 (3) “Actual income” includes:

13 (i) salaries;

14 (ii) wages;

15 (iii) commissions;

16 (iv) bonuses;

17 (v) dividend income;

18 (vi) pension income;

19 (vii) interest income;

20 (viii) trust income;

21 (ix) annuity income;

22 (x) Social Security benefits;

23 (xi) workers’ compensation benefits;

24 (xii) unemployment insurance benefits;

1 (xiii) disability insurance benefits;

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

5 (xv) alimony or maintenance received; and

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

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

11 (i) severance pay;

12 (ii) capital gains;

13 (iii) gifts; or

14 (iv) prizes.

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

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

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

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

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

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

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

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

5 12-204.

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

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

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

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

23 (2) Child care expenses shall be:

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

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

28 1. the level required to provide quality care from a
29 licensed source; or

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

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

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

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

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

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

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

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

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

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

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

9 (i) the parent making direct payments to the provider of the
10 service; or

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

13 (5) The amount owed under paragraph (3) of this subsection may not
14 exceed the amount that would be owed under subsection (1) of this section if the obligor
15 parent were a noncustodial parent.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.