

There Is Still No Bright-Line Rule To Defining Emancipation

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The New Jersey Legislature enacted a statute on January 19, 2016, effective February 1, 2017 (i.e. N.J.S.A. 2A:17-56.67), which terminates one's obligation to pay child support upon a child's emancipation, without the necessity of obtaining a court order. However, there is still no bright-line rule to defining emancipation.

Prior to this new statute, it was presumed that a child was emancipated when he/she turned age 18, but it was not automatic. A court order had to be entered to have one's child support obligation terminated. Emancipation turned on whether a child has "moved beyond the sphere of influence and responsibility exercised by a parent and has obtained independent status of his or her own."

Although our new statute better defines emancipation, it still does not provide a bright-line rule. The statute automatically terminates one's child support obligation by law without the necessity of obtaining a court order on the date a child marries, dies, enters the military service or reaches age 19, unless there is an order that sets forth another age at which to terminate one's child support obligation, which shall not extend beyond age 23. However, the new statute only addresses the payment of child support from one party to another. There is nothing in the statute that prevents a child aged 23 or older from seeking payment of other forms of financial maintenance or reimbursement from a parent or court, upon application from a parent or child. This is essentially changing child support to another form of financial maintenance for a child who has reached age 23.

Thus, the Legislature left the door open to a parent or a child aged 23 or older to seek financial maintenance from either or both parents. For example, our new statute does not bar a graduate student from seeking financial maintenance. Although it is unlikely that a parent would have to continue to support a college graduate, there are cases where parental support continues through graduate school.

Undergraduates and graduate students are treated differently because a graduate student already has his/her college degree and is able to become financially independent and move beyond the parental sphere of influence, whereas an undergraduate student usually has not obtained such financial independence. Yet under certain circumstances, a parent may be required to continue to assist financially in the support of his or her child through graduate school. Such circumstances include where parents are committed in a divorce agreement to continue support, or where the parents expected that the child would attend graduate school and have the ability to continue to provide support.

There are also some children who may never become emancipated due to an illness or disability that prevents the child from being able to care for him/herself and/or from becoming self-sufficient.

Since emancipation is largely determined on a case-by-case basis and is fact-sensitive, it is unlikely that there will ever be a bright line rule to defining it.