

CHAPTER 36

(House Bill 265)

AN ACT concerning

Family Law – Child Support – Health Insurance

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

BY repealing and reenacting, without amendments,

Article – Family Law

Section 12–201(a), (b), (d), (e), and (f) and 12–204(a) and (g)

Annotated Code of Maryland

(2006 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 12–201(c) and 12–204(h), (l), and (m)

Annotated Code of Maryland

(2006 Replacement Volume)

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

Article – Family Law

12–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) (1) “Actual income” means income from any source.

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

(3) “Actual income” includes:

- (i) salaries;
- (ii) wages;
- (iii) commissions;
- (iv) bonuses;
- (v) dividend income;
- (vi) pension income;
- (vii) interest income;
- (viii) trust income;
- (ix) annuity income;
- (x) Social Security benefits;
- (xi) workers’ compensation benefits;
- (xii) unemployment insurance benefits;
- (xiii) disability insurance benefits;
- (xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor’s disability, retirement, or other compensable claim;
- (xv) alimony or maintenance received; and
- (xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent’s personal living expenses.

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

- (i) severance pay;
- (ii) capital gains;
- (iii) gifts; or
- (iv) prizes.

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

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

- (1) preexisting reasonable child support obligations actually paid; **AND**
- (2) except as provided in § 12-204(a)(2) of this subtitle, alimony or maintenance obligations actually paid[; and
- (3) the actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible].

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

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

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

12-204.

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

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

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

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

(2) Child care expenses shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 10, 2007.