

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 265

(Delegate Dumais)

Judiciary

Judicial Proceedings

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Family Law - Child Support - Health Insurance

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This bill gives the parent paying for health insurance a greater deduction from that parents' share of child support and apportions the cost of health insurance more equally between the parties. It does this by providing that any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible must be added to the basic child support obligation and divided by the parents in proportion to their adjusted actual incomes. Health insurance expenses are added to the list of items that must be added together to determine each parent's child support obligation. The obligation owed by the noncustodial parent must be adjusted by any ordered payments for health insurance expenses made on behalf of a child. In cases of shared physical custody, in addition to the amount the parent owes as child support, if either parent incurs health insurance expenses, the expense must be divided between the parents in proportion to their respective adjusted incomes.

The bill conforms the definition of "adjusted actual income" under the child support guidelines by excluding from the definition of adjusted actual income the actual cost of providing health insurance for a child for whom the parents are jointly and severally responsible.

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Fiscal Summary

**State Effect:** The bill's requirements could be met with existing resources. No effect on revenues.

**Local Effect:** The bill's requirements could be met with existing resources.

**Small Business Effect:** None.

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## Analysis

**Current Law:** “Actual income” generally means income from any source and includes the types of compensation specified in statute. A court is also authorized to consider severance pay, capital gains, gifts, or prizes as actual income, depending on the circumstances of the case. “Actual income” does not include benefits received from means-tested public assistance programs. “Adjusted actual income” means actual income minus obligations as specified:

- preexisting reasonable child support obligations actually paid;
- except as otherwise provided, alimony and maintenance obligations actually paid; and
- the actual cost of providing health insurance coverage to a child for whom the parents are jointly and severally responsible.

The basic child support obligation must be determined in accordance with the schedule of basic child support obligations as specified in statute and divided between the parents in proportion to their adjusted actual incomes. The parent who pays for health insurance is authorized to deduct it from that parent’s income. It is not treated as a shared expense. Child care expenses must be determined by actual family experience, unless the court determines that this is not in the best interest of the child. If there is no family experience, or if the court determines that using actual family experience is not in the best interest of the child, then the court must determine, from a licensed source, the level of expenditures required to provide quality care.

If the child has special needs, additional child care expenses may be considered. Any extraordinary medical expenses incurred on behalf of a child must be added to the basic child support obligation and must be divided between the parents in proportion to their adjusted actual incomes.

In cases other than shared physical custody, each parent’s child support obligation must be determined by adding each parent’s respective share of the basic support obligation, work-related child care, extraordinary medical and other specified additional expenses. It is presumed that the custodial parent spends that parent’s total support obligation directly on the child. The noncustodial parent owes that parent’s total child support obligation to the custodial parent minus any ordered payments for work-related child care, extraordinary medical expenses, or other specified additional expenses.

In cases of shared physical custody, the adjusted basic child support obligation must first be divided in proportion to the respective adjusted actual incomes of the parents. That share must then be multiplied by the percentage of time the child spends with each

parent. The parent owing the greater amount owes the difference between the lesser and greater amounts as child support. In addition, any work-related child care, extraordinary medical expenses, or other specified additional expenses incurred by either parent must be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense must pay that proportionate share to either the parent incurring the expense or the provider directly, as specified in statute. The amount owed under shared physical custody circumstances may not exceed the amount that would be owed if the parent was a noncustodial parent.

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### **Additional Information**

**Prior Introductions:** This bill is a reintroduction of HB 648 of 2006, which received an unfavorable report from the House Judiciary Committee.

**Cross File:** SB 503 (Senator Forehand, *et al.*) – Judicial Proceedings.

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

**Fiscal Note History:** First Reader - February 6, 2007  
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Analysis by: Karen D. Morgan

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