

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 427
Judiciary

(Delegate Dumais)

Family Law - Child Support Guidelines - Child Care Expenses

This bill requires that actual child care expenses incurred on behalf of a child due to the training or education of either parent reasonably necessary to obtain a job or enhance the earning potential of the parent be added to the basic child support obligation. The training or education expenses associated with child care must be divided between the parents in proportion to their actual incomes and may not exceed a reasonable length of time.

Fiscal Summary

State Effect: None. The bill does not directly affect State governmental finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In a proceeding to establish or modify child support, whether *pendent lite* or permanent, the court is required to use child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. The current schedule uses the combined monthly adjusted actual income of both parents and the number of children for whom support is required to determine the basic child support obligation.

The court is required to add to the basic child support obligation actual child care expenses incurred on behalf of a child due to the employment or job search of either parent. The court is required to divide the child care expenses associated with an employment or job search between the parents in proportion to their adjusted actual incomes.

Background: This bill is in response to the Court of Special Appeals ruling in *Lorincz v. Lorincz*, 183 Md. App. 312 (2008). In that case, the Court of Special Appeals held that the trial court did not have the authority to award child care expenses to a mother who was a full-time law student. The court reasoned that the meaning of “due to employment” means due to actual current employment, not long range preparation for potential employment. Moreover, it deemed the phrase “due to job search” to be limited to a direct and immediate relationship between the child care and the job search expenses.

Some states have adopted child support guidelines that expressly require a court to add child care costs due to the education of either parent to the basic child support obligation. In Florida, for example, a court is required to add child care costs due to education intended to result in employment or to enhance the income from the current employment of either parent.

Other states, such as Tennessee, allow a court, when awarding child support, to consider child care costs associated with a parent’s training or education necessary to obtain a job or enhance earning potential. Tennessee’s guidelines allow a court to consider child care costs associated with training or education that does not exceed a reasonable time, as determined by a tribunal, if the parent proves by a preponderance of the evidence that the training or education will benefit the children being supported.

The *Lorincz* Court specifically referenced Tennessee’s provision and noted that other states expressly cover parent education-related child care expenses under their child support guidelines. The court concluded that the General Assembly would have to act to broaden coverage of the child support guidelines to include training and education expenses.

Additional Information

Prior Introductions: None.

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 22, 2011
mc/kdm

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