

EMANCIPATION HANDBOOK

What Constitutes Emancipation and Releases a Parent From A Child Support Obligation

**COPYRIGHT
ALL RIGHTS RESERVED**

RECOMMENDED SITE:

The Download Library
Specializes in Offering

~BOOKS
~MANUALS
~State "Self-File"
LEGAL FORMS
on all
Custody Issues

"Every item is 100% GUARANTEED!"

www.custodylibrary.com

(This Handbook contains legal information, charts, specific state information, Q and A's, all designed and incorporated so that "You will be able to answer every conceivable question about emancipation.")

Following is the short, all-encompassing answer to the general question: "When does my child support end?"

The child support obligation continues until one of the following things happens:

The child reaches the age of majority (usually, eighteen.) In some states, courts may order the child support obligation to continue after the child has reached the age of majority, provided the child is still in high school. In some other states, a court may order the child support obligation to continue until the child turns 19 or finishes high school, whichever comes first. A few states require parents to support their children through college or until they reach a specified age by which most students would be expected to have completed four years of college, and a few states permit courts to extend the obligation through college and even graduate school. In addition, in some states a court may order child support for a disabled child to continue even after the child has reached the age of majority.

The child becomes emancipated.

A child becomes emancipated by getting married or going on active military duty. A minor who moves out of his parent's home and gets a job to support himself may be considered emancipated, too, but most

states require that a court decree of emancipation be obtained before a parent's child support obligation may be terminated in that situation.

The child is adopted, or the parent's rights are terminated for some other reason.

The child dies. (A parent's death, by contrast, generally does not terminate the child support obligation.)

A court orders child support reduced to zero due to a substantial change of circumstances, such as where the child support obligor has obtained sole physical custody of the child.

Of course, parties may agree to support their children for a longer period of time that the law would otherwise require of them. A court order incorporating such an agreement is enforceable to the same extent and in the same manner as any other kind of child support order.

Answers to commonly asked questions about when a parent must pay child support.

How long must parents support their children?

Biological parents and adoptive parents must support a child until:

The child reaches the age of majority (and sometimes longer if the child has special needs or is in college)

The child is on active military duty

The parents' rights and responsibilities are terminated (for example, when a child is adopted), or the child has been declared emancipated by a court. (Emancipation can occur when a minor has demonstrated freedom from parental control or support and an ability to be self-supporting.)

Each state has different rules. There are state charts following that discuss these rules.

Is a father who never married the mother still required to pay child support?

The short answer to this question is yes. When a mother is not married, however, there can sometimes be confusion about who the child's legal father is for purposes of support. An "acknowledged father" is any biological father of a child born to unmarried parents for whom paternity has been established by either the admission of the father or the agreement of the parents. Acknowledged fathers are required to pay child support. Additionally, a man who never married the child's mother may be presumed to be the father if he welcomes

the child into his home and openly holds the child out as his own. For more information, see Paternity Issues and Child Support.

Is a stepparent obligated to financially support his or her stepchildren?

No, a stepparent is never obligated to support stepchildren unless the stepparent legally adopts the children. For more information, see Stepparent Adoptions.

Do I have to pay child support if my ex keeps me away from my kids?

Yes. Child support should not be confused with custody and visitation. Every parent has an obligation to support his or her children. With one narrow exception, no state allows a parent to withhold support because of disputes over visitation. The exception? If the custodial parent disappears for a lengthy period so that no visitation is possible, a few courts have ruled that the noncustodial parent's duty to pay child support may be considered temporarily suspended.

No matter what the circumstances, if you believe that your ex is interfering with your visitation rights, the appropriate remedy is to go back to court to have your rights enforced rather than to stop making support payments.

Do fathers have the same right to child support as mothers?

Yes. If you're a father with custody, you have the right to ask for child support. Each parent has a duty to support his or her children, and that duty doesn't discriminate between genders.

A GENERAL DISCUSSION OF EMANCIPATION

Historically, parents are responsible for their children. They are also required to feed, clothe, educate, and act in their children's best interest until they reach the "age of majority" or the age in which, for most purposes, the children are considered to be adults. State law can allow a minor to ask a state court to determine that the minor is able to assume adult responsibilities before reaching the AGE OF MAJORITY. The term, EMANCIPATION refers to the point at which a minor becomes self-supporting, assumes adult responsibility for his or her welfare, and is no longer under the care of his or her parents. Upon achieving emancipation, the minor thereby assumes the rights, privileges, and duties of adulthood before actually reaching the "age of majority" (adulthood). At that point, the minor's parents are no longer responsible for that child and, also, have no claim to the minor's earnings. During the court proceedings and before granting emancipation, the court considers, primarily, the best interests and level of maturity of the minor and confirms that the minor is able to financially support him or herself.

However, even when minors achieve emancipation, they cannot take part in any activity such as purchasing and/or drinking alcohol, voting, or getting married which, by STATUTE, may require that the participant have attained an older age.

Close to half of the states, including New York and Pennsylvania, provide no separate STATUTORY provisions for emancipation. Instead, these states rely on the fact that emancipation is automatically achieved upon a minor getting married, joining the armed forces, or reaching the age of majority which is now lower

(usually eighteen years of age) than what was once commonly mandated as twenty-one years of age.

Age

Generally, the statutory age in which a minor can petition a court for emancipation is at least sixteen years or older but below the age of majority (which among the vast majority of states is eighteen years of age). California allows a minor of the age of fourteen to petition its courts for emancipation.

Automatic Emancipation

Even though minors may be under the age of majority, certain actions on their part will cause them to be emancipated from their parents' care and control even without seeking a court order. These actions are usually limited to the following:

Joining the armed forces

Getting married

Reaching the actual age of majority (which is usually eighteen years of age)

The state of Michigan also allows for a temporary automatic emancipation when minors are in police CUSTODY and emergency medical care is required. The minors are considered emancipated and allowed to consent to such care. This emancipation ends when the medical care or treatment is completed.

Petition to Courts

Minors petitioning their state courts for emancipation from their parents' care and control are normally required to prove their age and

that they are residents of the state where the petition is being filed. They must tell the court why they seek emancipation. Parents must be given notice of the proceeding. Also, the minors must show the court that they are of sufficient maturity to care for themselves. This means that they are able to support themselves financially, provide for their own shelter, and make decisions on their own behalf. Some states require that the minors already support themselves and live totally or partially on their own. Most statutes exclude state financial support or "general assistance" when determining minors' ability to support themselves.

The court then looks at all the EVIDENCE in order to determine whether emancipation is in the minor's best interest. Also, since an order for emancipation must be in the minor's best interest, if the minor's situation changes, such an order may be rescinded by the court and the minor declared to be returned to the parents' care and control. The state of Illinois allows for court decrees of "partial" emancipation, where the court clearly states the limits of emancipation, if such an order is in the best interests of the minor.

States with no statutory provision or procedures for minors to apply for emancipation may still determine or confirm that minors have been emancipated. Minors file a petition with the court and provide the information necessary (such as proof of financial independence, adequate housing arrangements, and sufficient maturity) for the court to determine that such a confirmation of emancipation from parental care and control is in the best interests of the minor.

Criteria for Emancipation

Criteria for determining whether a DECREE declaring emancipation is in the minor's best interest vary among the states. However, certain criteria can commonly be found:

The minors' ability to support themselves financially, either currently or in the future

The minors are currently living apart from their parents or have made adequate arrangements for future housing

The minors can adequately make decisions for themselves

The minors are attending school or have already received a diploma

The minors exhibit sufficient maturity to function as adults

Rights, Privileges, and Duties Inherent in Emancipation

Once declared to be emancipated, minors have the same rights, privileges, and duties in society as adults. Although the specific aspects vary among the states, generally, emancipated minors can do the following:

Enter into contracts and leases

Be a party to a law suit, either as a plaintiff or a defendant, in their own name

Buy or sell real estate or other property

Write a valid will

Inherit property

Enroll in school

Get married

Agree to various types of medical treatments

Emancipated minors can also vote and obtain a driver's license but only if they are of sufficient age to do so.

Child Support

Child support by definition is a financial contribution paid by the non custodial parent to the custodial parent towards the expenses of raising his or her children. That seems pretty cut and dry. However, child support can turn into a major issue as divorces are often wrought with emotions.

