

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1293
Judiciary

(Delegates Metzgar and Jalisi)

Family Law - Child Support Guidelines - Actual Income and Attorney's Fees

This bill authorizes a court to consider as actual income under the child support guidelines the actual income of a parent's spouse. It also specifies that any attorney's fees incurred in a child custody or child support proceeding may be divided between the parents in proportion to their adjusted actual incomes by agreement of the parties or by order of the court.

Fiscal Summary

State Effect: The Judiciary can make any necessary form revisions with existing budgeted resources. No material impact on revenues is anticipated.

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. 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” is calculated from actual income minus preexisting reasonable child support obligations actually paid and, except as specified, alimony or maintenance obligations actually paid. The basic child support obligation is divided between the parents in proportion to their adjusted actual incomes. By agreement of the parties or by order of court, specified expenses relating to education and transportation incurred on behalf of a child may be divided between the parents in proportion to their adjusted actual incomes.

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. 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.

State Revenues: Temporary Cash Assistance (TCA) recipients must assign their support rights to the State and federal governments as partial reimbursement for payments made on behalf of the children of the obligor. As a result, TCA child support collections are distributed 50% to the State and 50% to the federal government. Special fund revenues may increase to the extent that additional child support is ordered and collected due to the bill’s authorization to consider the actual income of a parent’s spouse. Any such impact cannot be quantified due to the unavailability of data but is not anticipated to be material.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mm/kdm

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