

When Does Child Support End?
By David P. Badanes, Esq.

Many of my clients are surprised that they will probably have to provide child support payments until their children reach 21 years of age. However, in New York, a parent is required to provide child support until a child reaches 21 years of age. In addition, a court may also direct a parent to contribute to a child's college education.

While a parent is required to provide child support until the child turns 21 years of age, for custody and visitation purposes, a child is considered to reach the age of majority at the age of 18. Accordingly, when a child reaches 18 years old, he or she is no longer under the custody of either parent. Thus, we have the anomaly that a court can order child support, to be paid to a "custodial parent", for a child over 18 years of age, yet there is no "custodial parent".

In New York, child support ends when a child is "emancipated." In addition to attaining the age of 21, there are other ways a child can be considered emancipated. Typically, the parties will enter into a settlement agreement which will specify when child support ends. In cases that do not settle or where the settlement agreement is silent on this issue, other factors may give rise to an emancipation event.

Children are considered emancipated if they become economically independent through entry into the military service or a military academy, via marriage, or as a result of full-time employment. The focus is whether the child is truly economically independent. Therefore, temporary employment, or full time employment during the summer will not qualify. Likewise, if the child is working to save money for college tuition, this will not be considered as economic independence.

In addition to economic independence, a child will be deemed to be emancipated if they are of employable age and in full possession of their faculties who voluntarily and without cause abandon their home, against the will of their parents and for the purpose of avoiding parental control. Similarly, if a child voluntarily refuses all contact and visitation with the non-custodial parent they will be considered emancipated. However, a child is not considered to be emancipated if the child leaves the home for good cause or with the approval of the non-custodial parent. Notably, unless there are other facts, simply attending college away from home, does not constitute emancipation.

When a child is deemed to be emancipated due to economic independence or due to their

own actions, this will only suspend the obligation to provide child support. Therefore, if the event giving rise to emancipation ceases to exist, the obligation to provide child support will resurrect itself. For example, if a child (under the age of 21) marries but then quickly divorces, once the child's divorce is final, the child is entitled to child support.

If you need help in your child support issue, please contact David P. Badanes of the Badanes Law Office.

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