

# New Guidelines Affect Child Support Payments

By

During the 2009-10 Legislative Session, the Maryland General Assembly enacted a new version of the Maryland Child Support Guidelines that became effective October 1, 2010. The old guidelines had not been updated since their initial enactment in 1989. In general, the mathematical formula underlying the new guidelines tends to produce increased child support awards as compared to the old ones. As a result, it is more important than ever for practitioners and the courts to look at alternative methods (such as a child-needs approach) to calculate child support obligations.

The new guidelines operate under the same premise and in the same manner as the old, but they differ in two ways. First, the schedule for the new guidelines reaches its maximum level at a combined parental income of \$15,000/month or \$180,000. Since many families in Montgomery County and surrounding areas have combined household incomes in excess of that amount, this change may not be terribly significant. The modification to the guidelines that is of greater significance and consequence to many is the change to the formula itself that serves as the backbone of the guidelines. While the old guidelines were based upon 1980's financial data regarding the cost of raising children, the new ones are based upon more current information, reflecting the reality that the cost of raising children (the same as most other costs) has increased substantially over the past 20+ years.

The increase in the formula can have a dramatic increase in the amount of child support awarded. Consider the following example under both the old and new guidelines. Assume that H and W are divorced and have two minor children who are in the primary physical custody of W. Let's say that H earns an annual salary of \$200,000, W earns \$50,000/year and receives an additional \$25,000 in alimony from H. Under an extrapolation of the old guidelines, H's child support obligation to W would be \$1,739. Extrapolating from the new guidelines, H's child support payment would jump to \$2,771, an increase of almost 60%.

The effect is magnified to a greater extent at higher income levels. Assume that H is a high wage earner of \$1,000,000 year and W does not have any earned income other than \$120,000 in annual alimony payments. Under the old guidelines, the amount of H's child support obligation to W would be \$6,586. Under the new guidelines, the amount would go up to \$13,922, an increase of 111%.

As a result of this change in the law, in cases involving high wage earners it may be more beneficial than ever to examine an alternative method for calculating a child support obligation. As previously referenced, such an approach is based upon examination of the children's specific needs rather than focusing on the parents' respective incomes. Under this approach, a court looks at both parties' claimed expenses related to the care of their children and makes adjustments based on the evidence presented at trial and the court's own exercise of its discretion. The court then develops a total cost of the children's reasonable expenses by adding together the reasonable expenses paid directly by H and those paid directly by W. The court then divides the cost of those expenses between the parties on a pro rata basis based upon the parties' respective proportionate share of their combined adjusted incomes. The amount of the child support obligation to be paid by the payor to the payee would be an amount necessary to achieve that pro rata division.

The following example illustrates how this works. Assume that H's adjusted gross income after consideration of alimony paid to W is \$200,000 and W's adjusted gross income after consideration of income received from H is \$75,000. As their combined annual income is \$275,000, H's pro rata share of the combined adjusted incomes is 73% and W's share is 27%. The Court determines that the amount of H's reasonable child-related costs is \$3,500 per month and that W's reasonable child-related costs are \$6,500 per month for a combined total cost of \$10,000. Based upon H's 73% pro rata share of the combined incomes, his share of the monthly child-related costs would be \$7,300. After subtracting the \$3,500 in child-related costs that he incurs directly, the amount of his child support obligation to W would be \$3,800.

In the past, parties and courts have seemed to assume by default that extrapolation of the guidelines is the method to be employed to calculate child support in cases in which the parties' combined incomes exceeded the maximum income level set forth in the guidelines. In light of the new formula that serves as the backbone of the new guidelines, it may be more appropriate than ever to look at child support from a needs-based approach. While ultimately the court is vested with the discretion to determine what method should be employed to determine child support in a given case the changes in the new guidelines make it more critical than ever that attorneys give careful consideration to the multiple methods and advance an argument on behalf of their client as to which method is most appropriate in that particular case.