

HOUSE BILL 1293

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By: **Delegates Metzgar and Jalisi**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Support Guidelines – Actual Income and Attorney’s Fees**

3 FOR the purpose of authorizing a court to consider as actual income under the child support
4 guidelines the actual income of a parent’s spouse for purposes of determining a
5 parent’s child support obligation; specifying that certain attorney’s fees incurred in
6 a child custody or child support proceeding may be divided between the parents in
7 proportion to their adjusted actual incomes under certain circumstances; and
8 generally relating to child support.

9 BY repealing and reenacting, with amendments,
10 Article – Family Law
11 Section 12–201(b) and 12–204(i)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2017 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Family Law
16 Section 12–204(a)(1), (l), and (m)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2017 Supplement)

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

Article – Family Law

21 12–201.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (3) “Actual income” includes:

5 (i) salaries;

6 (ii) wages;

7 (iii) commissions;

8 (iv) bonuses;

9 (v) dividend income;

10 (vi) pension income;

11 (vii) interest income;

12 (viii) trust income;

13 (ix) annuity income;

14 (x) Social Security benefits;

15 (xi) workers’ compensation benefits;

16 (xii) unemployment insurance benefits;

17 (xiii) disability insurance benefits;

18 (xiv) for the obligor, any third party payment paid to or for a minor
19 child as a result of the obligor’s disability, retirement, or other compensable claim;

20 (xv) alimony or maintenance received; and

21 (xvi) expense reimbursements or in–kind payments received by a
22 parent in the course of employment, self–employment, or operation of a business to the
23 extent the reimbursements or payments reduce the parent’s personal living expenses.

24 (4) Based on the circumstances of the case, the court may consider the
25 following items as actual income:

26 (i) severance pay;

27 (ii) capital gains;

1 (iii) gifts; [or]

2 (iv) prizes; **OR**

3 **(V) THE ACTUAL INCOME OF A PARENT'S SPOUSE.**

4 (5) "Actual income" does not include benefits received from means-tested
5 public assistance programs, including temporary cash assistance, Supplemental Security
6 Income, food stamps, and transitional emergency, medical, and housing assistance.

7 12-204.

8 (a) (1) The basic child support obligation shall be determined in accordance
9 with the schedule of basic child support obligations in subsection (e) of this section. The
10 basic child support obligation shall be divided between the parents in proportion to their
11 adjusted actual incomes.

12 (i) By agreement of the parties or by order of court, the following expenses
13 incurred on behalf of a child may be divided between the parents in proportion to their
14 adjusted actual incomes:

15 (1) any expenses for attending a special or private elementary or secondary
16 school to meet the particular educational needs of the child; [or]

17 (2) any expenses for transportation of the child between the homes of the
18 parents; **OR**

19 **(3) ANY ATTORNEY'S FEES INCURRED IN A CHILD CUSTODY OR CHILD**
20 **SUPPORT PROCEEDING.**

21 (1) (1) Except in cases of shared physical custody, each parent's child support
22 obligation shall be determined by adding each parent's respective share of the basic child
23 support obligation, work-related child care expenses, health insurance expenses,
24 extraordinary medical expenses, and additional expenses under subsection (i) of this
25 section.

26 (2) The obligee shall be presumed to spend that parent's total child support
27 obligation directly on the child or children.

28 (3) The obligor shall owe that parent's total child support obligation as
29 child support to the obligee minus any ordered payments included in the calculations made
30 directly by the obligor on behalf of the child or children for work-related child care
31 expenses, health insurance expenses, extraordinary medical expenses, or additional
32 expenses under subsection (i) of this section.

1 (m) (1) In cases of shared physical custody, the adjusted basic child support
2 obligation shall first be divided between the parents in proportion to their respective
3 adjusted actual incomes.

4 (2) Each parent's share of the adjusted basic child support obligation shall
5 then be multiplied by the percentage of time the child or children spend with the other
6 parent to determine the theoretical basic child support obligation owed to the other parent.

7 (3) Subject to the provisions of paragraphs (4) and (5) of this subsection,
8 the parent owing the greater amount under paragraph (2) of this subsection shall owe the
9 difference in the 2 amounts as child support.

10 (4) In addition to the amount of the child support owed under paragraph
11 (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this
12 section, health insurance expenses under subsection (h)(1) of this section, extraordinary
13 medical expenses under subsection (h)(2) of this section, or additional expenses under
14 subsection (i) of this section, the expense shall be divided between the parents in proportion
15 to their respective adjusted actual incomes. The parent not incurring the expense shall pay
16 that parent's proportionate share to:

17 (i) the parent making direct payments to the provider of the service;
18 or

19 (ii) the provider directly, if a court order requires direct payments to
20 the provider.

21 (5) The amount owed under paragraph (3) of this subsection may not
22 exceed the amount that would be owed under subsection (l) of this section.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2018.