

## Does a Change in Minimum Wage Equate to a Change in Circumstances?

There has been a movement throughout the country to raise minimum wage and New Jersey joined the discussion on February 3, 2016 when Assembly Speaker Vincent Prieto and Assemblyman John Wisniewski announced their plan to introduce a bill seeking to raise the state's minimum wage to \$15 per hour. If passed, an increase to minimum wage could have significant effects on alimony and child support calculations across the state.

In calculating child support and alimony, judges are given the discretion to impute income when either parent is voluntarily underemployed or unemployed. In these cases, the court can look at the individual's salary history, estimate his or her earning ability based on the New Jersey Department of Labor Statistics, or impute an amount equal to full time employment at minimum wage. In the 2015 version of the New Jersey Court Rules, minimum wage was set at \$8.25 per hour for 40 hours per week or \$17,160 per year. If the minimum wage is raised to \$15 per hour, the annual wage will rise to \$31,200, almost double the previous imputation.

While the bill would affect future alimony and child support calculations, it also raises the question as to whether it would trigger a change in circumstance argument for previous support awards that were based on the old minimum wage. Recipients of support based on imputation may have an argument to return to court and impute the payor's income at \$31,200 in order to receive an increase in their alimony or child support. Although speculation suggests that the bill is unlikely to pass, any raise in minimum wage can affect support calculations based on imputed income and should be considered when calculating awards.