

## Determining child support for adult children



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Parents joke about their kids finally turning 18, flying the coop and becoming self-supporting, but does child support end

at the age of majority? Not necessarily.

Court-ordered child support typically terminates when the child turns 18, but may be extended through the age 19 if the child is still enrolled in high school per written agreement.

Child support also may be extended if an adult child is unable to be self-supporting due to mental or physical infirmity or if the child does not have means of subsistence. In this case, a parent may be obligated to provide financial support for the child indefinitely, as long as the parent has sufficient means to provide support.

In fact, a parent who earns or is able to earn sufficient means to support the child, is required to provide the adult child with food, shelter, care and clothing. Neglecting or refusing to do so subjects the parent to being charged with a misdemeanor and fines not exceeding \$1,000 or imprisonment for up to one year, or both.

Child support for adult children should be considered the exception though, not the norm. And not every adult child who can't make ends meet is entitled to support. Maryland law defines an adult destitute child as an adult who is destitute and cannot

be self-supporting due to physical or mental infirmity.

In determining whether an individual qualifies as a destitute adult child, the court looks to whether the child has any means of subsistence, and ability or lack thereof, to be self-supporting due to mental or physical infirmity.

Means of subsistence refers to funds or benefits that are currently available to the adult child to pay for everyday expenses needed for reasonable living. Future resources, such as a trust fund that has not yet vested or a child's future ability to obtain employment, are not considered in determining whether a child is destitute.

This does not mean that an adult child with a job is prevented from collecting child support. If the adult child maintains some form of employment but their income does not meet the costs of reasonable living expenses, such as medical expenses, then the child may still qualify as an adult destitute child and receive support.

Circumstances where the courts have found an adult child to be a destitute adult child and entitled to child support include and range from where the adult child has a serious mental infirmity to a mild mental disability that causes him or her to be temporarily or permanently partially dependent on parents.

In *Stern v. Stern*, the Court of Special Appeals found that an adult child was not emancipated and was entitled to support while the child maintained limited employment, lived out of state to audit college courses, drove his own car, received public benefits, but also suffered from cystic

fibrosis, received ongoing medical treatment (costing approximately \$150,000 a year) and relied on his parents for the majority of support.

After examining the child's reasonable living expenses and ability to provide for themselves, the court will consider whether the parent's income is sufficient (or the parent is able to earn the means sufficient) to provide necessary shelter, food, care and clothing. If the parent's income is sufficient, then the court will likely find that the adult child may be entitled to support.

The Court of Special Appeals has held that the trial court may refer to the statutory child support guidelines that it applies towards minor and nondestitute children as a starting point for extrapolating child support, along with considering the adult child's special and financial circumstances.

In its final review of calculating child support, the courts will consider the adult child's medical, educational and general living expenses, the child's resources and ability to provide for themselves, including any public benefits that he or she receives. The court also will consider the parent's income.

Importantly, a destitute adult child's receipt of support may limit or even extinguish his or her right to collect assistance or benefits. Prior to filing for support, the adult destitute child or person acting on his or her behalf, should carefully consider whether such an action would negatively impact the adult child's overall financial health and ability to receive benefits.

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