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LAW FIRM

Can I stop paying child support when my child turns 18?

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The short answer to the above question is “maybe.” The longer answer to the above question is discussed further below.

The relevant legislation stipulates that child support is to be paid for any child that qualifies as a “child of the marriage” (whether their parents were married to each other or not). A child is a child of the marriage if they are under the age of majority or if they are over the age of majority but “unable to withdraw from the charge of their parents or obtain the necessities of life.” The age of majority in most provinces, including Manitoba, is 18 years old, so I refer to the age of majority as 18 in this article.

When a child turns 18 the question of whether child support remains payable depends on their individual circumstances. To answer the question of whether a child is still a child of the marriage for whom child support should be paid requires an analysis of the child’s specific circumstances.

The legislation outlines three main reasons why a child that is of the age of majority may be unable to withdraw from their parent’s charge or obtain the necessities of life. Those reasons are: (1) illness, (2) disability, or (3) other cause.

The question “Can I stop paying child support when my child turns 18?” most frequently arises when a child aged 18+ is attending post-secondary school. If a child over the age of majority is attending post-secondary school, they may still be considered a child of the marriage entitled to be supported, but a number of factors have to be considered to determine if this is the case. These factors include but are not limited to whether the child is in school full-time or part-time, whether their education plan is reasonable, whether they are taking their first degree or a subsequent degree, their age, and whether the child has sufficient resources to cover their costs without parental assistance.

Many children in post-secondary school are still considered children of the marriage and therefore entitled to receive support from their parents, but each child’s case has to be analyzed individually to determine if this is the case and if so, how much support is appropriate.

The issue may also arise when a child turns 18 but is still completing high school. If a child is “on track” to complete high school in the “standard” four years but turns 18 in their grade 12 year, child support should continue to be paid until they complete high school (and potentially after that, depending on their post-high school plans). If a child is taking some extra time to complete high school over and above the standard four years and they are 18+, the child’s case should be analyzed, considering factors such as those mentioned in the above paragraph, to determine whether child support is still payable.

The question also arises when a child is 18+ but continues to live at home with one of their parents, who claims that the child is unable to live on their own or provide for themselves due to illness or disability. These claims also require the child’s case to be analyzed to determine (1) if their illness or disability truly does prevent them from being self-sufficient, and (2) what amount of support should be paid, having regard for other resources available to the adult child, such as government assistance or benefits.

If you have questions about whether you are entitled to continue to receive child support after your child turns 18, or whether you are required to continue paying child support after your child turns 18, you should arrange a consultation with legal counsel for advice specific to your and your child’s situation.

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