

Can I Stop Paying Child Support For An “Adult” Child?

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Dear Ask the Attorney:

My wife and I have been divorced for a number of years. I have been providing alimony and child support for my three daughters. One of my daughters just turned 18 and I would like to know if I can file to stop paying child support for her. I don't mind paying for the other two girls, they are still very young, but now that my daughter is an “adult” do I still have to continue to pay child support for her?

C.F.

Dear C.F.:

It is well-settled in New Jersey that parents have an obligation to support their children until they are emancipated. While many people consider an eighteen-year-old to be an “adult,” in New Jersey, there is no fixed age for when a child becomes emancipated. A child reaching the age of eighteen is prima facie evidence that the child may be emancipated. However, attainment of age eighteen is not conclusive proof. Rather, it is the beginning of the analysis.

In general, a court will order emancipation when a child moves beyond the sphere of influence and responsibility exercised by a parent and obtains an independent status on his or her own.

One critical consideration is whether the child is currently attending or plans to pursue a college or post-secondary education. Generally in a divorce situation, if a child is pursuing a college or vocational school education on a full-time basis, he or she will continue to be unemancipated until completion of the college or vocational school program.

It is notable that courts in New Jersey have held that a brief hiatus between high school and college does not automatically emancipate a child. For example, a child is generally not emancipated when she or he is working full-time with the intention of enrolling in college. Recently, the New Jersey Appellate Division held that an eighteen-year-old child was not emancipated when she was a recent high school graduate and she creatively took a hiatus from college to obtain skills to enable her to defray the college costs to her parents.

As such, whether you will be required to continue paying child support for your daughter now that she is eighteen years old depends upon various factors. The fact that she has reached the age of eighteen does not mean that she is automatically emancipated. The facts of each case are different, and as such you should consider contacting an attorney.

“Ask the Attorney” is a blog in which answers to questions submitted to asktheattorney@einhornlawyers.com may be answered. The answers to the questions are for informational purposes only and are not to be construed as legal advice or the creation of an attorney-client relationship. The facts of each case are different; therefore you should seek competent legal representation.