

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 234
Judiciary

(Delegates Henson and J. Lewis)

Judicial Proceedings

Child Support - Suspension of Payments and Arrears for Incarcerated Obligor -
Modifications

This bill alters statutory provisions that determine when the child support payments of an incarcerated obligor may not be considered past due and accrue arrearages.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect special fund revenues, as discussed below. The bill may help protect federal funding by ensuring that Maryland law conforms to federal requirements.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: A child support payment is not past due and arrearages may not accrue during an obligor's incarceration (and through the next 60 days after the obligor's release from confinement), if (1) the obligor is not on work release and has insufficient resources with which to make payment and (2) the obligor did not commit the crime with the intent of being incarcerated or otherwise becoming impoverished. Under current law, the obligor must also have been sentenced to a term of imprisonment of 18 consecutive months or more; the bill alters the applicable timeframe to instead require the obligor to have been sentenced to a term of imprisonment of 180 consecutive calendar days or more.

If the Child Support Administration (CSA) within the Department of Human Services is providing services, CSA may adjust an incarcerated obligor's payment account to reflect the suspension of the accrual of arrearages without the necessity of filing a motion with the court. Prior to making any adjustment, CSA must send written notice of the proposed action, as specified.

Background: Federal law requires states, as a condition of receiving federal funding related to child support services, to review and adjust, as appropriate, child support orders when either parent has experienced a substantial change in circumstances. Recent federal regulations require a state, after learning that an obligor will be incarcerated for more than 180 calendar days, to either send a notice to both parents of the right to request a review and adjustment or automatically initiate a review and adjustment with notice to the parents. The bill aligns the applicable timeframe in State law.

State Revenues: Temporary Cash Assistance (TCA) recipients must assign their support rights to the State and federal governments as partial reimbursement for payments made on behalf of the children of the obligor. As a result, after specified initial amounts are passed through directly to the family, TCA child support collections are distributed 50% to the State and 50% to the federal government. Accordingly, special fund revenues are impacted to the extent that child support collected from incarcerated obligors and distributed to TCA recipients differs from what would have been collected and distributed under current law. Any impact on child support collections involving TCA recipients cannot be reliably quantified but is not expected to materially impact State finances.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2020
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