Do I Have To Pay Child Support While My Children Are In College? Maybe.

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Every spring, anxiety pervades the households of high school seniors waiting for acceptance letters from colleges. In most families, the decision of which college to attend may depend on the financial resources of the family and how much aid a student has received from the college. In divorced families, this decision is even more difficult, when parents have to also address what the non-custodial parent's contribution to those expenses will be. If the two parents cannot agree, a court will make that decision. But the decision of how to allocate the costs of tuition, room and board, fees and books between the parents is only the first part of the financial investment of sending a child to college.

When a child goes to college, expenses increase, even without considering the payment of tuition room and board. Children still rely on parents for support even though they are not living at home for eight months of the year. Many non-custodial parents will argue that because students are living away from home, child support should decrease, but that is not necessarily so. College students still need finances for clothes, cell phones, car insurance, food apart from a dining plan, personal products, entertainment, gas for the car, miscellaneous expenses (haircuts, toiletries, cleaning supplies) and spending money—just to name a few of the expenses a student will incur when living away from home. This list does not consider the costs of the student traveling to and from school several times a year or the initial costs of setting up a college dorm room, either of which can be substantial. In addition, parents still provide a home for the student to come home to during school breaks, and the family surely will include them on family vacations or other outings and events.

The cost of supporting a college student can be daunting. If a litigant asks a court to determine whether a divorced parent must pay child support, the court will first consider if there are other children at home who deserve support before considering the needs of the college student. The theory is that all children should have "full support" from both their parents until they graduate from high school, and the younger children at home should not suffer at the expense of the college student who

has already received “full support” from both parents.

Once a court decides what child support will be paid for the children remaining at home, it then will turn its attention to the college student. In 2012, the Appellate Division held that just because a child is attending college, which is a change in circumstances requiring a new assessment of child support, there is no presumption that the amount of child support is reduced for the college student.

Most child support awards are set according to the Child Support Guidelines and therefore, some courts will cut child support by an arbitrary percentage, which the Appellate Division has determined is erroneous because child support for a college student must be set in light of the financial circumstances of the parties and the children.

Also, courts will assess whether the college student should bear some of the financial burden of college expenses by using savings, summer wages, co-op jobs, work-study programs or part-time employment while in school. A court could also require a child to contribute to the expenses by maintaining a B average to keep a $5000/year scholarship.

Certainly, the higher the college expenses, the less money there is for child support and vice versa. Therefore, the decision setting child support for a college student is fact-sensitive and must consider the children remaining at home, the financial abilities of the parents to pay for the college costs (tuition, room board, books, fees etc.) as well as the child’s needs and ability to contribute to his or her individual support when setting a fair and reasonable child support award.