In most states there are specific guidelines which are followed in the determination of how much child support is to be allocated. Each state is different, but most states take into consideration the income levels (both earned and unearned) of both the parents as well as the expenses associated with raising the child in their determination. That is a very broad example of how it can be calculated. Often there are complicated formulas and schedules that are used. Keep in mind that a judge has the authority to deviate from the guidelines if he or she determines that the situation warrants it.

Unfortunately, child support is often misconstrued by the payor, who may feel that the custodial parent is not using the funds to support the child. On the other side of the equation is the custodial parent who may feel that they are barely making ends meet while the non custodial parent's lifestyle has barely changed. More often than not, they are misconceptions.

**Here are a few things to keep in mind about child support:
Child support is money that is being used for the child. The payor may not agree with how the funds are being used, but that isn't their**

decision to make. The use of child support funds is at the discretion of the custodial parent.

Even if the custodial parent earns more than the non custodial parent, child support payments will have to be made.

Child support often doesn't include extra curricular activities. Extra curricular activities would include such things as Little League, dance lessons, etc. If possible, both parents should contribute to these in addition to the court ordered child support. Often if there are specific, known extra expenses their payment can be allocated in the divorce agreement.

Child support is not taxable to the recipient nor is it deductible to the payor (the person that pays).

Always make your child support payments on time, with pride in the knowledge that you are contributing to the support of your children. There is no room in child support for bitterness or anger at your ex. This is true for the recipient as well as well as the payor.

It is common in most states, and mandatory in others to have wages garnished for child support. This is nothing to be ashamed of. It is such a common occurrence that there is no longer any stigma attached to it. Today most employers have direct deposit of payroll checks where the employee's pay can go to several accounts in the amount established by the employee. If this is available to you, you should try to make an agreement with your ex spouse to have the payments made through direct deposit. This will be easier and better for everyone. First the payer does not have to write a check, which

unfortunately may be done begrudgingly when the payee is the ex-spouse even when it is for the support of the children. This will avoid that problem. As far as a record, your pay stub is your receipt. Secondly, the money will always be paid on time and will be available for immediate use.

Do not involve your children. Your children should never know the amount of support that is to be paid. All discussions regarding support should be handled directly between the parents. Remember to keep the children "out of your battles".

If you are not receiving your payments try to work it out with your ex spouse. If this is not possible or is not satisfactory then it would be better to seek professional intervention such as an attorney or mediator.

Remember that you should never use your children as pawns in a dispute. If payments are not made or not made promptly, do not interfere with the visitation rights of your ex-spouse. Support and visitation should be kept as separate issues. While the financial aspect is important, it is equally important for the children to have the love and emotional support of both parents.

While payment amounts are determined based upon specific guidelines, they can also be negotiated. If you and your ex-spouse can reach a fair and amicable decision on what the payments should be, than all those involved will be happier in the long run. Why put the determination of child support into the hands of a stranger (the judge) if you don't have to. CONSULT AN ATTORNEY BEFORE AGREEING TO ANY CHILD SUPPORT ARRANGEMENT.

Payments will continue until all the children of the marriage become emancipated. Basically emancipation is an act by which parents relinquish their right to custody and are relieved of their duty to support the child. Emancipation can occur upon a child's marriage, induction into military service, by court order based on the child's best interest, as stipulated in the divorce agreement or when the child reaches an appropriate age. Appropriate age does not always mean 18 as many believe. When drawing up your divorce agreement it is important to clearly state at what age or milestone (such as high school graduation, college graduation, marriage or they become self sufficient) emancipation will occur. If your children are young, you may not even consider this issue, but you should. An unclear agreement made today may haunt you in the years to come.

If you have more than one child and a child is emancipated the amount that is to be paid is recalculated according to the schedules and guidelines of your particular state. It is not a percentage of the number of remaining children. Let's say that you have 3 children and the amount of support is \$300 per week. The new amount is not \$100 per child, so therefore when the first child is emancipated the amount does not automatically become \$200, it will be recalculated based on 2 children.

One last thought on the subject. Keep in mind that child support is for the children. It is to keep their lifestyles the same as if you were not divorced. Children should not be victims of divorce or deprived of a normal childhood because of it.

Age of Child Support Termination for Every State and DC and Exceptions for Adult Children with Disabilities

Alabama

Termination of support when child graduates from high school.

Alaska

Termination of support at 18, or 19 if child enrolled in high school or equivalent and residing with custodial parent.

Arizona

Termination of support at 18 or until child graduates from high school.

Ariz. Rev. Stat. Ann. §25-320(E), “In the case of a mentally or physically disabled child, if the court, after considering the factors set forth in subsection D of this section, deems it appropriate, the court may order support to continue past the age of majority and to be paid to the custodial parent, guardian or child, even if at the date of separation, at the time of the filing of a petition or at the time of the final decree, the child has reached the age of majority.”

Arkansas

Termination of support at 18 or when child graduates from high school.

Ark. Code Ann. §9-12-312(a)(5)(B), “The court may also provide for the continuation of support for an individual with a disability which affects the ability of the individual to live independently from the custodial parent.”

California

**Termination of support at 18, or if child is in high school, then until child graduates from high school or turns 19, whichever is first
Cal. Fam. Code §3910, “The father and mother have an equal responsibility to maintain, to the extent of their ability, a child of whatever age who is incapacitated from earning a living and without sufficient means.”**

Colorado

**Termination of support at 19 or judicial termination
Colo. Rev. Stat. §14-10-115(1.5)(a)(2), “If the child is mentally or physically disabled, the court or the delegate child support enforcement unit may order child support, including payments for medical expenses or insurance or both, to continue beyond the age of nineteen.”**

Connecticut

**Termination of support at 18
Conn. Gen. Stat. §46b-84(c), “The court may make appropriate orders of support of any child with mental retardation... or a mental disability or physical disability...who resides with a parent and is principally dependent upon such parent for maintenance until such child attains the age of twenty- one. The child support guidelines ... shall not apply to orders entered under this subsection. The provisions of this subsection shall apply only in cases where the decree of dissolution of marriage, legal separation or annulment is entered on or after October 1, 1997...”**

Delaware

Termination of support at 18; if child still in high school, support terminates at age 19 or graduation, whichever is first

No statute found addressing support for disabled children.

D.C.

Termination of support at 21 or emancipation

No statute found addressing support for disabled children.

Florida

Termination of support at 18, or at 19 if child will graduate from high school by that age Fla. Stat. §743.07(2), “This section shall not prohibit any court of competent jurisdiction from requiring support for a dependent person beyond the age of 18 years when such dependency is because of a mental or physical incapacity which began prior to such person reaching majority...”

Georgia

Termination of support at 18, or to 20 if child still in secondary school Ga. Code §19-7-2, “It is the joint and several duty of each parent to provide for the maintenance, protection, and education of his or her child until the child reaches the age of majority, ... except to the extent that the duty of the parents is otherwise or further defined by court order.”

Guam

19 Guam Code §4105.1, “Payments for disabled children and for education. If a child residing on Guam is disabled before the age of eighteen (18), the court may, at any time before the child reaches the age of twenty-one (21) years, find that both parents (or the surviving parent if one is deceased) have a mutual obligation to support the child beyond the age of majority, and based upon such findings, order either or both of the parents to pay continuing child

support for the benefit of such child directly to the child or his guardian, as is appropriate. Such support may be modified in the same manner as child support may be terminated if no longer needed, shall continue for as long as the child is disabled and requires support, and shall be treated as child support for purposes of this Title...”

Hawaii

Termination of support at 18, but may be extended to 23 if child enrolled in accredited higher educational institution

Haw. Rev. Stat. §580-47(a), “...Provision may be made ... for the support, maintenance, and education of an incompetent adult child whether or not the petition is made before or after the child has attained the age of majority.”

Idaho

Termination of support at 18, or to 19 by court order if child enrolled in formal education. No statute found addressing support for disabled children.

Illinois

Termination of support at 18

750 ILCS 5/513(a)(1), “when the child is mentally or physically disabled and not otherwise emancipated, an application for support may be made before or after the child has attained majority.”

Indiana

Termination of support at 21 or emancipation Ind. Code §31-16-6-6(a)(2), “The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs: The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.”

