



Senate Bill 660
Family Law – Child Support Guidelines – Agreement Between Parents
In the Senate Judicial Proceedings Committee
Hearing on February 13, 2025
Position: FAVORABLE WITH AMENDMENTS

Maryland Legal Aid submits its written and oral testimony on SB 660 at the request of Senator Ready.

Maryland Legal Aid (MLA) urges a favorable report on SB 660, a bill that empowers parents to determine, by mutual consent, the level of formal child support that is most appropriate for their children, based on the individual circumstances of their family and best interests of their children. MLA is a private, nonprofit law firm providing free civil legal services to low-income individuals and families in every county of Maryland. MLA handles a variety of civil legal issues, including family law cases such as divorce, custody, child support, and domestic violence matters. MLA represents mothers as well as fathers, and custodial as well as non-custodial parents.

While many of our cases are contentious, we have seen plenty of parents come together to reach co-parenting agreements based on a common understanding of how to best meet their children’s needs. By giving parents the freedom and flexibility to jointly decide their family’s financial arrangements (informed by and in furtherance of the best interests their children), SB 660 will likely result in less litigation, less hostility between co-parents, and more consistent financial support for children. Though MLA supports SB 660’s goal of enabling families to resolve matters collaboratively, we suggest amendments to ensure that any child support agreements reached by parents are based on informed consent rather than haste or coercion.

A. By allowing parents to negotiate and agree upon a child support amount that works best for their specific circumstances, SB 660 may result in less adversarial co-parenting relations and less unnecessary litigation.

Family courts – like the rest of our legal system – were designed to be adversarial, pitting one parent against another and, thus, perpetuating conflict and animosity. However, “child support and other family law cases may not be best served by adversarial procedures because of the intimate, emotional, and often culturally sensitive issues involved.”¹ In fact, research has found that “the adversarial nature of child support processes can create or exacerbate conflict between parents.”²

Rather than forcing parents to participate in lengthy court proceedings wherein judges or magistrates decide the issue of child support based on the factors permitted by the Maryland Child Support Guidelines, SB 660 empowers families to independently work out a financial support arrangement that serves their specific needs. “When parents settle their conflicts in less adversarial ways, they have better feelings toward each other, toward the courts, and toward the law.”³ It is in the best interests of neither children nor co-parents when the legal system creates familial conflict where none exists. Furthermore,

¹ Ascend at the Aspen Institute & Good+Foundation, “Providing Equal Access to Justice: Child Support Policy Fact Sheet,” *Centering Child Well-Being in Child Support Policy*, 2023, available at https://ascend.aspeninstitute.org/wp-content/uploads/2023/11/6_ChildSupport_Justice_final-1.pdf.

² L.K. Vogel et al. “‘Let’s Bring It Into the 21st Century’: Perceptions of fairness in child support,” *Children and Youth Services Review*, 163, (2024), available at <https://www.sciencedirect.com/science/article/pii/S0190740924003396>

³ *Supra* note 1.

because parents usually have the most intimate understanding of their children’s best interests and needs, they are often best suited to figure out the exact level of financial support that is required. By allowing courts to honor child support agreements reached by fit parents, SB 660 will likely lead to less litigation and fewer hours in court.

SB 660 does not eliminate a parent’s right to establish child support through a contested, adversarial court process, if that is what they want. MLA knows that not every child support case can be resolved through consent agreements, and that parents may have valid reasons for seeking differing levels of child support; those cases are well-suited for court adjudication. However, the law should not get in the way of parents who *are* able to resolve matters on their own, if that is their choice. SB 660 would be a welcome addition to Maryland’s child support laws because it codifies the ability of co-parents to amicably resolve child support matters, and because non-adversarial conflict resolution promotes healthy co-parenting and may lead parents to spend less time in court.

B. SB 660 allows parents to agree to realistic child support awards that are more likely to be paid.

Maryland law presumes that the amount of child support calculated by the Child Support Guidelines is correct amount to be awarded but allows for deviations from that amount if application of the Guidelines would be unjust or inappropriate.⁴ Some Maryland courts already recognize the agreement of parties as a basis for deviation from the Guidelines.⁵ In Maryland, research has shown that deviations – particularly those based on the agreement of both parties – are linked with greater compliance with child support orders, and this is especially true for low-income obligors such as the non-custodial parents MLA represents.⁶

In MLA’s experience, parents often agree to downward deviations to accommodate the non-custodial parent’s ability to pay; in one case, for example, a custodial parent agreed to an amount of child support below what the Guidelines prescribed because the non-custodial parent reported having difficulty finding full-time employment due to his criminal history. Rather than set child support at an amount she knew the non-custodial parent could not pay, the custodial parent preferred a lower child support order with which her non-custodial parent was more likely to comply. As SB 660 may lead to the establishment of child support orders with higher rates of compliance, we urge its passage.

C. To ensure that parents enter child support agreements knowingly and voluntarily, SB 660 should be amended to include procedural safeguards to protect parents from coercion.

While MLA supports the ability of parents to mutually decide upon the financial support arrangement that best serves their children, we recognize that in some co-parenting relationships, parents may have unequal bargaining power due to domestic violence, wealth, immigration status, or community reputation, for example. For those reasons, it is imperative of the court to ensure that child support agreements are reached through informed consent of parents, as opposed to intimidation.

⁴ Md. Family Law Code § 12-202.

⁵ Demyan, N. & Passarella, L.L. (2022). *Maryland Child Support Guidelines: 2015-2018 Case-Level Review*, available at <https://archive.hshsl.umaryland.edu/handle/10713/22422>.

⁶ Demyan, N., & Passarella, L.L. (2018). *Do deviations from child support guidelines improve payment compliance?* University of Maryland School of Social Work, available at https://www.ssw.umaryland.edu/media/ssw/fwrwg/child-support-research/cs-guidelines/guidelines_deviations.pdf

Maryland should look to how California has dealt with this issue. Although California has codified the ability of parents to establish child support orders deviating from the child support guidelines by mutual consent, the state has also instituted various procedural safeguards to ensure that parents do not feel coerced into agreeing to child support arrangements that do not serve their children's best interests.⁷ Namely, under Cal. Fam. Code § 4065(a),

[T]he court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

- (1) They are fully informed of their rights concerning child support.
- (2) The order is being agreed to without coercion or duress.
- (3) The agreement is in the best interests of the children involved.
- (4) The needs of the children will be adequately met by the stipulated amount.
- (5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

By requiring the court to inquire into whether that child support agreements are entered into intelligently and voluntarily, California law both supports parents who are able to resolve the issue of child support on their own, while ensuring that the agreement adequately meets the needs of the children and is not the product of coercion. Moreover, Cal. Fam. Code § 4065(d) provides that

If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

Thus, California further protects parents who agree to child support orders deviating from the guidelines by easing their ability to obtain child support modifications back up to the amount prescribed by the guidelines. If, for example, a custodial parent later regrets their decision to agree to a lower amount of child support, or if they were deceived into accepting a lesser amount of formal support in exchange for the other parent promising to provide additional informal support that never materializes, California law allows the custodial parent to change their mind and obtain a new child support order based on the calculation of the guidelines.

MLA encourages the Committee to consider adding similar protections to SB 660, so as to strike a balance between protecting the ability of parents to jointly resolve their own family matters, while simultaneously protecting parents who may be vulnerable to coercion. For the reasons stated above, MLA urges a favorable report on SB 660 with the amendments we suggested. If you have any questions, please contact me at: avora@mdlab.org.

⁷ See Cal. Fam. Code § 4065.