

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 741
Judiciary

(Delegate Dumais)

Child Support Guidelines - Treatment of Alimony Payments

This bill alters the method by which alimony payments are considered under the child support guidelines. The bill has prospective application and applies only to cases filed on or after the bill's October 1, 2019 effective date.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: If the alimony or maintenance actually paid by the payor is not deductible by the payor for federal income tax purposes, the amount of alimony or maintenance to be subtracted from the payor's income is the amount of alimony or maintenance actually paid by the payor, multiplied by 1.25. If the alimony or maintenance actually received by the recipient is not taxable income to the recipient for federal income tax purposes, the amount of alimony or maintenance considered actual income for the recipient is the amount of alimony or maintenance the recipient actually receives, multiplied by 1.25.

The bill may not be construed to constitute a material change in circumstances for purposes of modifying a child support order issued before the bill's October 1, 2019 effective date.

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 basic child support obligation is divided between the parents in proportion to their adjusted actual incomes.

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, including alimony received.

“Adjusted actual income,” which is the basis for determining the basic child support obligation, is calculated from actual income minus preexisting reasonable child support obligations actually paid and, except as specified, alimony or maintenance obligations actually paid. If one or both parents have made a request for alimony or maintenance in the proceeding in which a child support award is sought, the court must decide the issue and amount of alimony or maintenance before determining the child support obligation. If the court awards alimony or maintenance, the amount awarded must be considered actual income for the recipient of the alimony or maintenance and must be subtracted from the income of the payor of the alimony or maintenance before the court determines the amount of a child support award.

Background: Historically, alimony was deductible by the payor for federal income tax purposes and considered taxable income for the payee. As a result of the federal Tax Cuts and Jobs Act of 2017, beginning with orders issued after December 31, 2018, alimony is not deductible by the payor and is not taxable income to the payee.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Comptroller’s Office; Judiciary (Administrative Office of the Courts); Center for Policy Reform; Department of Legislative Services

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mm/jc

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