



From The Law Office of George S. Garis

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Bankruptcy Reform - How Does it Affect You Can You Still File for Bankruptcy?

You may have read that the most recent bankruptcy law prevents many people from filing a Chapter 7 bankruptcy because the new bankruptcy law imposes a "means test" on those who file for bankruptcy. However, most people considering bankruptcy have no trouble passing the means test.

The law now uses a standard mathematical formula to determine who may petition for Chapter 7 protection from creditors - or, to put it in legal terms, whether filing for Chapter 7 would be an "abuse" of the bankruptcy system. Even those who fail the means test may still petition for a Chapter 13 alternative, i.e. repayment plan, as another bankruptcy option.

The means test is actually a two-part test which requires that one only need to pass part to qualify for Chapter 7.

Test 1 is called the "**Median Income**" Test. This is a very simple test that compares your average household income for the past six calendar months to the median income for the county and State in which you reside. If your income is below the median, you qualify for Chapter 7. If it is above the median, you must pass Test 2.

Test 2, referred to as the "**Disposable Income**" Test, deducts expenses from your income to determine how much you can pay your unsecured creditors over the next five years. Certain deductions are standard allowances based on the number of vehicles you operate, the number of people in your household, and the cost of living in your particular county. Depending on which county you live in the amounts may change but the method of calculation will not. In addition to these standard deductions, you

can also deduct the full amount of certain *actual* expenses such as mortgages and vehicle loan payments.

Meeting with our office for a Bankruptcy Appointment:

Decisions about whether you should or should not file for bankruptcy, and what type of bankruptcy might be appropriate, turns on what you own and what you owe. To get the most from an initial meeting with our office, you should bring the following information:

- Information on income and assets;
- Pay stubs for you and your spouse; covering the last six months;
- A copy of the deed to your home;

- Information regarding your vehicles;
- Information regarding your income for the past two calendar years; and
- A recent bill from each creditor.

To make an appointment regarding the possibility of filing a bankruptcy, please call our office at 734-422-3860. We will determine, after meeting with you, whether you qualify to file a Chapter 7 and explain the property that can be exempted. The Bankruptcy Court charges a \$299 filing fee, and our fee for this service is \$995.

You will also need to fulfill the pre-filing credit counseling requirement. We have a coupon we can provide to you for a course over the internet.

PROFESSIONAL SERVICES VOUCHER

\$100.00

This VOUCHER may be used on any service we provide in excess of Seven Hundred Fifty (\$750.00) Dollars (new cases only).

Services Provided by Our Office:

Our office provides most legal services, including:

- Divorces;
- Child Support; Parenting Time and Custody Issues;
- Chapter 7 Bankruptcy;
- Adversary Proceedings in Bankruptcy
- Criminal Defense in Felony and Misdemeanor Charges;
- Incorporations;
- Wills;
- General Power of Attorney and Medical Power of Attorney;
- All real estate matters, including deeds;
- General civil litigation.

We will be happy to refer you to other law offices for services we do not provide.

Changes to the Michigan Child Support Formula

Changes to the Michigan child support formula have been accepted by the Michigan Supreme Court, and the new formula will be effective October 2008.

The 2008 Michigan Child Support Formula states, in part, the objective in determining net income is to establish, as accurately as possible, how much money a parent should have available for support. All relevant aspects of a parent's financial status are open for consideration when determining support.

The new formula is more specific about imputation of income (assigning income to a party who is voluntarily unemployed or underemployed), stating: When a parent is voluntarily unemployed or underemployed, or has an unexercised ability to earn, income includes the *potential* income that parent

could earn, subject to that parent's actual ability.

The previous child support formula drew a line in the sand regarding time with children. Only overnights were considered because they were objectively easier to verify. When

Most child support litigation focuses on the definition of income and the number of overnights that the child spends with each parent.

the other parent had 128 or more overnights, he or she become eligible for application of the Shared Economic Responsibility Formula. The impact of this was enormous. Child support could be reduced by over 60 percent. This created intense litigation and disputes that had

little to do with the best parenting time schedule for the children, but instead, focused on the manipulation of child support.

The 2008 Child Support Formula does not mandate the use of overnights only to determine the contribution that both parents are making toward raising the child. Instead, one of the specific deviation factors is whether a parent provides a substantial amount of a child's daytime care and directly contributing toward a significantly greater share of the child's costs than those reflected by the overnights.

If you feel that your situation falls within these perimeters, a Motion can be filed to modify child support, either an increase or decrease. Please contact our office at 734-422-3860, to set up an appointment for further details.