Iowa

Termination at 18 or as ordered by the court

Iowa Code §252A.3(3), “The parents are severally liable for the support of a dependent child eighteen years of age or older, whenever such child is unable to maintain the child's self and is likely to become a public charge.”

Kansas

Termination of support at 18, and automatically extended to end of school year in which child turns 18; may be extended to 19 on agreement of parents. No statute found addressing support for disabled children.

Kentucky

**Termination of support at 18, or 19 if child still attending high school
Ky. Rev. Stat. §405.020(2), “The father and mother shall have the joint custody, care and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability...”**

Louisiana

Termination of support at 18 or emancipation; if child is still in high school, until 19 or graduation, whichever is first. La. Civ. Code Ann. Art. 230, “By alimony we understand what is necessary for the nourishment, lodging, and support of the person who claims it...It includes the education, when the person to whom the alimony is due has not attained the age of twenty-two and has a developmental disability as defined in R.S. 28:381.”

Maine

**Termination of support at 18; if child is still in high school, until 19
No statute found addressing support for disabled children.**

Maryland

Termination of support at 18. No statute found addressing support for disabled children.

Massachusetts

Termination of support at 18, or to 21 if child is domiciled with parent, or age 23 if enrolled in an education program. No statute found addressing support for disabled children.

Michigan

**Termination of support at 18, but may be ordered until 19 1/2 for completion of high school or beyond by agreement
No statute found addressing support for disabled children.**

Minnesota

Termination of support at 18 or at 20 if child is attending secondary school. Minn. Stat. §518.54(2), “’Child’ means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.”

Mississippi

**Termination of support at 21
No statute found addressing support for disabled children.**

Missouri

Termination of support at 18; or upon graduation from high school or age 21, whichever occurs first; if child enrolled in vocational school or college, to 22. Mo. Ann. Stat. §452.340(4), “If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.”

Montana

Termination of support at 18 or emancipation; or to 19 if enrolled in high school. No statute found addressing support for disabled children.

Nebraska

Termination of support at 19. No statute found addressing support for disabled children.

Nevada

**Termination of support at 18 or at 19 if still in high school
Nev. Rev. Stat. §125B.200(2)(c), ““Minor child” means a person who is...Under a legal disability...”**

New Hampshire

Termination of support at 18, or graduation from high school, whichever is later. N.H. Rev. Stat. §458:35-c, “...If the order involves a disabled child, the court shall specify the duration of the order, which may be beyond the time when the child reaches the age of 18.”

New Jersey

**Termination of support at age of majority or as determined by court
No statute found addressing support for disabled children.**

New Mexico

Termination of support at 18, or emancipation. N.M. Stat. §40-4-7(C), “The court may order and enforce the payment of support for the maintenance and education after high school of emancipated children of the marriage pursuant to a written agreement between the parties.”

New York

**Termination of support at 21 or emancipation as determined by court
No statute found addressing support for disabled children.**

North Carolina

Termination of support at 18, or through secondary school or age 20, whichever comes first. N.C. Gen. Stat. §50-13.8, “For the purposes of custody, the rights of a person who is mentally or physically incapable of self-support upon reaching his majority shall be the same as a minor child for so long as he remains mentally or physically incapable of self-support.”

North Dakota

Termination of support at 18, but if child is enrolled in high school, support continues to 19 or graduation. N.D. Cent. Code §14-09-08.2(6), “This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the court determines the support to be appropriate.”

Ohio

Termination of support at 18 or graduation from high school, whichever occurs later. No statute addressing support for disabled children.

Oklahoma

**Termination of support at 18, or until child completes high school
43 Okla. St. Ann. §112.1A, “...Adult child means a child eighteen years of age or older... B.1. The court may order either or both parents to provide for the support of a child for an indefinite period and may determine the rights and duties of the parents if the court finds that:
a. the child, whether institutionalized or not, requires substantial care and personal supervision because of a mental or physical disability and will not be capable of self-support, and
b. the disability exists, or the cause of the disability is known to exist, on or before the eighteenth birthday of the child....**

Oregon

Termination of support at 18, or 21 if in school half-time or more

No statute found addressing support for disabled children.

Pennsylvania

Termination of support at 18 or completion of high school, whichever is later. 23 Pa. Cons. Stat. §4321(3), “Parents may be liable for the support of their children who are 18 years of age or older.”

Rhode Island

Termination of support at 18

No statute found addressing support for disabled children.

South Carolina

Termination of support at 18, or until graduation from high school S.C. Code §20-7-420(17), “The family court shall have exclusive jurisdiction...To make all orders for support run until further order of the court, except that orders for child support Run until the child is eighteen years of age or until the child is married or becomes self-supporting...and in the discretion of the court, to provide for child support past age eighteen where there are physical or mental disabilities of the child or other exceptional circumstances that warrant the continuation of child support beyond age eighteen for as long as the physical or mental disabilities or exceptional circumstances continue.”

South Dakota

Termination of support at 18, or 19 if attending secondary school

No statute found addressing support for disabled children.

Tennessee

Termination of support at 18, unless child is still in high school, in which case support terminates on graduation. Tenn. Code §36-5-101(p)(1) and (2), “(1) Except as provided in subdivision (p)(2), the court may continue child support beyond a child’s minority for the benefit of a child who is handicapped or disabled, as defined by the Americans with Disabilities Act, until such child reaches twenty-one (21) years of age. (2) Provided, that such age limitation shall not apply if such child is severely disabled and living under the care and supervision of a parent and the court determines that it is in the child's best interest to remain under such care and supervision and the obligor is financially able to continue to pay child support. In such cases, the court may require the obligor to continue to pay child support for such period as it deems in the best interest of the child.”

Texas

Termination of support at 18 or graduation from high school, whichever is later. Tex. Fam. Code §154.302,”

(a) The court may order either or both parents to provide for the support of a child for an indefinite period and may determine the rights and duties of the parents if the court finds that:

- (1) the child, whether institutionalized or not, requires substantial care and personal supervision because of a mental or physical disability and will not be capable of self-support; and**
- (2) the disability exists, or the cause of the disability is known to exist, on or before the 18th birthday of the child.**

(b) A court that orders support under this section shall designate a parent of the child or another person having physical custody or guardianship of the child under a court order to receive the support for the child. The court may designate a child who is 18 years of age or older to receive the support directly.”

Utah

**Termination of support at 18 or when child graduates from high school
Utah Code §78-45-2(6)(c), “‘Child’ means...a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.”**

Vermont

**Termination of support at 18 or graduation from secondary school
No statute found addressing support for disabled children.**

Virginia

**Termination of support at 18; unless child is in high school, in which case support terminates at 19 or graduation, whichever comes first
Va. Code §16.1-278.15, “...The court may also order the continuation of support for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, (b) unable to live independently and support himself, and (c) resides in the home of the parent seeking or receiving child support.”**

Washington

**Termination of support at 18; court may order post-secondary support
No statute found addressing support for disabled children.**

West Virginia

Termination of support at 18, or up to 20 if enrolled in secondary school. Statutory references indicate that case law allows for child support to be ordered for adult children with disabilities (see W.Va. Code §48-11-103).

Wisconsin

Termination of support at 18, or if still in school, at graduation from high school or age 19, whichever is sooner. No statute found addressing support for disabled children.

Wyoming

Termination of support at 18 or to 20 for secondary education

Wyo. Stat. §14-2-204(a)(i), “Any person legally responsible for the support of a child who abandons, deserts, neglects or unjustifiably fails to support the child is liable for support of the child. It is no defense that the child was not or is not in destitute circumstances. For purposes of this section, a parent's legal obligation for the support of his or her children, whether natural or adopted, continues past the age of majority in cases where the children are: Mentally or physically disabled and thereby incapable of self support...”

WHAT CONSTITUTES EMANCIPATION AND CAUSES RELEASE FROM A CHILD SUPPORT OBLIGATION

I. INTRODUCTION: AGE OF MAJORITY AS EMANCIPATION

As a general rule, when a child reaches the age of majority, the child is then "emancipated," freeing the child's parents of any further support obligations. Some states also have statutes that allow a divorce court to impose upon the parents the duty to provide for college assistance support beyond the age of majority. The common law also provides that parents of a child who is unable to care for him/herself may have the support duty extended beyond the child's majority. And, of course, parents may always agree to extend support beyond majority.

