

SENATE BILL 639

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9lr2029
CF HB 279

By: **Senator Smith**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Support – Multifamily Adjustment and Deviation From Guidelines**

3 FOR the purpose of altering the definition of “adjusted actual income” under the State child
4 support guidelines; providing for the calculation of a certain allowance required to
5 be deducted from adjusted actual income under the child support guidelines;
6 requiring that the amount of a certain allowance be subtracted from a parent’s actual
7 income before the court determines the amount of a child support award; altering
8 the factors that the court may consider in determining whether the application of
9 the child support guidelines would be unjust or inappropriate in a particular case;
10 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 (2012 Replacement Volume and 2018 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 (2012 Replacement Volume and 2018 Supplement)

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

23 **Article – Family Law**

24 12–201.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (3) “Actual income” includes:

6 (i) salaries;

7 (ii) wages;

8 (iii) commissions;

9 (iv) bonuses;

10 (v) dividend income;

11 (vi) pension income;

12 (vii) interest income;

13 (viii) trust income;

14 (ix) annuity income;

15 (x) Social Security benefits;

16 (xi) workers’ compensation benefits;

17 (xii) unemployment insurance benefits;

18 (xiii) disability insurance benefits;

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

21 (xv) alimony or maintenance received; and

22 (xvi) expense reimbursements or in–kind payments received by a
23 parent in the course of employment, self–employment, or operation of a business to the
24 extent the reimbursements or payments reduce the parent’s personal living expenses.

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

- 1 (i) severance pay;
- 2 (ii) capital gains;
- 3 (iii) gifts; or
- 4 (iv) prizes.

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

9 (c) (1) "Adjusted actual income" means actual income minus:

10 [(1)] (I) preexisting reasonable child support obligations actually paid;
11 [and

12 (2)] (II) except as provided in § 12-204(a)(2) of this subtitle, alimony or
13 maintenance obligations actually paid; AND

14 (III) AN ALLOWANCE FOR SUPPORT FOR EACH CHILD LIVING IN
15 A PARENT'S HOME TO WHOM THE PARENT OWES A LEGAL DUTY OF SUPPORT IF THE
16 CHILD IS NOT SUBJECT TO THE SUPPORT ORDER.

17 (2) FOR PURPOSES OF DETERMINING THE AMOUNT OF THE
18 ALLOWANCE UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION:

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

23 (II) THE AMOUNT DETERMINED UNDER ITEM (I) OF THIS
24 PARAGRAPH SHALL BE MULTIPLIED BY 75%.

25 12-202.

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

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

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

3 (iii) In determining whether the application of the guidelines would
4 be unjust or inappropriate in a particular case, the court may consider **ANY FINANCIAL**
5 **CONSIDERATIONS:**

6 1. [the terms of any] **SPECIFIED IN AN** existing separation
7 or property settlement agreement or court order, including:

8 **A.** any provisions for payment of mortgages [or], marital
9 debts, [payment of] **OR** college education expenses[.];

10 **B.** the terms of any use and possession order or right to
11 occupy the family home under an agreement[.]; **AND**

12 **C.** any direct payments made for the benefit of the children
13 required by **THE** agreement or order[, or any other financial considerations set out in an
14 existing separation or property settlement agreement or court order; and]; **OR**

15 2. [the presence in the household of either parent of other
16 children to whom that parent owes a duty of support and the expenses for whom that parent
17 is directly contributing] **THAT THE COURT DEEMS RELEVANT TO THE BEST INTERESTS**
18 **OF THE CHILD WHO IS THE SUBJECT OF THE CHILD SUPPORT ORDER.**

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

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

27 2. The court's finding shall state:

28 **A.** the amount of child support that would have been required
29 under the guidelines;

30 **B.** how the order varies from the guidelines;

31 **C.** how the finding serves the best interests of the child **WHO**
32 **IS THE SUBJECT OF THE ORDER;** and

1 D. in cases in which items of value are conveyed instead of a
2 portion of the support presumed under the guidelines, the estimated value of the items
3 conveyed.

4 12-204.

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

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

13 (ii) If the court awards alimony or maintenance, the amount of
14 alimony or maintenance awarded shall be considered actual income for the recipient of the
15 alimony or maintenance and shall be subtracted from the income of the payor of the alimony
16 or maintenance under [§ 12-201(c)(2)] **§ 12-201(C)(1)(II)** of this subtitle before the court
17 determines the amount of a child support award.

18 **(3) THE AMOUNT OF THE ALLOWANCE FOR THE SUPPORT OF**
19 **ADDITIONAL CHILDREN LIVING IN A PARENT'S HOME DESCRIBED IN §**
20 **12-201(C)(1)(III) OF THIS SUBTITLE SHALL BE SUBTRACTED FROM THE PARENT'S**
21 **ACTUAL INCOME BEFORE THE COURT DETERMINES THE AMOUNT OF A CHILD**
22 **SUPPORT AWARD.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2019.