

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1095 (Senator Muse)
Judicial Proceedings

Family Law - Child Support - Custody and Visitation

This bill requires the court, in any case in which the court determines child support and there is no court order awarding custody and visitation of the child, to refer the parties to resources available to assist them in establishing custody and visitation. Likewise, in any case in which the Child Support Enforcement Administration (CSEA) establishes a child support obligation and there is no court order awarding custody and visitation of the child, CSEA must refer the parties to available resources.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Judiciary. CSEA can handle the bill's requirements using existing resources. No material impact on revenues.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

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. There is a rebuttable presumption that the amount of child support that would result from the application of the guidelines is the correct amount of support to be awarded. The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case. 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.

Courts are not specifically required in statute to consider custody and visitation in any case in which the court determines child support. However, for purposes of determining the proper amount of support, a court must analyze whether the parents have “shared physical custody,” as defined in statutory provisions relating to child support. “Shared physical custody” means that each parent keeps the children overnight for more than 35% of the year and that both parents contribute to the expenses of the child or children in addition to the payment of child support. The court may base a child support award on shared physical custody solely on the amount of visitation awarded and regardless of whether joint custody has been granted.

Statutory provisions also establish a process by which a child support obligation may be established by CSEA through an affidavit of support if a party is receiving child support enforcement services from CSEA under federal law, the paternity of the child has been established, and a support conference has been conducted that resulted in an agreement by the parties. CSEA must set the support obligation amount in accordance with the child support guidelines established in statute. An executed affidavit of support constitutes a legal finding of a support obligation, subject to the right of a party to rescind or challenge the affidavit, as specified.

Additional Information

Prior Introductions: HB 259 of 2016, a similar bill, passed the House as amended and was heard in the Senate Judicial Proceedings Committee, but no further action was taken. HB 1192 of 2015, a similar bill, was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 1301 of 2014, another similar bill, passed the House and received a favorable with amendments report from the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2017
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