

# Establishing Parental Support Obligations Using Arizona's Child Support Guidelines

## Part 2

*By Scott David Stewart*

(Continued from *Part 1*.)

As discussed in **Part 1**, child support payments are based on our Arizona Child Support Guidelines. Under those guidelines, support payments are calculated to meet the reasonable needs of the child for health, education, and maintenance.

### ***What is the duration of child support?***

The judge will set a termination date in the child support order. Child support is presumed to terminate on the last day of the month of the youngest child's 18<sup>th</sup> birthday, that is, the youngest child covered by the support order. If the youngest child won't graduate from high school before his or her 18<sup>th</sup> birthday, then support ends the month of anticipated graduation or on the child's 19<sup>th</sup> birthday, whichever is first to occur.

### ***Can the parents agree to an amount of child support in their separation agreement?***

Parents may include child support provisions in their separation agreement which exceed the legal presumptions under the guidelines. They may agree to continue child support for a longer period, or may agree to increase the amount of support per month. For example, the parents may include additional support payments sufficient to provide for private school, college, travel, or summer camp.

### ***When the parents share custody equally, is child support eliminated?***

Because both parents share the responsibility of child support, there will typically be a payment from one to the other. The exception to that would be if, over a sustained period, both parents earned identical incomes and spent identical hours with their child. Although that is a possibility, it is not very likely to occur.

### ***Can child support be ordered for disabled adult-child?***

There is an important circumstance when the court may order child support to continue beyond that child's age of majority and into adulthood. For the court to order such support, the adult-child must have a significant mental or physical disability that prevents him or her from living independently. The controlling Arizona statutory provision is found in A.R.S. § 25-320(E):

*E. Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if all of the following are true:*

- 1. The court has considered the factors prescribed in subsection D of this section. [Court has applied the Arizona Child Support Guidelines.]*
- 2. The child is severely mentally or physically disabled as demonstrated by the fact that the child is unable to live independently and be self-supporting.*
- 3. The child's disability began before the child reached the age of majority.*

...

For this provision to apply in any given case, the adult-child must have manifested the disability during minority. The court may order support to be paid to the adult-child or to the parent who provides for the care. The parent seeking support need not be the adult-child's legal guardian or legal custodian before the court can order such support. In the event the adult-child has no guardian or custodian, he or she should be joined as an indispensable party to the support proceedings.

At the end of the day, support is about caring for the child's basic needs. Any personal differences between the parents should not affect the financial support that a child is entitled to. For some parents, support ends when the child reaches the age of majority. For other parents, it may not end until the child has graduated from college. And for some parents, the support may continue into their disabled child's adulthood.

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