Many states rewrote their emancipation statutes in the 1970s and 1980s to provide that a parent is released from a child support obligation when the child is 19 or graduates from high school. [See Table below.]

State	Age of Termination of Support
Alabama	when child turns 18 or graduates from high school
Alaska	when child turns 18, or 19 if child enrolled in high school or equivalent and is residing with custodial parent
Arizona	when child turns 18 or graduates from high school
Arkansas	when child turns 18 or graduates from high school
California	when child turns 18, or if child is in high school, then 19 or graduation from high school, whichever is first
Colorado	when child turns 19
Connecticut	when child turns 18
Delaware	when child turns 18, or if child is in high school, then 19 or graduation from high school whichever is first
District of Columbia	when child turns 21
Florida	when child turns 18, or if child is in high school, then 19 or graduation

	from high school, whichever is later
Georgia	when child turns 18, or if child is in high school, then when child turns 20
Hawaii	when child turns 18, or court may extend to age 23 if child is enrolled in accredited higher education institution
Idaho	when child turns 18, or age 19 by court order if child is enrolled in formal education
Illinois	when child turns 18
Indiana	when child turns 21
Iowa	when child turns 18
Kansas	when child turns 18 or when child graduates high school, whichever is later
Kentucky	when child turns 18, or if child is in high school, then when child turns 19
Louisiana	when child turns 18, or if child is in high school, when child turns 19 or graduates, whichever is first
Maine	when child turns 18, or if child is in high school, when child turns 19
Maryland	when child turns 18
Massachusetts	when child turns 18, or when child turns 21 if child is domiciled with parent, or when child turns 23 if child is enrolled in an educational program
Michigan	when child turns 18, or when child turns 19½ to allow child to complete high school
Minnesota	when child turns 18, or when child turns 20 if child attending high school
Missouri	when child turns 18, or if child is in high school, when child turns 21 or graduates high school, whichever is first
Mississippi	when child turns 21
Montana	when child turns 18 or if child is in high school, when child turns 19
Nebraska	when child turns 19
Nevada	when child turns 18, or if child is in high school, when child turns 19
New Hampshire	when child turns 18, or if child is in high school, when child turns 19 or graduates from high school, whichever is first

New Jersey	when child turns 18
New Mexico	until a child's graduation from high school if the child is emancipated only by age, is under nineteen, and is attending high school
New York	when child turns 21
North Carolina	when child turns 18, or if child is in high school, when child turns 20 or graduates from high school, whichever is first
North Dakota	when child turns 18, or if child is in high school, when child turns 19 or graduates from high school, whichever is first
Ohio	when child turns 18 or when child graduates from high school
Oklahoma	when child turns 18 or when child graduates from high school
Oregon	when child turns 18, or if child is in high school half-time or more, when child turns 21
Pennsylvania	when child turns 18 or completes high school
Rhode Island	when child turns 18, or if child is in high school, when child turns 19 or 90 days past graduation, whichever is first
South Carolina	when child turns 18, or when child graduates from high school
South Dakota	when child turns 18, or if child is in high school, when child graduates
Tennessee	when child turns 18, or if child is in high school, when child graduates
Texas	when child turns 18, or if child is in high school, when child graduates
Utah	when child turns 18, or if child is in high school, when child graduates
Vermont	when child turns 18, or if child is in high school, when child graduates
Virginia	when child turns 18, or if child is in high school, when child turns 19 or graduates, whichever is first
Washington	when child turns 18
West Virginia	when child turns 18, or if child is in high school, when child turns 20 or graduates, whichever is first
Wisconsin	when child turns 18, or if child is in high school, when child turns 19 or graduates, whichever is first
Wyoming	when child turns 18, or if child is in high school, when child turns 20 or graduates, whichever is first

"Emancipation" may also come before the age or event stated in the above Table. "Self-emancipation occurs when a child who is physically and mentally able to take care of himself voluntarily abandons the parental roof and leaves its protection and influence and goes out to fight the battle of life on his own account." *Iroquois Iron Co. v. Industrial Commission*, 294 Ill. 106, 109, 128 N.E. 289 (1920). *Accord*, e.g., *Napolitano v. Napolitano*, 732 P.2d 245 (Colo. Ct. App. 1986) (in determining whether emancipation has occurred, court must consider totality of circumstances, particularly conduct that is inconsistent with a continuation of parental control and support); *Foxvog v. Foxvog*, 7 Neb. App. 92, 578 N.W.2d 916 (1998) (emancipation releases child from custody and support or parents); *Alice C. v. Bernard G.C.*, 193 A.D.2d 97, 602 N.Y.S.2d 623 () (children are emancipated and parents no longer have an obligation to support them if they become economically independent through employment, entry into military service, or marriage, and may be constructively emancipated if they, without cause, withdraw from parental control and supervision); *Filippone v. Lee*, 304 N.J. Super. 301, 700 A.2d 384 () (emancipation occurs by reason of reaching age of majority, marriage, or when child is voluntarily no longer in the care, custody, and control of either parent). Emancipation is also achieved when a child voluntarily marries or enters the armed forces. In essence, prior to the age of majority, marriage, or entry into military service, so long as a child is still in need of the care and custody and control of his or her parents, the child is not emancipated. *Broyles v. Broyles*, 711 P.2d 1119 (Wyo.)

"Emancipation" before the age of majority is never presumed, but must be proven by the party seeking to terminate support. *See generally* 59 Am. Jr. 2d, *Parent and Child* § 85 (1996).

This article will survey the law concerning emancipation in these broad categories: marriage, entering the armed forces, becoming pregnant, and leaving the parental roof and becoming self-supporting. *See generally*, Chadwick N. Gardner, *Don't Come Crying' to Daddy! Emancipation of Minors: When Is a Parent Free at Last from the Obligation of Child Support*, 33 U. Louisville J. Fam. L. 827 (1995); *see also* Dana F. Castle, *Early Emancipation Statutes: Should They Protect Parents as Well as Children?*, 20 Fam. L.Q. 343 (1986); Alice M. Wright, *What Voluntary Acts of Child, Other Than Marriage or Entry into Military Service, Terminate Parent's Obligation to Support*, 55 A.L.R.5th 557 (1998).

II. MARRIAGE AS EMANCIPATION

Generally, the marriage of a child is an emancipating event, thereby terminating a parent's responsibility for support. *See* Annotation, *Marriage of Minor Child as*

Terminating Support Provisions of Divorce or Similar Decree, 58 A.L.R.2d 355 (1958). Based on this principle, in *In re Marriage of Walters*, 238 Ill. App. 3d 1086, 604 N.E.2d 432 (1992), the court held that the Illinois statute that allows an award for college expenses and maintenance does not apply to a child who is otherwise emancipated by marriage. The court further held on the facts, however, that the child had not been emancipated by marriage, because the marriage was annulled. *Accord Guzman v. Guzman*, 175 Ariz. 183, 854 P.2d 1169 (1993) (child does not have to leave parental home and support himself to be considered emancipated if child has married); *In re Marriage of Daniels*, 296 Ill. App. 3d 446, 695 N.E.2d 1376 (1998) (husband's obligation to pay educational expenses for child terminated when child married); *Specking v. Specking*, 528 S.W.2d 448 (Mo. Ct. App. 1975) (marriage of minor child terminated father's obligation of support); *Thomas v. Thomas*, 46 Tenn. App. 572, 330 S.W.2d 583 (1959) (mother who received support after minor daughter married ordered to refund payments); *State ex rel. Dep't of Health and Human Resources v. Farmer*, 26 Fam. L. Rep. (BNA) 1052 (W. Va. Sup. Ct., Nov. 19, 1999) (child was emancipated as a matter of law when she married, and later divorce could not unemancipate her).

