

Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP
Answers to pressing questions on Family Law.

Once she's 18 years old, recalculate child support

Question: I pay child support for my 17-year-old who lives with her mother. She turns 18 during the school year, I pay the table amount for child support. Next academic year she will be attending Queen's University and commuting back to Toronto on the odd weekend, school breaks and I will only live with her during the summer vacation. She will likely have a summer job as a camp counselor, like last year. Am I to pay the same amount of child support? My wife earns the same amount of income as I do, about \$70,000 yearly. As it is we will be splitting the costs of the child's post-secondary education, including tuition fees, residence, books, etc

Answer: Under the Child Support Guidelines, you no longer automatically pay the amount stipulated for child support tied to your gross yearly income once the child turns 18. That amount is just one factor to consider. In your situation, the court will consider that you both are already paying *your* proportionate share of the child's living costs and educational costs at Queen's University and that she is certainly not living at home "full-time" any longer. However, from my reading of the Court's decisions on facts such as yours, the judges have ruled that the child's mother still has substantial costs in keeping a "home base" for your child when she comes home; i.e. that extra bedroom and facilities, especially for those special weekends, school breaks and summer holidays. The Ontario Court of Appeal has also recently ruled that the child herself has to contribute something towards her schooling either from her own assets (if inherited), savings or summer earnings to relieve the burden on the parents. The end result is that, depending on the size of the income of the payer, the court may or may not modify the basic amount of child support (called the "table amount") that he must pay based upon his or her gross yearly income. In your particular case, I suspect there may be some reduction from the table amount given that both of you earn the same amount of income. However, if you were earning \$150,000 yearly I would be less certain a judge would make any modification. The difficult questions begin to arise when the adult child begins bouncing back and forth between the two parental homes, begins working "co-op", starts taking "half-time" courses, moves in "part-time" with her boyfriend, stops communicating with Dad, or drops out because of illness. There are no easy answers.

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