

SENATE BILL 638

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9lr1525
CF HB 731

By: **Senator Smith**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 24, 2019

CHAPTER _____

1 AN ACT concerning

2 **Child Support – Shared Physical Custody**

3 FOR the purpose of establishing a certain formula for the calculation of a certain child
4 support obligation under the child support guidelines when a parent with shared
5 physical custody keeps the child or children overnight a certain number of times in
6 a year; altering a certain definition; defining a certain term; providing for the
7 application of this Act; and generally relating to child support.

8 BY repealing and reenacting, without amendments,
9 Article – Family Law
10 Section 12–201(a), (d), and (e) and 12–204(a)(1) and (f)
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2018 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Family Law
15 Section 12–201(n) and 12–204(m)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2018 Supplement)

18 BY adding to
19 Article – Family Law
20 Section 12–201(o)
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2018 Supplement)

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

3 **Article – Family Law**

4 12–201.

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

6 (d) “Adjusted basic child support obligation” means an adjustment of the basic
7 child support obligation for shared physical custody.

8 (e) “Basic child support obligation” means the base amount due for child support
9 based on the combined adjusted actual incomes of both parents.

10 (n) (1) “Shared physical custody” means that each parent keeps the child or
11 children overnight for more than [35%] **25%** of the year and that both parents contribute
12 to the expenses of the child or children in addition to the payment of child support.

13 (2) Subject to paragraph (1) of this subsection, the court may base a child
14 support award on shared physical custody:

15 (i) solely on the amount of visitation awarded; and

16 (ii) regardless of whether joint custody has been granted.

17 **(O) “SHARED PHYSICAL CUSTODY ADJUSTMENT” MEANS THE ADJUSTMENT**
18 **MADE TO A THEORETICAL ADJUSTED BASIC CHILD SUPPORT OBLIGATION IN A**
19 **SHARED PHYSICAL CUSTODY CASE WHEN A PARENT KEEPS THE CHILD OR CHILDREN**
20 **OVERNIGHT FOR MORE THAN 25% (AT LEAST 92 OVERNIGHTS), BUT LESS THAN 30%**
21 **(NOT MORE THAN 109 OVERNIGHTS), OF THE YEAR.**

22 12–204.

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

27 (f) The adjusted basic child support obligation shall be determined by multiplying
28 the basic child support obligation by one and one-half.

29 (m) (1) In cases of shared physical custody, the adjusted basic child support
30 obligation shall first be divided between the parents in proportion to their respective
31 adjusted actual incomes.

1 (2) (I) Each parent's share of the adjusted basic child support obligation
2 shall then be multiplied by the percentage of time the child or children spend with the other
3 parent to determine the theoretical basic child support obligation owed to the other parent.

4 (II) 1. **WHEN A PARENT WITH SHARED PHYSICAL CUSTODY**
5 **KEEPS THE CHILD OR CHILDREN OVERNIGHT FOR MORE THAN 25% (AT LEAST 92**
6 **OVERNIGHTS), BUT LESS THAN 30% (NOT MORE THAN 109 OVERNIGHTS), OF THE**
7 **YEAR, THAT PARENT'S THEORETICAL BASIC CHILD SUPPORT OBLIGATION SHALL BE**
8 **INCREASED BY THE AMOUNT OF THE SHARED PHYSICAL CUSTODY ADJUSTMENT**
9 **SPECIFIED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

10 2. **THE SHARED PHYSICAL CUSTODY ADJUSTMENT**
11 **SHALL BE CALCULATED BY MULTIPLYING THE THEORETICAL BASIC CHILD SUPPORT**
12 **OBLIGATION FOR A PARENT DESCRIBED IN SUBSUBPARAGRAPH 1 OF THIS**
13 **SUBPARAGRAPH BY:**

14 A. **0.10, WHEN THE PARENT KEEPS THE CHILD OR**
15 **CHILDREN OVERNIGHT FOR MORE THAN 25% (AT LEAST 92 OVERNIGHTS), BUT LESS**
16 **THAN 26% (NOT MORE THAN 94 OVERNIGHTS), OF THE YEAR;**

17 B. **0.08, WHEN THE PARENT KEEPS THE CHILD OR**
18 **CHILDREN OVERNIGHT FOR MORE THAN 26% (AT LEAST 95 OVERNIGHTS), BUT LESS**
19 **THAN 27% (NOT MORE THAN 98 OVERNIGHTS), OF THE YEAR;**

20 C. **0.06, WHEN THE PARENT KEEPS THE CHILD OR**
21 **CHILDREN OVERNIGHT FOR MORE THAN 27% (AT LEAST 99 OVERNIGHTS), BUT LESS**
22 **THAN 28% (NOT MORE THAN 102 OVERNIGHTS), OF THE YEAR;**

23 D. **0.04, WHEN THE PARENT KEEPS THE CHILD OR**
24 **CHILDREN OVERNIGHT FOR MORE THAN 28% (AT LEAST 102 OVERNIGHTS), BUT**
25 **LESS THAN 29% (NOT MORE THAN 105 OVERNIGHTS), OF THE YEAR; OR**

26 E. **0.02, WHEN THE PARENT KEEPS THE CHILD OR**
27 **CHILDREN OVERNIGHT FOR MORE THAN 29% (AT LEAST 106 OVERNIGHTS), BUT**
28 **LESS THAN 30% (NOT MORE THAN 109 OVERNIGHTS), OF THE YEAR.**

29 (3) Subject to the provisions of paragraphs (4) and (5) of this subsection,
30 the parent owing the greater amount under paragraph (2) of this subsection shall owe the
31 difference in the 2 amounts as child support.

32 (4) In addition to the amount of the child support owed under paragraph
33 (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this
34 section, health insurance expenses under subsection (h)(1) of this section, extraordinary

1 medical expenses under subsection (h)(2) of this section, or additional expenses under
2 subsection (i) of this section, the expense shall be divided between the parents in proportion
3 to their respective adjusted actual incomes. The parent not incurring the expense shall pay
4 that parent's proportionate share to:

5 (i) the parent making direct payments to the provider of the service;
6 or

7 (ii) the provider directly, if a court order requires direct payments to
8 the provider.

9 (5) The amount owed under paragraph (3) of this subsection may not
10 exceed the amount that would be owed under subsection (l) of this section.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to
12 cases filed on or after the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.