

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 294  
Judiciary

(Delegate Vitale, *et al.*)

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Child Support - Child Care Expenses

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This bill requires that actual child care expenses incurred on behalf of a child due to the full-time attendance of either parent at an institution of higher or postsecondary education be added to the basic child support obligation and divided between the parents in proportion to their adjusted actual incomes.

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Fiscal Summary

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

**Local Effect:** None.

**Small Business Effect:** None.

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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.

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### **Additional Information**

**Prior Introductions:** HB 427 of 2011, a similar bill, received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Maryland Higher Education Commission, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2012  
mlm/kdm

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Analysis by: Jennifer K. Botts

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