

Child Support for Children Over the Age of Majority

By Deborah Humphreys, Lawyer from Weiler, Maloney, Nelson

We are regularly contacted by custodial and non-custodial parents on the issue of child support for children who are over the age of 18.

All of us want the best for our children, whatever their age. The decision of when to continue to assist a floundering child, maybe cut those apron strings or determine how much of your financial resources you can invest in your successful and brilliant child's future, is a difficult emotional and financial decision for many families. The problem can become acute if the parents disagree on what is in the child's best interests.

What are the rights of a recipient to collect support for a child and the obligation of a parent to contribute support to their "adult" child?

The question is more appropriately broken down into two parts:

1. Is the child entitled to support?
2. If the child is entitled to support, how much should that support be?

Some factors to consider in whether a child over the age of majority remains entitled to support, and what amount that support should be, follow:

- Whether the child is enrolled in a course of studies and whether it is full time or part-time;
- Whether or not the child has applied for, or is eligible for, student loans and other financial assistance;
- The career plan of the child (whether the child has some reasonable and appropriate plan or is the child simply going to college because there is nothing better to do);
- The ability of the child to contribute to his own support through part-time and seasonal employment;
- The age of the child;
- The child's past academic performance and whether the child is demonstrating success in the chosen course of studies;
- What plans the parents made for the education of the child, particularly where those plans were made during cohabitation;
- Whether the child has unilaterally terminated a relationship from a parent from whom support is sought.

Where the child has been found to be entitled to support, the courts have the option of fixing support under the table amounts in the Child Support Guidelines or set support in an amount the court considers appropriate, having regard to the condition, means, needs and other circumstances of the child and the financial ability of each parent or spouse to contribute to the support of the child.

Locally, we find that Judges are not ordering support for children based on the table

amounts, but are considering the other factors the guidelines permit. This makes each case unique on its own facts.

If you are seeking support for a child over the age of eighteen, or seeking to terminate support for a child over the age of eighteen, it would be wise to consider these factors before proceeding to court and evaluating your chances of success.

Ms. Deborah A. Humphreys is a partner at the Thunder Bay law firm of Weiler, Maloney, Nelson. For more information, please feel free to look at their website at www.weilers.ca. Any views displayed in this piece are those of the author and not NALSC. If you have a question about Child Support or any other Family Law matter, please feel free to contact duty counsel to obtain further information on your particular situation.