Certain circumstances, however, have led courts to conclude that the marriage in question did not act to emancipate the child. For example, in *Abu-Nadal v. Abu-Nada*, 25 Fam. L. Rep. (BNA) 1289 (Ohio Ct. App. Mar. 15, 1999), a girl married at age 15 in her native Jordan at the bequest of her family. Shortly thereafter, she returned to Ohio and since that time lived with her parents. The court refused to find that the Jordanian marriage emancipated the girl, noting that the girl's mother continues to support the girl, the girl's husband remained in Jordan, and the girl was seeking a divorce. Similarly, in *Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993), the court admitted that a minor's marriage weighs heavily in favor of a finding of emancipation, but such marriage is not dispositive, as a matter of law, that the child is emancipated. The court held that since the minor child had separated from her husband and was in need of support, she was not emancipated, and the minor's parents were thus obligated to pay for their child's custody and care. *Accord In re Marriage of Schoby*, 26 Kan. App. 2d 316, 982 P.2d 406 (1999) (marriage does not automatically emancipate child; court must look to totality of circumstances, and nothing short of death will usually terminate obligation of support). *But see In re Petition of Pace*, ___ Kan. App. 2d ___, 989 P.2d 297 (1999) (child who entered into common-law marriage was emancipated and thus not subject to the state's CHINS code).

Some courts have also held that a separation agreement which unequivocally binds the parents to pay support until a certain age or event precludes termination of the

support obligation by reason of marriage. *Church v. Hancock*, 261 N.C. 764, 261 S.E.2d 764 (1964).

Finally, some courts have held that while the marriage of a minor ordinarily requires the court to terminate child support, the termination is not automatic; the support obligor must petition the court for termination of support. This allows the court to determine whether other circumstances may militate against a finding of emancipation. *E.g.*, *Hamilton v. Phillips*, 494 So. 2d 659 (Ala. Civ. App. 1986). This principle is most often applied when the support order is for a number of children, and the eldest child becomes emancipated by reason of marriage. In that case, the support obligor is not entitled to unilaterally reduce support payments, but rather, he or she must petition the court for a redetermination of support. *Ivester v. Ivester*, 242 Ga. 386, 249 S.E.2d 69 (1978); *Reiffeitt v. Reiffeitt*, 419 N.E.2d 999 (Ind. Ct. App. 1981); *Gordon v. Ary*, 358 S.W.2d 81 (Mo. Ct. App. 1962). *But see La Voice v. La Voice*, 125 Vt. 236, 214 A.2d 53 (1965) (so much of the order as relates to support of minor children terminates upon their marriage).

III. ENTERING THE ARMED FORCES AS EMANCIPATION

Generally, entering the armed forces constitutes emancipation. *See generally*, Annotation, *Child's Induction Into Military Service as Affecting Right to Support*, 20 A.L.R.2d 1414 (). In most states, the obligation terminates automatically. *E.g.*, *Wittwer v. Wittwer*, 545 N.E.2d 27 (Ind. Ct. App. 1989); *Blackman v. Blackman*, 767 S.W.2d 54 (Mo. Ct. App. 1989); *Slep v. Slep*, 43 N.J. Super. 538, 129 A.2d 317 (1957); *La Voice v. La Voice*, 125 Vt. 236, 214 A.2d 53 (1965); *Ditmar v. Ditmar*, 48 Wash. 2d 373, 293 P.2d 759 (1956);

In some states, however, the parent is relieved of the duty of support only as of the filing of a petition for modification/termination of the duty of support. *Weitz v. Weitz*, 1 A.D.2d 1025, 151 N.Y.S.2d 520 (); *Bradford v. Futrell*, 225 Md. 512, 171 A.2d 493 (1961); *Davis v. Davis*, 217 Miss. 313, 64 So. 2d 145 (1953); *Fausser v. Fausser*, 50 Misc. 2d 601, 271 N.Y.S.2d 59 (1966); *Stauffer v. Stauffer*, 4 Ohio App. 2d 339, 212 N.E.2d 622 (1965).

Some states have found under the peculiar circumstances of the case that enlistment in the armed forces does not emancipate the child. In *Omohundro v. Omohundro*, 8 Ohio App. 3d 318, 457 N.E.2d 324 (1982), the minor son voluntarily joined the Army Reserves, but he did so with the express purpose of taking advantage of its drug rehabilitation program and high school equivalency program. Although the son's room and board were furnished by the army during the son's period of active duty, the court

concluded that the son was still in need of clothing, transportation, food and shelter for periods of nonactive duty, and he was thus not emancipated. See also *Koon v. Koon*, 50 Wash. 2d 577, 313 P.2d 369 (1957) (where during period of son's military service mother maintained home for him and he was supported by her, there was no emancipation).

In *Argonaut Insurance Exchange v. Kates*, 137 Cal. App. 2d 158, 289 P.2d 801 (1955), the court was most likely motivated by its desire to provide death benefits rather its desire to reach the correct result. In this case, the court held that the father was not relieved of his duty of support when his son enlisted in the army. Consequently, the son was entitled to the father's death benefits when the father was killed in an industrial accident.

There is some disagreement as to whether entering a military academy, such as West Point or Annapolis, constitutes "entering the armed forces," and thus is an emancipating event. In *Howard v. Howard*, 80 Ohio App. 3d 832, 610 N.E.2d 1152 (1992), the son enrolled as a cadet in the United States Coast Guard Academy. The father moved for modification of support, contending the son was emancipated. The court held that entering a military academy, as opposed to entering the armed forces, is not an emancipating event. A child's status at the Coast Guard Academy, the court held, is no different from any other college student on full scholarship.

A different tack was taken in *Porath v. McVey*, 884 S.W.2d 692 (Mo. Ct. App. 1994). In that case, the son enrolled in the United States Military Academy at West Point. The court held that by the terms of enrollment at West Point, the son was on "active duty in the military," and thus emancipated. Accord *Zuckerman v. Zuckerman*, 154 A.D.2d 666, 546 N.Y.S.2d 666 (2d Dep't 1989) (cadet enrolled at West Point is emancipated); *Dingley v. Dingley*, 121 N.H. 670, 433 A.2d 1281 (1981).

IV. BECOMING PREGNANT OR HAVING A CHILD AS EMANCIPATION

While getting married constitutes an emancipation, getting pregnant and having a child does NOT constitute emancipation. The difference, reason the courts, is that in the former situation, there is an intent to substitute the parents' support for the new spouse's support, while in the latter situation, there is no intent to rid oneself of the support of the parents. In fact, in most of these cases, the pregnant child continues to live with the custodial parent and continues to depend on support from the custodial and/or non-custodial parent. In *re Marriage of Clay*, 670 P.2d 31 (Colo. Ct. app. 1983) (daughter not emancipated where she continued to live with her mother and depend on

her for support); *Doerrfeld v. Konz*, 524 So. 2d 1115 (Fla. 2d DCA 1988) (minor daughter in high-school, living with her mother, was not emancipated due to pregnancy); *Hicks v. Fulton County Dept. of Family & Children Services*, 155 Ga. App. 1, 270 S.W.2d 254 (1980) (pregnant minor still dependent on mother's Social Security benefits); *In re George*, 6 Kan. App.2d 336, 988 P.2d 251 (1999) (child who quit school on her 16th birthday and then had a baby was not emancipated; child still lives with her mother and depends on her for financial support); *Town of Brunswick v. LaPrise*, 262 A.2d 366 (Me. 1970) (father held liable for daughter's support; fact that she was pregnant could not relieve his responsibility); *Randolph v. Randolph*, 26 Fam. L. Rep. (BNA) 1070 (Mo. Ct. App. Nov. 30, 1999) (17-year-old girl who moved out of parents' home after an argument, lived with boyfriend, quit school, worked at various jobs for six months, became pregnant, and then returned home was not emancipated); *French v. French*, 599 S.W.2d 40 (Mo. Ct. App. 1980) (pregnant daughter's receipt of AFDC benefits did not constitute new status inconsistent with continued control and support by daughter's parents); *Wulff v. Wulff*, 243 Neb. 616, 500 N.W.2d 845 (1993) (where daughter returned to her mother's home after she had a baby and broke up with her boyfriend, daughter was not emancipated); *Bickford v. Bickford*, 55 A.D.2d 719, 389 N.Y.S.2d 430 (3d Dep't 1976) (New York's Social Services Law mandates support for child until age 21 where the child is receiving public assistance and contains no exception for emancipation due to pregnancy); *Thompson v. Thompson*, 94 Misc. 2d 911, 405 N.Y.S.2d 974 (Fam. Ct. 1978) (pregnant daughter had not abandoned her mother's home and was thus not emancipated); see also *Nuckols v. Nuckols*, 12 Ohio App. 3d 94, 467 N.E.2d 259 (1983) (daughter who was pregnant was emancipated by her 18th birthday, not by her pregnancy).

