

New Maryland Child Support Guidelines

by Brian K. Pearlstein, Managing Partner

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Maryland's new child support guidelines are long overdue and address the need for increased financial support for children.

Child Support in Maryland

In 1990, the Maryland General Assembly passed a law requiring the courts use child support guidelines in all child support cases—guidelines which provide a standardized approach to the establishment of child support in the State of Maryland, so long as the parties' income fell within the guideline's matrix. Fast-forward to today: the Maryland legislature has enacted legislation (contained in House Bill 500) which will result in the first upward adjustment to the Maryland Child Support Guidelines in more than 20 years. The legislation became effective October 1, 2010.

Calculating Child Support Under Maryland's New Guidelines

The upward adjustment contains some meaningful changes. First, while existing guidelines top off at a combined adjusted annual income of \$120,000 or \$10,000 per month, the new guidelines increase it to \$180,000 per annum or \$15,000 per month. Second, under the new law, most basic child support within the matrix increases. For example, basic child support for one child would increase from \$1,040 to \$1,271 (at the \$10,000 aggregate monthly income level), with a maximum for one child of \$1,942. For two children, the old guidelines maxed out at \$1,616 per month and under the new guidelines—at the same amount of \$10,000 per month income—the child support would be \$1,811. The new guidelines provide for \$2,847 per month in basic child support for an aggregate monthly income of \$15,000. As with the old guidelines, the Court will have discretion in setting the support level for parties and individuals with income above the maximum under the guidelines of \$15,000 per month.

The new guidelines are long overdue and address the need for increased financial support for children. That said, even legislation as seemingly innocuous as providing more financial support for children is not without its friction. For Maryland and any state balancing its desire to strengthen child support with the harsh economic realities, the legislation can be a double-edged sword for parents who must manage increasing payments with decreasing income.

Proponents of the new child support guidelines argue that the lack of revision to the existing child support guidelines has forced custodial parents to bear a larger burden of increased family expenses, including housing expenses which have historically been above average in Maryland.

Additionally, proponents point out that the revised guidelines offer increased protection for the payor-parent. For example, low-income parents may benefit from the expanded range of incomes where judges are advised to assign minimal child support. The old guidelines allowed the minimal child support for a parent whose income was up to \$850 per month, but this has now been increased to \$1,250 per month to reflect the current minimum wage and to ensure that low-income payors can maintain a minimum standard of living. Finally, a provision has been removed whereby adoption or revision of child support guidelines are grounds for requesting a modification of child support if the use of the revised guidelines would result in a change in the award of 25 percent or more.

Critics of the revised guidelines counter that Maryland child support guidelines were initially drafted to take into account annual inflation, as the matrix is based upon the parties' gross incomes—which increase with the cost of living. Critics also argue that in a recessionary or struggling economy, increasing financial obligations associated with child support will simply overburden parents already stretched thin financially, creating a surplus of bankruptcy cases and contempt proceedings.

Enforcing Maryland's Child Support Guidelines

In addition to disagreement regarding the revised guidelines themselves, there is also confusion regarding their application. Some individuals and their attorneys waited until after October 1st to file their modification request due to uncertainty inherent in the current guidelines, which do not explicitly provide to which cases these new guidelines apply. The ambiguity centers on whether the new guidelines apply to any case heard after October 1st or only to cases filed after October 1st, to say nothing of the confusion regarding requests for retroactive modification of child support.

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Different courts may adopt different interpretations of the new child support guidelines legislation, and to which cases the new guidelines apply. It is important to remember, however, that there is no definitive legislative mandate to guide the way, and advocacy for differing interpretations are left to family law attorneys, and ultimately to the court's discretion. Under both the old child support statute and the new statute, certain areas are left to the court's discretion, which advocates will be arguing vociferously. By way of example, child support where the aggregate monthly income was greater than the cap was always discretionary. Additionally, Section 12-202 of the Family Law Article of the Maryland Code provides that application of the child support guidelines were presumptively correct, but the presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.

While the new Maryland child support guidelines have sparked some consternation and confusion among lawyers, courts and parents, the path forward to ensure the benefits of the new guidelines are fully realized while the risks are mitigated requires, at the very least, acknowledgement and familiarity with the current debate and confusion.

About Brodsky Renehan Pearlstein Lastra & Bouquet, Chartered

Celebrating 60 years in business, Brodsky Renehan Pearlstein Lastra & Bouquet, Chartered is recognized as one of Greater Washington's leading divorce and family law practices. The MD family law firm provides creative and aggressive counsel to clients in the areas of divorce law, child support, custody issues, alimony, property division, high asset cases, domestic violence, pre-nuptial agreements, and e-discovery. For additional information on the firm visit <http://www.divorce-md.com> or call 301.869.1700.

About The Author

Brian K. Pearlstein is a Partner with Brodsky Renehan Pearlstein Lastra & Bouquet, Chartered, a family and divorce law firm based in Gaithersburg, MD. Mr. Pearlstein currently co-chairs the Family Law Section of the Montgomery County Bar Association. Often recognized as one of the top family law and child support attorneys in Maryland, he has



successfully handled an array of cases related to complicated assets, valuation of businesses and professional practices, real estate holdings, stocks, property disputes, as well as the difficult issues associated with alimony, child support, custody, and modification of the same. Born in Pittsburgh, Pennsylvania, Mr. Pearlstein received his Bachelor of Arts degree from the University of Michigan in 1988, and his Doctorate degree from American University's Washington College of Law in 1991. He joined Brodsky Renehan Pearlstein Lastra & Bouquet in 1995. He was named a Partner in 2001 and became the managing partner of the firm in 2007.

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