

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

House Bill 986
Judiciary

(Delegate Alston, *et al.*)

Family Law - Child Support - Age of Majority - Postsecondary Education

This bill establishes that a person who has attained the age of 18 and is enrolled in a postsecondary educational institution has the right to receive support and maintenance from both parents until the person becomes 21, if that event occurs before other specified circumstances. An “institution of postsecondary education” means a school or other institution that offers an educational or vocational training program in the State for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school. The bill’s provisions are considered to be a material change of circumstances for purposes of modifying child support orders issued before the bill’s effective date.

Fiscal Summary

State Effect: The Judiciary and the Department of Human Resources can handle any increase in workload with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, a court can require a parent to support a child only until the child reaches the age of majority. See *Quarles v. Quarles*, 62 Md. 394, 403 (1985). Article 1, § 24 of the Annotated Code of Maryland establishes that the age of majority is age 18. A person who is age 18 and is enrolled in secondary school is considered a minor, however, and has the right to receive support and maintenance from both of the person’s parents until the first of the following events occurs:

- the person dies;
- the person marries;
- the person is emancipated;
- the person graduates from or is no longer enrolled in secondary school; or
- the person attains the age of 19.

If parents contractually obligate themselves to support a child for a longer period of time, and the parties consent to have the agreement incorporated or merged into a judgment, the court can enforce such an obligation. See *Corry v. O'Neill*, 105 Md. App. 112 (1995).

Background: According to a survey of state legislation through 2005 completed by the National Conference of State Legislatures (the latest information readily available), state laws vary widely as to the duty of parents to provide support for postsecondary education expenses. Eleven states (Alabama, Georgia, Illinois, Iowa, New Hampshire, New Jersey, Oregon, Rhode Island, South Carolina, Washington, and West Virginia) specifically authorize a court to require parents to provide support for postsecondary education expenses.

Colorado allows a court, on a showing that it is appropriate for the parents to contribute to the costs of a postsecondary education, to terminate child support and enter an order requiring both parents to contribute to the postsecondary education expenses of the child. Connecticut requires support of a child enrolled in college full time until the child reaches age 23. Florida courts will compel postsecondary support upon a finding of actual “dependency,” but attendance at college does not necessarily render a child dependent. In Hawaii, support terminates at age 18, but may be extended until the age of 23 if the child is enrolled in an accredited postsecondary educational institution. Indiana, Mississippi, and New York establish the termination of child support at age 21 and require the payment of college expenses until the child reaches that age. Massachusetts requires support of a child enrolled in an education program until the child reaches age 23. Missouri terminates support at age 18 but mandates financial support for a child enrolled in vocational school or college until the child reaches age 22.

The majority of the remaining states, including Maryland, authorize courts to enforce parental agreements to pay for college expenses beyond the age of majority.

Additional Information

Prior Introductions: SB 966 and HB 1272 of 2011 were not acted upon. HB 1114 of 2009, a similar bill, received an unfavorable report from the House Judiciary Committee. Similar bills were also considered in the 2005, 2004, and 2000 sessions.

Cross File: None.

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

Fiscal Note History: First Reader - February 21, 2012
mm/kdm

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