On the other hand, moving out of the parents' house and into an apartment, setting up housekeeping with a partner, and having a baby can be emancipation, because the totality of the circumstances shows an intent to be free of the parents' custody, control, and support. *Champagne v. Passons*, 95 Cal. App. 15, 272 P. 353 (1928) (daughter had child, was engaged to child's father, spent every weekend with him, and opened joint checking account with him); *Town v. Anonymous*, 39 Conn. Supp. 35, 467 A.2d 687 (1983) (sixteen-year-old girl who became pregnant and moved from her parents' home to her boyfriend's home was emancipated); *Rennie v. Rennie*, 718 So. 2d 1091 (Miss. 1998); *Parker v. Stage*, 43 N.Y.S.2d 128, 400 N.Y.S.2d 794 (1977) (eighteen-year-old pregnant girl who moved out of parents' home to live with boyfriend forfeited right to parental support).

V. EARNING ONE'S OWN SUPPORT AND ABANDONING PARENTS' HOME

As noted above, emancipation occurs when the child abandons the parents' home and goes out to fight life's battles on his own. *E.g.*, *Bradford v. Wallace*, 25 Fam. L. Rep. (BNA) 1465 (Ala. Civ. App. July 16, 1999) (18-year-old child averaged \$1,300 per month in income, and stated desire to be self-supporting); *In re Marriage of Weisbart*, 39 Colo. App. 115, 564 P.2d 961 (1977) (son was employed full-time with construction company earning \$480 per month, he resided in his own apartment with a female roommate, and mother gave him no financial support; father's obligation terminated due to son's emancipation); *Poudre Valley Hospital District v. Heckart*, 491 P. 2d894 (Colo. Ct. App. 1971) (daughter removed herself from her father's home and went to live with girlfriends); *Ison v. Florida Sanitarium and Benevolent Association*, 302 So. 2d 200 (Fla. 4th DCA 1974) (18-year-old daughter who moved away from home and supported herself); *Ireland v. Ireland*, 123 Idaho 955, 855 P.2d 40 (1993) (son became emancipated when he was working full time, he left home to reside with his mother's boyfriend and he paid rent); *Meyer v. Meyer*, 222 Ill. App. 3d 357, 583 N.E.2d 716 (1991) (son moved out of house and joined Peace Corps, which provided son with room and board and stipend); *In re Marriage of Johnson*, 625 N.E.2d 1331 (Ind. Ct. App. 1993) (son who worked full time and lived in own apartment was emancipated); *Burton v. Burton*, 472 S.W.2d 620 (Mo. Ct. App. 1971) (daughter became emancipated before eighteenth birthday where she left home, got her own apartment, and became a bank teller); *Fortunato v. Fortunato*, 242 A.D.2d 720, 662 N.Y.S.2d 579 (2d Dep't 1997) (20-year-old who was working 30-35 hours per week, used his earnings to meet all his own expenses, contributed to room and board in mother's home, and was not attending school and had no plans to save money for college, was emancipated); *Ellis v. Ellis*, 52 Or. App. 671, 629 P.2d 417 (1981), *affirmed* 292 Or. 502, 640 P.2d 1024 (1982) (daughter who worked full time upon graduation from high school, moved into own apartment, purchased care with own credit card, was emancipated).

The same principle can be applied to find a child is emancipated when he or she drops out of school with no intention to returning, with the intention of being free from parental authority. *McGregor v. McGregor*, 237 Ga. 587, 226 S.W.2d 591 (1976); *In re Marriage of Seeba*, 480 N.E.2d 960 (Ind. Ct. App. 1985); *see also Roe v. Doe*, 29 N.Y.2d 188, 324 N.Y.S.2d 71 (1971) (daughter was emancipated when she left dormitory to live off-campus without father's consent); *Blanding v. Southwestern Life Insurance Co.*, 268 S.C. 306, 233 S.W.2d 107 (1977). The mere act of dropping out of high-school, however, will not usually constitute emancipation. *In re Marriage of Donahoe*, 114 Ill. App. 3d 470, 448 N.E.2d 1030 (1983); *Brancheau v. Weddle*, 555 N.E.2d 1315 (Ind. Ct. App. 1990);

A child can also become emancipated if he or she earns his own living, even though he or she remains in a parent's home. The court's focus on "self-sufficiency" may lead the

court to conclude that even though the child remains in a parent's home, he or she is actually self-sufficient. This is most often the case where the child treats the parent's home like a boarding house, paying the parent rent or other expenses. *E.g.*, *Hill v. Hill*, 523 So. 2d 445 (Ala. Civ. App. 1988); *Embree v. Embree*, 85 Idaho 43, 380 P.2d 216 (1963); *Moody v. Moody*, 565 N.E.2d 388 (Ind. Ct. App. 1991); *Black v. Cole*, 626 S.W.2d 397 (Mo. Ct. App. 1981); *Rapplean v. Patterson*, 631 S.W.2d 693 (Mo. Ct. App. 1982); *Blue v. Blue*, 152 Neb. 82, 40 N.W.2d 268 (1949); *Townsen v. Townsen*, 101 Ohio App. 85, 137 N.E.2d 789 (1954); *Matthews v. Matthews*, 71 S.D. 115, 22 N.W.2d 27 (1946); *Foutch v. Foutch*, 2 Wash. App. 407, 469 P.2d 223 (1970).

These cases should be contrasted with the situation where a child leaves home temporarily with no intention to forego a parent's support. For example, if a child leaves home to attend college but remains dependent on the parents for support, there is no emancipation. *E.g.*, *Anderson v. Loper*, 689 So. 2d 118 (Ala. Civ. App. 1996) (daughter left home and moved in with boyfriend and his parents to attend college); *In re Marriage of Robinson*, 629 P.2d 1069 (Colo. 1981) (child's summer employment and temporary absence from home to earn money for college did not constitute emancipation); *Quillen v. Quillen*, 671 N.E.2d 98 (Ind. 1996) (temporary absence from home, with intent to return to college; no emancipation found); *Daniels v. Daniels*, 748 S.W.2d 916 (Mo. Ct. App. 1988) (temporary three month stay at friend's house when hostility with mother did not constitute emancipation); *Braun v. Lied*, 851 S.W.2d 93 (Mo. Ct. app. 1993) (daughter who was away at school, although she missed one semester due to medical condition, was not emancipated); *Bierman v. Bierman*, 584 S.W.2d 106 (Mo. Ct. App. 1979) (daughter at university, paying tuition by scholarship and part-time work; no emancipation); *Specking v. Specking*, 528 S.W.2d 448 (Mo. Ct. App. 1975) (daughter attending junior college, working part-time, living with older sister; no emancipation). Similarly, students who leave school temporarily to earn some money with the intention that they will return to school are not emancipated by the fact that they are working full-time for a short period of time. *Turner v. Turner*, 441 S.W.2d 105 (Ky. 1956); *Caldwell v. Caldwell*, 579 So. 2d 543 (Miss. 1991); *Shutt v. Shutt*, 133 Misc. 2d 81, 506 N.Y.S.2d 611 (Sup. Ct. 1986).

Although it seems obvious, merely having a part-time job or a job that does not pay enough to support oneself does not constitute emancipation. *Taylor v. Taylor*, 412 So. 2d 1231 (Ala. Civ. App. 1981); *Shuff v. Fulte*, 344 Ill. App. 157, 100 N.E.2d 502 (1951); *Taylor v. Chaffin*, 558 N.E.2d 879 (Ind. Ct. App. 1990); *Marshall v. Marshall*, 601 N.E.2d 9 (Ind. Ct. App. 1992); *In re Marriage of Tearman*, 617 N.E.2d 974 (Ind. Ct. App. 1993); *Pearson v. Pearson*, 247 Iowa 437, 74 N.W.2d 224 (1956); *Andrews v. Williams*, 723 So.2d 1175 (Miss. Ct. App. 1998); *Setser v. Piazza*, 664 So. 2d 1211 (Miss. 1994); *Orlowski v. Orlowski*, 8762 S.W.2d 842 (Mo. Ct. App. 1988).

