

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1222  
Judiciary

(Delegates Metzgar and Shoemaker)

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Family Law - Child Support Guidelines - Actual Income of Parent's Spouse

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This bill establishes that “actual income” under the child support guidelines does not include the actual income of a parent’s spouse.

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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.

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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.

The actual income of a parent's spouse is neither included nor excluded in the statutory definition of "actual income" for purposes of calculating child support. The Court of Appeals has noted that all individuals have certain basic living expenses which must be paid out of their take-home income, and if a parent is relieved of some of these expenses through an outside contribution, it may be appropriate to reflect such contributions in calculating actual income for child support purposes. *Petrini v. Petrini*, 336 Md. 453 (1994).

"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.

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. Accordingly, special fund revenues are impacted to the extent that child support ordered and collected in these cases differs from what would have been ordered and collected under current law. Any impact on child support collections involving TCA recipients cannot be reliably quantified but is not expected to materially impact State finances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2019  
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