



Family Law Update

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A New Era In Post Educational Support

On October 10, 1995, the Pennsylvania Supreme Court ruled that the current post-high school educational support statute is unconstitutional, putting to rest the controversy which had been stirring over the issue for more than 60 years.

duties included not just providing for physical needs, but also “such instruction and education as may be necessary to fit the child reasonably to support itself and to be an element of strength rather than weakness in the social fabric of the state.” The obligation was expanded in Ulmer v. Somerville, 200 Pa. super 640, 190 A. 2d 182 (1963) such that each child was entitled to a post-secondary education. Since Somerville the courts have routinely imposed an educational support obligation on parents.

The Recent History

Then on November 13, 1992, the Supreme Court of Pennsylvania erased this long history of post-educational support in Blue v. Blue, 532 Pa. 521, 616 A.2d 628 (1992). The Blue decision held that a parent’s obligation for support ended when the child reached 18 or graduated from high school, whichever came last. The Court reasoned that neither the Pennsylvania Legislature, nor Pennsylvania courts, had explicitly imposed a legal duty to provide college educational support for a child no longer considered a minor. This decision evoked an almost immediate response from the General Assembly, which passed Act 62 of 1993. That Act authorized the courts to order parents who were separated, divorced, unmarried or otherwise subject to a child support obligation to provide post-high school educational support.

As you may know, Pennsylvania courts have had a long history of imposing support obligations on the parents of post-high school students while they pursue their studies. This obligation first appeared in Commonwealth v. Gilmore, 97 Pa. Super. 303 (1929), when the Superior Court announced that parental

Strassburger
McKenna
Gutnick
&
Potter

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
322 BOULEVARD OF THE ALLIES
SUITE 700
PITTSBURGH, PA 15222
(412) 281-5423
(412) 281-8264 FAX

At this stage, Curtis v. Kline has left us with many unanswered questions.

Proponents of college educational support breathed a sigh of relief, while opponents vowed to keep on fighting.

A New Decision for Pennsylvania's Parents

The recent decision of the Pennsylvania Supreme Court in Curtis v. Kline, No. 6 E.D. Appeal Docket 1994, struck down Act 62 of 1993, finding that it violated the equal protection clause of the Fourteenth Amendment. This case originated in Chester County, where Philip Kline was ordered to pay support to Bonita Curtis for their children, two of whom were college students.

Based on the Blue decision, Kline petitioned to terminate the order. When Act 62 of 1993 was enacted, Kline amended his petition to include a constitutional challenge to the Act. He was ultimately successful, and as a result, Pennsylvania law now extends the obligation of support only as far as the end of high school.

The Court reasoned that since there is no general law requiring all parents to provide their children with a college education, there is no basis upon which the Court could obligate only certain parents do so. The Court cited as an example the situation of a father

who has two children, the first in the custody of his former spouse and the second living with him and his current spouse. The Court could impose an educational support obligation on the father for the first child but not the second. The Court also cited as an example the situation of a child whose father had died. She would be unable to bring an action against her mother for educational support, but a child whose mother had divorced, or who hadn't married, would be able to bring such an action against her mother.

Now What?

At this stage, Curtis v. Kline has left us with many unanswered questions. For instance, there are many current orders for educational support. There are likewise provisions in many settlement agreements providing for college educational support. The status of these obligations must be addressed, and will no doubt be the subject of future law suits and decisions.

I hope this information proves useful to you. Should you have any questions about the status of college educational support in Pennsylvania, or other family law issues, please call.

The information contained in Family Law Update is not meant to provide opinions or advice on specific legal matters. If you would like to consult with me on a specific issue, please call.

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