

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

House Bill 163  
Judiciary

(Delegate Dumais)

Judicial Proceedings

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**Child Support - Adjusted Actual Income - Multifamily Adjustment**

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This bill alters the definition of “adjusted actual income” under the child support guidelines by requiring the deduction, from actual income, of an allowance for support for each child in the parent’s home for whom the parent owes a legal duty of support but who is not subject to the support order. The amount of the allowance must be subtracted from the parent’s actual income before the court determines the amount of a child support award.

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**Fiscal Summary**

**State Effect:** The effect on child support collections cannot be reliably quantified. The bill’s changes do not materially affect the workload of the Judiciary or the Department of Human Resources (DHR).

**Local Effect:** The bill’s changes do not materially affect the workload for the circuit courts.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** In calculating the adjusted actual income for purposes of determining the basic child support obligation, the court is to subtract an allowance for the support of each child living in a parent’s home for whom the parent owes a legal duty of support if the child is not subject to the support order. The bill establishes the following formula for calculating this deduction:

- the basic support obligation for each additional child in the parent’s home must be determined according to the guidelines, using only the income of the parent entitled to the deduction; and
- this amount is to be multiplied by 75%.

This amount is to be subtracted from the parent’s actual income before the child support obligation is computed.

The bill makes conforming changes by repealing provisions that (1) allow the court to consider the presence of other children in the household of either parent and the expenses for those children, as specified and (2) prohibit the rebutting of the presumption of the propriety of the guidelines solely because of the presence of other children in the household of either parent.

**Current Law:** In a proceeding to establish or modify child support, whether *pendente lite* or permanent, the court is required to use the 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 actual adjusted income is calculated from the “actual income” earned by both parents. “Actual income” means income from any source and includes salaries, wages, pensions, and other income types, as specified. The court also has authority to consider severance pay, gifts, capital gains, 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.

“Adjusted actual income,” which is the basis for determining the basic child support obligation, is calculated from actual income minus preexisting reasonable child support obligations actually paid and, except as specified, alimony or maintenance obligations actually paid.

The child support statute establishes a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines is the correct amount of child support that the court is to award. The presumption may be rebutted, however, by evidence that the application of the guidelines would be unjust or inappropriate in a particular case. In determining whether the application of the guidelines would be unjust or inappropriate, the court may consider, among other factors, the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

The presence of other children in the household of either parent may not be the sole basis, however, for rebutting the presumption that the child support guidelines establish the correct amount of support.

If the court determines that application of the guidelines would be unjust or inappropriate in a particular case, the court must make a written finding or specific finding on the record that states the reasons for departure from the guidelines, as required by statute.

**Background:** Federal regulations require states to review their child support guidelines at least once every four years. When the Child Support Guidelines Advisory Committee established by DHR reviewed Maryland's child support guidelines in 2009, it found that one of the primary reasons courts deviate from the guidelines is to account for the presence of other children in the household.

**State Fiscal Effect:** Any impact on child support collections cannot be reliably quantified, but is not expected to materially impact State finances. The bill may encourage additional parents in multifamily situations to comply with child support orders. On the other hand, the bill may reduce the adjusted actual income available for the child who is subject to the existing child support order.

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### **Additional Information**

**Prior Introductions:** HB 849 of 2013 received a hearing in the House Judiciary Committee but was subsequently withdrawn. Its cross file, SB 579, received an unfavorable report from the Senate Judicial Proceedings Committee. HB 400 of 2012 passed the House as amended but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 422 of 2011 received a hearing in the House Judiciary Committee but was subsequently withdrawn.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Comptroller's Office, Judiciary (Administrative Office of the Courts), Montgomery County, Department of Legislative Services

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