Finally, in a few cases, the court has held that emancipation was affected by the child's complete abandonment of the parent-child relationship. In *Hambrick v. Prestwood*, 382 So. 2d 474 (Miss. 1980), the court held that the father need not support his daughter where she flatly refused to have anything to do with him. Similarly, in *Cohen v. Schnepf*, 94 A.D.2d 783, 463 N.Y.S.2d 29 (2d Dep't 1983), the court held that the son's actions of refusing to visit his father and using his stepfather's surname on his college applications affected an emancipation. *Accord Chamberlin v. Chamberlin*, 658 N.Y.S.2d 751 (3d Dep't 1997); *Joseph M.M. Jr. v. Mary Ellen C.M.*, 227 A.D.2d 561, 642 N.Y.S.2d 713 (2d Dep't 1996); *Rubino v. Morgan*, 224 A.D.2d 903, 638 N.Y.S.2d 524 (3d Dep't 1996) (father released from duty of support of daughter who refused to speak with him for six years); *McCarthy v. Braiman*, 125 A.D.2d 572, 510 N.Y.S.2d 3 (2d Dep't 1986); *Barbara M. v. Harry M.*, 117 Misc. 2d 142, 458 N.Y.S.2d 136 (Fam. Ct. 1982); *Gross ex rel. Oeler v. Oeler*, 527 Pa. 532, 594 A.2d 649 (1991) (father's obligation to support seventeen-year-old daughter terminated when she refused to live with him after mother moved out of state and instead lived with an unrelated family).

This is a minority position, however. Most courts have held that a child's hostile conduct toward a parent should not relieve that parent of the duty of support. *Carroll v. Carroll*, 593 So. 2d 1131 (Fla. 2d DCA 1992); *In re Marriage of Brown*, 597 N.E.2d 1297 (Ind. Ct. App. 1992); *Borden v. Borden*, 550 So. 2d 901 (La. Ct. App. 1989); *Henshaw v. Henshaw*, 83 Mich. App. 68, 268 N.W.2d 289 (1978); *Moir v. Kowakowski*, 282 Minn. 243, 164 N.W.2d 69 (1969); *Caldwell v. Caldwell*, 579 So. 2d 543 (Miss. 1991); *Hiross v. Hiross*, 224 A.D.2d 662, 639 N.Y.S.2d 70 (2d Dep't 1996); *Radin v. Radin*, 209 A.D.2d 396, 618 N.Y.S.2d 105 (2d Dep't 1994); *Jaffee v. Jaffee*, 202 A.D.2d 264, 608 N.Y.S.2d 649 (1st Dep't 1994); *Drago v. Drago*, 138 A.D.2d 704, 526 N.Y.S.2d 518 (2d Dep't 1988); *Yarborough v. Yarborough*, 168 S.C. 46, 166 S.E.2d 877 (1932); *Broyles v. Broyles*, 711 P.2d 1119 (Wyo. 1985). Thus, if a child temporarily leaves home because of a disagreement with the custodial parent, there is also no emancipation. *E.g.*, *Bopp v. Bopp*, 671 S.W.2d 348 (Mo. Ct. App. 1984) (daughter not emancipated and so adoptive father still owed support when daughter left home to live with natural father); *Alice C. v. Bernard G.C.*, 193 A.D.2d 97, 602 N.Y.S.2d 623 (2d Dep't 1993); *Collins v. Collins*, 74 A.D.2d 862, 426 N.Y.S.2d 56 (2d Dep't 1980); *Bates v. Bates*, 62 Misc. 2d 498, 310 N.Y.S.2d 26 (Fam. Ct. 1970); *Wayne County Dep't of Social Services v. Schultz*, 81 Misc. 2d 603, 366 N.Y.S.2d 845 (Fam. Ct. 1975); *Thompson v. Thompson*, 94 Misc. 2d 911, 405 N.Y.S.2d 974 (Fam. Ct. 1978); *Durfee v. Durfee*, 796 P.2d 713 (Utah Ct. App. 1990).

VI. CONCLUSION

As the law of child support seeks to impose upon parents the duty of support for longer periods of time past the age of 18, the incidence of parents seeking to have their children declared emancipated will rise. What these cases make clear, however, is that only the child's ability to care for and support him/herself will allow a parent to claim emancipation as a defense to the duty of support.

TERMINATION OF CHILD SUPPORT
and
DUTY to PROVIDE
COLLEGE SUPPORT

A CHART INCLUDING ALL STATES

Termination of Child Support and Duty to Provide College Support

Alabama Termination of support when child graduates from high school Courts may require parents to provide post-minority support for child's college education. *Ex Parte Bayliss*, 550 So. 2d 1038 (1989); Ala. Code § 30-3-1.

Alaska Termination of support at 18, or 19 if child enrolled in high school or equivalent and residing with custodial parent Courts may not require either parent to pay for post-majority college support. *H.P.A. v. S.C.A.*, 704 P.2d 205 (Alaska 1985)

Arizona Termination of support at 18 or until child graduates from high school No statute or case law holding parents to a duty to college support in the

absence of an agreement; courts will enforce contracts to provide such support. *Solomon v. Findley*, 167 Ariz. 409, 808 P.2d 294 (1991).

Arkansas Termination of support at 18 or when child graduates from high school No statute or case law holding parents to a duty to college support in the absence of an agreement. Once child reaches majority, the legal duty of the parents to provide support ends. *Towery v. Towery*, 285 Ark. 113, 685 S.W.2d 155 (1985).

California Termination of support at 18, or if child is in high school, then until child graduates from high school or turns 19, whichever is first No statute or case law holding parents to a duty to college support in the absence of an agreement.

Colorado Termination of support at 19 or judicial termination Colo. Rev. Stat. § 14-10-115(1.5)(b) provides that if the court finds that it is appropriate for the parents to contribute to the costs of a program of postsecondary education, then the court shall terminate child support and enter an order requiring both parents to contribute to the education expenses of the child. The court may not issue orders for both child

support and postsecondary education to be paid at the same time. See *In re marriage of Robb*, 934 P.2d 927 (Col. Ct. App. 1997).

Connecticut Termination of support at 18 Courts will not order post-secondary educational support unless there is a specific agreement between the parties. *Cariseo v. Cariseo*, 190 Conn. 141, 459 A.2d 523 (1983).

Delaware Termination of support at 18; if child still in high school, support terminates at age 19 or graduation, whichever is first No statute or case law holding parents to a duty to college support in the absence of an agreement.

D.C. Termination of support at 21 or emancipation. D.C. Code § 16-916 provides that minor children are entitled to support; the age of minority is 21.

Florida Termination of support at 18, or at 19 if child will graduate from high school by that age No statute or case law holding parents to a duty to college support in the absence of an agreement.

Courts will compel postsecondary support upon a finding of actual "dependency," but attendance at college does not necessarily render a child dependent. *Slaton v. Slaton*, 428 So.2d 347 (Fla. DCA 1983).

Georgia Termination of support at 18, or to 20 if child still in secondary school Ga. Code Ann. § 19-6-15(e) provides that the trial court, in its sound discretion, may allow financial assistance to a child (not married or emancipated) who is enrolled in college, provided that assistance shall not be required after the child reaches 20 years of age.

Hawaii Termination of support at 18, but may be extended to 23 if child enrolled in accredited higher educational institution Haw. Rev. Stat. § 580-47 and Haw. C.S.G. provide that courts may order support of adult children for college.

Idaho Termination of support at 18, or to 19 by court order if child enrolled in formal education No statute or case law holding parents to a duty to college support in the absence of an independent agreement.

See *Noble v. Fisher*, 126 Idaho 885, 894 P.2d 118 (1995) (where father agreed to pay half of college expenses in separation agreement and agreement was

merged into decree, agreement was unenforceable as contract).

Illinois Termination of support at 18 750 Ill. Law. Con. Stat. § 5/513 provides that the court may make provisions for the education expenses of the children of the marriage, whether of minor or majority age.

Indiana Termination of support at 21 or emancipation Ind. Code § 31-16-6-2 provides that a child support order may include sums for the child's education at institutions of higher learning, where appropriate.

