

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 264
Judiciary

(Delegate Dumais)

Family Law - Child Support - Deviation from Child Support Guidelines

This bill expands the factors that may be considered by a court in determining whether the application of child support guidelines would be unjust or inappropriate. The court may consider: (1) the value of all the assets in which either parent has an interest; and (2) the entitlement of the child to a standard of living that is substantially similar to what the child would have had if the parents remained together.

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.

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.

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: This bill is a reintroduction of SB 74/HB 455 of 2006. SB 74, as amended, passed the Senate and was given an unfavorable report by the House Judiciary Committee and HB 455 was given an unfavorable report by the House Judiciary Committee. This bill was also introduced in 2005 as SB 367/HB 508. SB 367 was given

an unfavorable report by the Senate Judicial Proceedings Committee and HB 508 was given an unfavorable report by the House Judiciary Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 6, 2007
mam/jr

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510