

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1114

(Delegate Stifler, *et al.*) (By Request)

Judiciary

Family Law - Child Support - Postsecondary Education

This bill authorizes a court to require a child support obligor to continue child support payments for a child who is enrolled full time in a postsecondary school and living in the home of the custodial parent until the first of the following events occurs: (1) the child dies; (2) the child marries; (3) the child is emancipated; (4) the child graduates from postsecondary school; or (5) the child reaches age 22.

Fiscal Summary

State Effect: The Judiciary and the Department of Human Resources can handle any increase in workload with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, a court can require a parent to support a child only until the child reaches the age of majority. See *Quarles v. Quarles*, 62 Md. 394, 403 (1985). Article 1, § 24 of the Annotated Code of Maryland establishes that the age of majority is age 18. A person who is age 18 and is enrolled in secondary school is considered a minor, however, and has the right to receive support and maintenance from both of the person's parents until the first of the following events occurs:

- the person dies;
- the person marries;
- the person is emancipated;
- the person graduates from or is no longer enrolled in secondary school; or
- the person attains the age of 19.

If parents contractually obligate themselves to support a child for a longer period of time, and the parties consent to have the agreement incorporated or merged into a judgment, the court can enforce such an obligation. See *Corry v. O'Neill*, 105 Md. App. 112 (1995).

Background: According to a survey of state legislation through 2005 completed by the National Conference of State Legislatures (the latest information available), state laws vary widely as to the duty of parents to provide support for postsecondary education expenses. Eleven states (Alabama, Georgia, Illinois, Iowa, New Hampshire, New Jersey, Oregon, Rhode Island, South Carolina, Washington, and West Virginia) specifically authorize a court to require parents to provide support for postsecondary education expenses.

Colorado allows a court, on a showing that it is appropriate for the parents to contribute to the costs of a postsecondary education, to terminate child support and enter an order requiring both parents to contribute to the postsecondary education expenses of the child. Connecticut requires support of a child enrolled in college full time until the child reaches age 23. Florida courts will compel postsecondary support upon a finding of actual “dependency,” but attendance at college does not necessarily render a child dependent. In Hawaii, support terminates at age 18, but may be extended until the age of 23 if the child is enrolled in an accredited postsecondary educational institution. Indiana, Mississippi, and New York establish the termination of child support at age 21 and require the payment of college expenses until the child reaches that age. Massachusetts requires support of a child enrolled in an education program until the child reaches age 23. Missouri terminates support at age 18 but mandates financial support for a child enrolled in vocational school or college until the child reaches age 22.

The majority of the remaining states, including Maryland, authorize courts to enforce parental agreements to pay for college expenses beyond the age of majority.

Additional Information

Prior Introductions: HB 68 of 2005 received an unfavorable report from the House Judiciary Committee. HB 1059 of 2004 was referred to the House Judiciary Committee but then withdrawn. SB 153 of 2000 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), National Conference of State Legislatures, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2009
mcp/kdm

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