

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 266
Judiciary

(Delegate Dumais)

Family Law - Child Support - Actual Income

This bill provides that based on the circumstances of the case when considering a child support obligation, the court may consider as actual income voluntary contributions by an employee to a deferred compensation plan or to any other form of pension, retirement, or income deferral plan.

Fiscal Summary

State Effect: Special fund revenues would increase to the extent that the bill increases the collection of child support for Temporary Cash Assistance (TCA) recipients. The bill's requirements could be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: "Income" means the actual income of a parent if the parent is employed to full capacity, or potential income, if the parent is voluntarily impoverished. "Actual income" generally means income from any source and includes the types of compensation specified in statute.

A court is 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. "Actual adjusted

income” means actual income minus obligations as specified in statute. 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.

State Fiscal Effect: Special fund revenues could be increased to the extent that the bill increases the level of financial support that obligors are required to provide to their children. TCA recipients must assign their support payments to the State and federal governments as partial reimbursement for TCA payments made on behalf of children of the obligor; as a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, the State and federal governments would share equally in any increase in collection revenues. Any such increase cannot be quantified due to the unavailability of data. The impact on collections, if any is expected to be minimal.

The Judiciary advises that many judges already add back in the voluntary contributions made by a parent to a pension, deferred compensation, or other retirement savings plan to calculate actual income.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 547 of 2006, which received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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
bfl/jr

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