

HOUSE BILL 400

D4
HB 422/11 – JUD

2lr1953

By: **Delegate Dumais**

Introduced and read first time: February 1, 2012

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2012

CHAPTER _____

1 AN ACT concerning

2 **Child Support – Adjusted Actual Income – Multifamily Adjustment**

3 FOR the purpose of altering the definition of “adjusted actual income” under the State
4 child support guidelines; providing for the calculation of a certain allowance
5 required to be deducted from adjusted actual income under the child support
6 guidelines; requiring that the amount of a certain allowance be subtracted from
7 a parent’s actual income before the court determines the amount of a child
8 support award; repealing a factor the court may consider in determining
9 whether the application of the child support guidelines would be unjust or
10 inappropriate in a particular case; and generally relating to child support.

11 BY repealing and reenacting, without amendments,
12 Article – Family Law
13 Section 12–201(a) and (b)
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 12–201(c), 12–202(a), and 12–204(a)
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2011 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Family Law**

2 12–201.

3 (a) In this subtitle the following words have the meanings indicated.

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

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

9 (3) “Actual income” includes:

10 (i) salaries;

11 (ii) wages;

12 (iii) commissions;

13 (iv) bonuses;

14 (v) dividend income;

15 (vi) pension income;

16 (vii) interest income;

17 (viii) trust income;

18 (ix) annuity income;

19 (x) Social Security benefits;

20 (xi) workers’ compensation benefits;

21 (xii) unemployment insurance benefits;

22 (xiii) disability insurance benefits;

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

26 (xv) alimony or maintenance received; and

1 (xvi) expense reimbursements or in-kind payments received by a
 2 parent in the course of employment, self-employment, or operation of a business to the
 3 extent the reimbursements or payments reduce the parent's personal living expenses.

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

6 (i) severance pay;

7 (ii) capital gains;

8 (iii) gifts; or

9 (iv) prizes.

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

14 (c) (1) "Adjusted actual income" means actual income ~~[-minus]~~:

15 ~~(I) MINUS:~~

16 [(1) ~~1.~~ (I) preexisting reasonable child support obligations
 17 actually paid; [and]

18 [(2) ~~2.~~ (II) except as provided in § 12-204(a)(2) of this subtitle,
 19 alimony or maintenance obligations actually paid; AND

20 ~~3. (III) AN ALLOWANCE FOR SUPPORT FOR EACH CHILD
 21 LIVING IN A PARENT'S HOME FOR WHOM THE PARENT OWES A LEGAL DUTY OF
 22 SUPPORT, IF THE CHILD IS NOT SUBJECT TO THE SUPPORT ORDER; AND~~

23 ~~(H) PLUS:~~

24 ~~1. TAXES PAID ON A PARENT'S INCOME BY AN
 25 EMPLOYER, EXCLUDING AMOUNTS REQUIRED BY LAW TO BE PAID BY AN
 26 EMPLOYER FOR SOCIAL SECURITY AND MEDICARE; OR~~

27 ~~2. IF THE INCOME IS NONTAXABLE, THE AMOUNT OF
 28 TAXES THAT WOULD BE PAID ON A PARENT'S INCOME IF THE INCOME WERE
 29 TAXABLE.~~

1 **(2) FOR PURPOSES OF PARAGRAPH ~~(1)(I)2~~ (1)(III) OF THIS**
2 **SUBSECTION, THE AMOUNT OF THE ALLOWANCE SHALL BE CALCULATED IN THE**
3 **FOLLOWING MANNER:**

4 **(I) THE BASIC CHILD SUPPORT OBLIGATION FOR EACH**
5 **ADDITIONAL CHILD IN THE PARENT'S HOME SHALL BE DETERMINED IN**
6 **ACCORDANCE WITH § 12-204 OF THIS SUBTITLE, USING ONLY THE INCOME OF**
7 **THE PARENT ENTITLED TO THE DEDUCTION; AND**

8 **(II) THE AMOUNT DETERMINED UNDER ITEM (I) OF THIS**
9 **PARAGRAPH SHALL BE MULTIPLIED BY 75%.**

10 12-202.

11 (a) (1) Subject to the provisions of paragraph (2) of this subsection, in any
12 proceeding to establish or modify child support, whether pendente lite or permanent,
13 the court shall use the child support guidelines set forth in this subtitle.

14 (2) (i) There is a rebuttable presumption that the amount of child
15 support which would result from the application of the child support guidelines set
16 forth in this subtitle is the correct amount of child support to be awarded.

17 (ii) The presumption may be rebutted by evidence that the
18 application of the guidelines would be unjust or inappropriate in a particular case.

19 (iii) In determining whether the application of the guidelines
20 would be unjust or inappropriate in a particular case, the court may consider[:

21 1.] the terms of any existing separation or property
22 settlement agreement or court order, including any provisions for payment of
23 mortgages or marital debts, payment of college education expenses, the terms of any
24 use and possession order or right to occupy the family home under an agreement, any
25 direct payments made for the benefit of the children required by agreement or order,
26 or any other financial considerations set out in an existing separation or property
27 settlement agreement or court order[; and

28 2. the presence in the household of either parent of other
29 children to whom that parent owes a duty of support and the expenses for whom that
30 parent is directly contributing].

31 (iv) [The presumption may not be rebutted solely on the basis of
32 evidence of the presence in the household of either parent of other children to whom
33 that parent owes a duty of support and the expenses for whom that parent is directly
34 contributing.

1 (v)] 1. If the court determines that the application of the
2 guidelines would be unjust or inappropriate in a particular case, the court shall make
3 a written finding or specific finding on the record stating the reasons for departing
4 from the guidelines.

5 2. The court's finding shall state:

6 A. the amount of child support that would have been
7 required under the guidelines;

8 B. how the order varies from the guidelines;

9 C. how the finding serves the best interests of the child;
10 and

11 D. in cases in which items of value are conveyed instead
12 of a portion of the support presumed under the guidelines, the estimated value of the
13 items conveyed.

14 12-204.

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

19 (2) (i) If one or both parents have made a request for alimony or
20 maintenance in the proceeding in which a child support award is sought, the court
21 shall decide the issue and amount of alimony or maintenance before determining the
22 child support obligation under these guidelines.

23 (ii) If the court awards alimony or maintenance, the amount of
24 alimony or maintenance awarded shall be considered actual income for the recipient of
25 the alimony or maintenance and shall be subtracted from the income of the payor of
26 the alimony or maintenance under [§ 12-201(c)(2)] ~~§ 12-201(c)(1)(i)2~~ §
27 12-201(C)(1)(II) of this subtitle before the court determines the amount of a child
28 support award.

29 **(3) THE AMOUNT OF THE ALLOWANCE FOR THE SUPPORT OF**
30 **ADDITIONAL CHILDREN LIVING IN A PARENT'S HOME DESCRIBED IN §**
31 **~~12-201(c)(1)(i)3~~ § 12-201(C)(1)(III) OF THIS SUBTITLE SHALL BE SUBTRACTED**
32 **FROM THE PARENT'S ACTUAL INCOME BEFORE THE COURT DETERMINES THE**
33 **AMOUNT OF A CHILD SUPPORT AWARD.**

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.