

## MAJOR CHANGES TO NEW JERSEY CHILD SUPPORT LAWS

### NEW JERSEY ENACTS TERMINATION OF CHILD SUPPORT LAW

The State of New Jersey enacted a change to the existing child support laws, N.J.S.A. 2A:17-56-67 et. seq., to terminate child support automatically on the

**UNLESS SPECIFIC EXCEPTIONS ARE SOUGHT BY THE CUSTODIAL PARENT AND GRANTED BY THE COURT, CHILD SUPPORT WILL TERMINATE WHEN THE CHILD REACHES 19 YEARS OF AGE. EXTENSIONS OF CHILD SUPPORT BY COURT ORDER CANNOT EXCEED THE CHILD'S 23<sup>RD</sup> BIRTHDAY.**

child's 19<sup>th</sup> birthday unless the custodial parent notifies the Probation Department that he or she is seeking to extend support for no longer than the child's 23<sup>rd</sup> birthday. The Act becomes effective on February 1, 2017. The custodial parent has limited bases on which to rely for an extension. Some examples for an extension include the child attending college on a full-time basis, the child still attending high school, or the child having been diagnosed or determined by the government to suffer from a physical or mental disability.

If support is being paid through the Probation Department, each parent will receive a Notice of Termination of Support 180 days before the child's birthday. If the parents do not respond to the notice, then another notice will be sent 90 days before the child's birthday. If no one responds, the child support will automatically be terminated. There is a very limited

window in which the parent can file the extension request (Request for Continuation of Support) since it has to be received by the Probation Department no less than 45 days prior to the child's birthday- the termination date. Any additional, supporting documents that are needed to accompany the request need to be filed prior to the child's birthday.

If the custodial parent seeks an extension, then the court will make a determination as to whether the facts meet the criteria. The parent must specify a date for termination and not merely indicate that the child is still in school.

Once the child reaches age 23, the Court cannot enter any Order to extend any obligation designated as "child support". However, if arrearages exist, the support will continue to be collected until the arrearages are paid in full.

If the custodial parent believes that the child is unable to financially maintain himself or herself after age 23, that parent needs to seek relief from the court for other forms of "financial maintenance" such as ongoing rent, medical insurance or payments that are not designated as "child support". The statute is not very clear on what those expenses can include.

It is important to recognize that if an existing child support order is for "unallocated" support, and one child reaches the termination age, the support is not modified for the other children unless the non-custodial parent seeks court relief to recalculate child

support based on fewer dependent children. If the existing support order is “allocated” (a specific amount to be set for each child), then the Probation Department will begin to charge the account only for the remaining allocated amounts. The statute does not specifically address how arrearages will be calculated but it seems logical that in this situation, any arrearages for allocated support will, also, be allocated and reduced, accordingly.

It, also, appears that if support is not being paid through the Probation Department, the parties are free to make any arrangements for support after the children reach age 23, but such arrangements will not be enforceable through the court system if they are designated as child support even if they have been reduced to an Order before the new law goes into effect.

Even though under the Affordable Care Act, children can remain on their parents’ medical insurance until age 26, it appears that the New Jersey Courts cannot enter Orders for any form of support including medical insurance that extend past the child’s 23<sup>rd</sup> birthday if the obligation is designated as a form of “child support”. Therefore, such an extension would have to be done by agreement of the parents and without any means of enforcing that agreement unless the insurance coverage obligation is designated as some other form of extended financial aid for the child. Apparently, the Probation Department will be notifying the employer of the party who carries insurance that there is no longer any requirement under New Jersey law for a supporting parent to provide health insurance once the child reaches the termination age; however, since the Federal law allows the children to remain on the parent’s policy until age 26, there will, obviously, be a need for the party covering the child under an employer provided policy to address the conflict between the New Jersey law and Federal law with the employer. It seems logical that given the ability of the parent to continue to cover a child until age 26 under Federal law, the employer will not terminate such coverage if the parent wants it to continue. That issue is one that the parties,

themselves, will need to address and, hopefully, agree as to the contributions of each party to continue coverage for the child. If there is no agreement, either the party who carries the coverage and wants it to continue, will bear full financial responsibility or the party who carries the coverage and decides not to continue to bear any responsibility at all for the cost will be entitled to terminate the child’s coverage.

If the child is already between ages 19 and 23 on the effective date of the Statute, then the parents will receive notices that termination will occur on August 1, 2017, and not on the child’s 19<sup>th</sup> birthday. The parents still have the ability to seek an extension if the child is less than 23 year old.

Keep in mind that automatic termination of child support does NOT automatically emancipate the child. Either parent can seek to emancipate the children at any time based on the existing laws regarding emancipation. A Notice of Motion for emancipation should, still, include a provision seeking termination of child support for that child and, if there are other children who are not yet emancipated, requesting modification of any existing unallocated child support order to adjust the obligation for fewer children’s needs.

Even if children are still under age 19, parents should be aware of the new law so that no one misses the deadlines either to seek to extend support or modify support for the remaining children when the first notice is received.

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