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What You Really Need to Know about Child Support in Maryland

John and Kate are recently divorced and they live in Maryland. They had three wonderful children during their marriage. Now the questions arise: should child support be paid, and if so, how much? The goal in calculating child support is to ensure that any children are impacted as little as possible by a shift from one household to two. Child support in Maryland is based on an "Income Shares" model. This means that a Court will look at the combined incomes of the parents, here John and Kate, and allocate any support to be paid out of that combined "family pot." For child support purposes, a parent's "income" is defined by statute. Md. Code Ann., Fam. Law Section 12-201(b) defines actual income as:

1. "Actual income" means income from any source.
2. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "actual income" means gross receipts minus ordinary and necessary expenses required to produce income.
3. "Actual income" includes: (i) salaries; (ii) wages; (iii) commissions; (iv) bonuses; (v) dividend income; (vi) pension income; (vii) interest income; (viii) trust income; (ix) annuity income; (x) Social Security benefits; (xi) workers' compensation benefits; (xii) unemployment insurance benefits; (xiii) disability insurance benefits; (xiv) for the obligor, any third parent payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim; (xv) alimony or maintenance received; and (xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.
4. Based on the circumstances of the case, the court may consider the following items as actual income: (i) severance pay; (ii) capital gains; (iii) gifts; or (iv) prizes.
5. "Actual income" does not include benefits received from means-tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

Md. Code Ann., Fam. Law Section 12-201(b). Despite being set forth by statute, there are arguments to be made in determining a parent's income, specifically for a determination of income from self-employment and any "discretionary" items listed in subsection (4). Of note, "gifts" can include expenses paid and support given to a parent by his or her parents, relatives and/or friends. If payment for an expense (direct) or transfer of money to a parent is consistent, dependable and there

is no real expectation of repayment, the Court may include those amounts as “income” of a parent in determining child support. If one parent or the other is not working, the Court may still be able to attribute income to that parent. This can occur if the Court determines that a parent is voluntarily impoverished, it may determine the parent’s potential income. “Voluntary impoverishment” can be found when a parent makes “the free and conscious choice, not compelled by factors beyond his or her control, to render himself or herself without adequate resources.” *Goldberger v. Goldberger*, 96 Md. App. 313, 327, 624 A.2d 1328 (1992). Once the Court determines both parties’ respective incomes, there are two methods by which the Court may set child support: (a) by using the Maryland Child Support Guidelines, or (b) by engaging in a “needs-based” analysis. If the combined monthly incomes of the parents is \$15,000 or less, the Court **presumes** that the Maryland Child Support Guidelines are correct and will set an appropriate amount of support. A presumption, however, does not preclude either parent from arguing that an application of the Maryland Child Support Guidelines would be inappropriate. What goes into the Maryland Child Support Guidelines?

1. The parties’ respective gross monthly incomes (including any alimony award);
2. Any health insurance paid on behalf of the children; and
3. The allocation of time the children are with each parent.

What else can go into the Maryland Child Support Guidelines?

1. Other child support awards or alimony being paid by a parent;
2. Work-related childcare costs;
3. Extraordinary medical expenses;
4. Cash medical support; and
5. Any “other” additional expense (this can include such things as private school tuition and costs).

The Maryland Department of Human Resources has an online “calculator” which is available to anyone: <http://www.dhr.state.md.us/CSOCGuide/App/disclaimer.do>. If the parents’ combined monthly income is more than \$15,000, the appropriate amount of child support is within the Court’s discretion. In such situations, the Court may use an extrapolation, or extension, of the Maryland Child Support Guidelines or may engage in a “needs-based” analysis. A “needs-based” analysis looks at the children’s actual monthly needs to determine an appropriate amount of support. This can include anything from housing, food and clothing, to private school, tutoring, and horse-back riding lessons. It is important to remember that a child’s needs may vary drastically from case to case, depending upon the standard of living the family enjoyed prior to separation.

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