

CHILD SUPPORT

Generally

Parents are jointly and severally responsible for the child's support, care, nurture, welfare and education

FL §5-203(b)

Duties of parents of minor parents

If one or both parents of a minor child is an unemancipated minor, the parents of that minor parent are jointly and severally responsible for any child support for a grandchild that is a recipient of temporary cash assistance to the extent that the minor parent has insufficient financial resources to fulfill the child support responsibility of the minor parent.

FL §5-203(c)

Educational need as part of support arrangement

In determining whether a child has a "particular educational need" to attend private school that should be included in determining a noncustodial parent's child support obligation, courts should consider following nonexhaustive list of factors:

- (1) child's educational history, including number of years child has been in attendance at particular school;
- (2) child's performance while in private school;
- (3) whether family has tradition of attending particular school;
- (4) whether parents had made choice to send child to particular school prior to their divorce;
- (5) any particular factor that may exist in a specific case that might impact upon child's best interests; and
- (6) parents' ability to pay for schooling.

Witt v. Ristaino, 118 Md. App. 155, 701 A.2d 1227 (1997)

Division between alimony and child support

The amount awarded as child support should be separate from the amount awarded as alimony.

Woodall v. Woodall, 16 Md. App. 17 (1972).

Purpose of guidelines

The purpose of child support guidelines is: (1) to remedy a shortfall in the level of awards that do not reflect the actual costs of raising children; (2) to improve the consistency, and therefore, the equity of child support awards; and (3) to improve the efficiency of court processes for adjudicating child support.

Jackson v. Proctor, 145 Md. App. 76 (2002)

Derivation from guidelines

There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in Maryland statutes is the correct amount of child support to be awarded. This presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.

In determining whether the application of the guidelines would be unjust or inappropriate in a particular case, the court may consider:

- (1) the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the

terms of any use and possession order or right to occupy to the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order;

(2) the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

FL §12-202(a)(2)

Income exceeding guidelines

In exercising discretion to award child support in a high income case, the court must balance the best interest and needs of the child with the parents' financial ability to meet those needs.

FL§ 12–204(d) , Frankel v. Frankel, 165 Md. App. 553, 886 A.2d 136 (2005).

Voluntary impoverishment

Whether the parent or spouse intentionally became impoverished, for any reason, as opposed to whether the parent or spouse became impoverished with the intent of avoiding support or alimony payments is important distinction for purposes of determining whether parent or spouse is voluntarily impoverished for child support and alimony purposes. Long v. Long, 141 Md. App. 341(2001)

Calculation of potential income

In determining a parent's potential income for child support purposes, the trial court must consider the following factors: (1) age; (2) mental and physical condition; (3) assets; (4) educational background, special training or skills; (5) prior earnings; (6) efforts to find and retain employment; (7) the status of the job market in the area where the parent lives; (8) actual income from any source; (9) any other factor bearing on the parent's ability to obtain funds for child support.

Durkee v. Durkee, 144 Md. App. 161 (2002)

Verification of calculated income

Income statements of parents who are subject to paying child support must be verified with documentation of both current and past actual income. Ley v. Forman, 144 Md. App. 658 (2002)

Termination of Child Support

Child support continues until a child reaches his or her majority, is emancipated, or becomes self-supporting. The rule limiting child support to the child's minority is applicable unless an agreement provides otherwise.

Becker v. Becker, 39 Md. App. 630 (1978)

Woodall v. Woodall, 16 Md. App. 17 (1972)

Termination of Child Support, death of obligated or custodial parent

The death of the obligated spouse terminates payments ordered by a divorce decree for the support of his or her minor child. A divorced noncustodial parent remains under a continuing obligation to provide child support after the custodial parent's death until the child support order is modified.

Blades v. Szatai, 151 Md. 644, 135 A. 841 (1927)

Newkirk v. Newkirk, 73 Md. App. 588 (1988)

Continuation of Child Support after obligated is found to not be biological parent

Doctrine of laches prevents obligated, divorced parents from terminating child support to child born under marriage when paternity test is sought long after parent knew or should have known they were not the biological parent of the child. *Duckworth v. Kamp*, 180 Md.App. 166 (2008)