Iowa Termination at 18 or as ordered by the court Iowa Code § 598.1(2) provides that "support" means an obligation which may include support for a child who is between the ages of 18 and 21 who is regularly attending an accredited school or is, in good faith, a full time student in college or has been accepted for admission to college for the next term.

Kansas Termination of support at 18, and automatically extended to end of school year in which child turns 18; may be extended to 19 on agreement of parents No statute or case law holding parents to a

duty to college support in the absence of an agreement.

Kentucky Termination of support at 18, or 19 if child still attending high school No statute or case law holding parents to a duty to college support in the absence of an agreement. See also *Reed v. Reed*, 457 S.W.2d 4 (Ky. 1970).

Louisiana Termination of support at 18 or emancipation; if child is still in high school, until 19 or graduation, whichever is first No statute or case law holding parents to a duty to college support in the absence of an agreement.

Maine Termination of support at 18; if child is still in high school, until 19 No statute or case law holding parents to a duty to college support in the absence of an agreement.

Maryland Termination of support at 18 No statute or case law holding parents to a duty to college support in the absence of an agreement.

The Maryland child support guidelines provide, however, that in determining whether the application of the guidelines would be unjust or inappropriate in a

particular case, the court may consider the terms of any existing separating or property settlement agreement or court order, including any provisions for payment of college educational expenses.

Massachusetts Termination of support at 18, or to 21 if child is domiciled with parent, or age 23 if enrolled in an education program Mass. Gen. Laws. Ch. 208, § 28 allows a court to render an order for support for a child between the ages of 18 and 21 who is domiciled in the home of a parent and principally dependent upon said parent for support. See *Doe v. Roe*, 32 Mass. App. Ct. 63, 585 N.E.2d 340 (1992).

Michigan Termination of support at 18, but may be ordered until 19 1/2 for completion of high school or beyond by agreement No statute or case law holding parents to a duty to college support in the absence of an agreement.

Minnesota Termination of support at 18 or at 20 if child is attending secondary school No statute or case law holding parents to a duty to college support in the absence of an agreement.

Mississippi Termination of support at 21 Since the age of majority in Mississippi is 21, support for college

expenses may be ordered up to that age. *Stokes v. Martin*, 596 So.2d 879 (Miss. 1992).

Missouri Termination of support at 18; or upon graduation from high school or age 21, whichever occurs first; if child enrolled in vocational school or college, to 22 Mo. R. Civ. Pro. 88.01; Mo. Rev. Stat. § 452.340.5 provides that if the child is enrolled in an institution of higher education, the parental support obligation shall continue until the child completes his education or until the child reaches the age of 22, whichever occurs first.

Montana Termination of support at 18 or emancipation; or to 19 if enrolled in high school Mont. Code Ann. § 40-4-204(2)(d) allows a court to consider the child's educational needs in setting support.

Nebraska Termination of support at 19 A district court in a dissolution action may not order child support beyond the age of the majority of a child over the objection of any parent absent a previous agreement between the parents. In this case, the parents' prior agreement was enforced. *Zetterman v. Zetterman*, 245 Neb. 255, 512 N.W.2d 622 (1994).

Nevada Termination of support at 18 or at 19 if still in high school No statute or case law holding parents to a duty to college support in the absence of an agreement.

New Hampshire Termination of support at 18, or graduation from high school, whichever is later Gnirk v. Gnirk, 134 N.H. 199, 589 A.2d 1008 (1991) held that support may be awarded for college expenses of adult children in appropriate circumstances.

New Jersey Termination of support at age of majority or as determined by court Newburgh v. Newburgh, 88 N.J. 529, 443 A.2d 1031 (1982) held that the court has jurisdiction to award a payment of support and expenses of a child attending college even though the child has reached the age of majority.

New Mexico Termination of support at 18, or emancipation No statute or case law holding parents to a duty to college support in the absence of an agreement.

New York Termination of support at 21 or emancipation as determined by court N.Y. Do . Re. Law § 240(1-b)(c)(7) provides that the court may award educational expenses, such as for college or

private school or for special enriched education. A parent may not, however, be directed to pay child support and/or contribute toward college education expenses for a child who is 21 years of age or older absent express agreement to do so. See *Setford v. Cavanaugh*, 175 A.D.2d 665, 572 N.Y.S.2d 591 (1991).

North Carolina Termination of support at 18, or through secondary school or age 20, whichever comes first No statute or case law holding parents to a duty to college support in the absence of an agreement.

North Dakota Termination of support at 18, but if child is enrolled in high school, support continues to 19 or graduation N.D. Cent. Code § 14-09-08 allows a court to order support for college expenses. See *Johnson v. Johnson*, 527 N.W. 2d 663 (N.D. 1995).

Ohio Termination of support at 18 or graduation from high school, whichever occurs later No statute or case law holding parents to a duty to college support in the absence of an agreement.

Oklahoma Termination of support at 18, or until child completes high school No statute or case law

holding parents to a duty to college support in the absence of an agreement.

Oregon Termination of support at 18, or 21 if in school half-time or more Or. Rev. Stat. § 107.275(1)(e) authorizes a court to order a parent to pay support for a child attending college to age 21. See *In re Marriage of Wiebe*, 113 Or. App. 535, 833 P.2d 333 (1992). Also see *In re Marriage of Crocker*, 157 Or. App. 651 (1998 Ore).

Pennsylvania Termination of support at 18 or completion of high school, whichever is later No statute or case law holding parents to a duty to college support in the absence of an agreement.

See *Curtis v. Kline*, 542 Pa. 249, 666 A.2d 265 (1995).

Rhode Island Termination of support at 18, or until 90 days past high school graduation or 19, whichever is sooner 1998 R.I. Pub. Laws, § 2697 allows court to order a non-custodial parent to pay for higher education for a child between the ages of 18-23.

South Carolina Termination of support at 18, or until graduation from high school Court may order college support. *Risinger v. Risinger*, 273 S.C. 36, 253 S.E.2d

652 (1979); *West v. West*, 309 S.C. 28, 419 S.E.2d 804 (Ct. App. 1992) (jurisdiction of the family court is permitted in cases of children over 18 years of age where exceptional circumstances warrant it; family court judge may require a parent to contribute that amount of money necessary to enable a child over 18 to attend high school and four years of college, where there is evidence that: (1) the characteristics of the child indicate that he or she will benefit from college; (2) the child demonstrates the ability to do well, or at least make satisfactory grades; (3) the child cannot otherwise go to school; and (4) the parent has the financial ability to help pay for such an education).

South Dakota Termination of support at 18, or 19 if attending secondary school No statute or case law holding parents to a duty to college support in the absence of an agreement.

Tennessee Termination of support at 18, unless child is still in high school, in which case support terminates on graduation No statute or case law holding parents to a duty to college support in the absence of an agreement. See also *Nash v. Mulle*, 846 S.W.2d 803 (Tenn. 1993).

Texas Termination of support at 18 or graduation from high school, whichever is later No statute or case law holding parents to a duty to college support in the absence of an agreement.

Utah Termination of support at 18 or when child graduates from high school Utah Code Ann. § 15-2-1 provides that in divorce actions, courts may order support to age 21.

Vermont Termination of support at 18 or graduation from secondary school No statute or case law holding parents to a duty to college support in the absence of an agreement.

Virginia Termination of support at 18; unless child is in high school, in which case support terminates at 19 or graduation, whichever comes first No statute or case law holding parents to a duty to college support in the absence of an agreement.

Washington Termination of support at 18; court may order post-secondary support Wash. Rev. Code § 26.19.090 provides that the court may, in its discretion and according to enumerated factors, award college support.

West Virginia Termination of support at 18, or up to 20 if enrolled in secondary school W. Va. Code 48A-1B-1 allows the court to award college support.

Wisconsin Termination of support at 18, or if still in school, at graduation from high school or age 19, whichever is sooner No statute or case law holding parents to a duty to college support in the absence of an agreement.

Wyoming Termination of support at 18 or to 20 for secondary education No statute or case law holding parents to a duty to college support in the absence of an agreement.

RECOMMENDED SITE:

The Download Library
Specializes in Offering

~BOOKS

~MANUALS

~State "Self-File"

LEGAL FORMS

on all

Custody and Divorce Issues

"Every item is 100% GUARANTEED!"

www.custodylibrary.com