

# HOUSE BILL 35

D4

11r0394

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By: **Delegates McConkey and Vitale**

Introduced and read first time: January 17, 2011

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Support – Definition of Actual Income**

3 FOR the purpose of excluding certain wages received from overtime work or a second  
4 job from the definition of “actual income” for the purposes of calculating child  
5 support; and generally relating to child support.

6 BY repealing and reenacting, with amendments,  
7 Article – Family Law  
8 Section 12–201(b)  
9 Annotated Code of Maryland  
10 (2006 Replacement Volume and 2010 Supplement)

11 BY repealing and reenacting, without amendments,  
12 Article – Family Law  
13 Section 12–201(h)  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2010 Supplement)

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

18 **Article – Family Law**

19 12–201.

20 (b) (1) “Actual income” means income from any source.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1           (3)    “Actual income” includes:
- 2                   (i)    salaries;
- 3                   (ii)   wages;
- 4                   (iii)   commissions;
- 5                   (iv)   bonuses;
- 6                   (v)    dividend income;
- 7                   (vi)   pension income;
- 8                   (vii)   interest income;
- 9                   (viii)   trust income;
- 10                  (ix)   annuity income;
- 11                  (x)    Social Security benefits;
- 12                  (xi)   workers’ compensation benefits;
- 13                  (xii)   unemployment insurance benefits;
- 14                  (xiii)   disability insurance benefits;
- 15                  (xiv)   for the obligor, any third party payment paid to or for a  
16 minor child as a result of the obligor’s disability, retirement, or other compensable  
17 claim;
- 18                  (xv)   alimony or maintenance received; and
- 19                  (xvi)   expense reimbursements or in-kind payments received by a  
20 parent in the course of employment, self-employment, or operation of a business to the  
21 extent the reimbursements or payments reduce the parent’s personal living expenses.
- 22           (4)    Based on the circumstances of the case, the court may consider the  
23 following items as actual income:
- 24                   (i)    severance pay;
- 25                   (ii)   capital gains;
- 26                   (iii)   gifts; or

1 (iv) prizes.

2 (5) "Actual income" does not include:

3 (I) benefits received from means-tested public assistance  
4 programs, including temporary cash assistance, Supplemental Security Income, food  
5 stamps, and transitional emergency, medical, and housing assistance; **OR**

6 (II) **WAGES RECEIVED FROM OVERTIME WORK OR A SECOND**  
7 **JOB THAT ARE PAID FOR WORK IN EXCESS OF 40 HOURS PER WEEK, AVERAGED**  
8 **OVER A 12-MONTH PERIOD, IF THE COURT FINDS THAT THE PARENT WORKED**  
9 **THE EXCESS HOURS TO PAY OFF ALIMONY OR CHILD SUPPORT ARREARAGES.**

10 (h) "Income" means:

11 (1) actual income of a parent, if the parent is employed to full capacity;  
12 or

13 (2) potential income of a parent, if the parent is voluntarily  
14 impoverished.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2011.