

Should a Financially Dependent Child Who Rejects One Parent Still Be Emancipated?

By Marie E. Lihotz and Olivia E. Mendler

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A parent's financial obligation for children over the age of majority continues to confound. Eighteen-year-olds have a mind of their own, yet many remain financially dependent. Should a court grant a request for emancipation when a headstrong adult child rejects a payor-parent's influence, but remains dependent on the other parent?

"The parental obligation to support children until they are emancipated is fundamental to a sound society." See *Kiken v. Kiken*, 149 N.J. 441, 446 (1997); see N.J.S.A. 9:17-53(c) (imposing an obligation to provide child support to those against whom parentage is established). Our Legislature sets adulthood at age 18, N.J.S.A. 9:17B-1, and presumes termination of child support by operation of law when a child reaches age 19. See N.J.S.A. 2A:17-56.67. However, these presumptions are rebuttable. Facts, such as the child has yet to complete high school, or continues education in a full-time post-secondary school program, or suffers from a physical or mental disability impeding independence, defeat requests for emancipation. Thus, despite a child's legal age and regardless of whether the child lives with one, both, or neither parent, the fundamental financial responsibility between parent and child continues



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Marie E. Lihotz, left, and Olivia Mendler, right, of Archer & Greiner.

until emancipation. See *Burns v. Edwards*, 367 N.J. Super. 29, 39 (App. Div. 2004).

On the other hand, "The reported decisions in this jurisdiction hold that the emancipation of a child occurs when the fundamental dependent relationship between parent and child is terminated. When a child moves beyond the sphere of influence and responsibility exercised by a parent and obtains an independent status on his or her own, generally he or she will be deemed emancipated." See *Bishop v. Bishop*, 287 N.J. Super. 593, 598 (Ch. Div. 1995)). Examples of emancipation events include college graduation, entering the military, marriage or death.

Absent these bright-line events, satisfying the standards for emancipation becomes fact intensive, especially when parents are no longer together and a child's relationship with one parent becomes strained. See *Dolce v. Dolce*, 383 N.J. Super. 11, 18 (App. Div. 2006) (stating a court's emancipation "... determination involves a critical evaluation of the prevailing circumstances including the child's need, interests, and independent resources, the family's reasonable expectations, and the parties' financial ability, among other things").

What happens when the payor-parent has no relationship with an adult child, and the child's conduct rejects that parent's "sphere of influence"? New Jersey courts hesitate to order emancipation of a dependent adult child, when the payor-parent willfully chooses not to have a relationship with the child. See *Black v. Black*, 436 N.J. Super. 130, 142 (Ch. Div. 2013) as it relates to college contributions. However, can the payor-parent seek to emancipate a financially dependent child, whose direct actions reject the payor-parent's relationship and influence? The short answer: it depends on a critical review of all facts and circumstances surrounding the child.

The analysis is akin to challenges to parental college contributions. See *Moss v. Nedas*, 289 N.J. Super. 352, 359 (App. Div. 1996). In *Newburgh v. Arrigo*, 88 N.J. 529, 543 (1982), the court listed factors to consider when ordering a parent to contribute to college costs, which included: "(11) the child's relationship to the paying parent, including mutual affection and shared goals as well as responsiveness to parental advice and guidance." Invoking the "broad equitable powers of the Family Part to accomplish substantial justice," *Weitzman v. Weitzman*, 228 N.J. Super. 346, 358 (App. Div. 1988), certif. denied, 114 N.J. 505 (1989), a court may find it inappropriate to compel or terminate payment of college costs, even in the absence of a

"meaningful" parent-child relationship. See *Nedas*, 289 N.J. Super. at 359-60; see also *Gac v. Gac*, 186 N.J. 535, 540 (2006) (analyzing *Nedas*' holding). The determination requires a careful evaluation and weighing of specific facts and circumstances related to the parent-child estrangement, its cause, and attempts at amelioration, along with the other *Newburgh* factors.

Can these same equitable powers equally apply when a parent seeks emancipation of their adult child, whose conduct makes enforcement of continued support inequitable? The issue was recently analyzed in *D.T.H. v. M.L.L.*, No. A-1101-21 (App. Div. Sept. 5, 2023), certif. denied 258 N.J. 149 (2024). *D.T.H. v. M.L.L.* reviewed the trial court's ordered emancipation of adult-college students, who repeatedly rejected all efforts to engage in any relationship with the plaintiff payor-parent.

Although the case has an extensive, protracted procedural history, the Appellate Division credited the following undisputed trial court findings to support emancipation of the two full-time college students: the children chose to have no relationship with the plaintiff; for years each child refused all contact and rebuffed contact and communication with the plaintiff; neither shared college enrollment or attendance information or other life events with the plaintiff; upon turning 18, both changed their surname from the plaintiff's to the defendant's surname; each refused to participate in a single session of ordered reunification therapy; and, despite opportunities, each child made their own decision to reject all semblance of a relationship with or a desire to seek guidance from plaintiff. The trial judge additionally found the defendant "intentionally inhibited" the children's relationship with plaintiff. After the trial judge weighed all facts, the court rejected the defendant's argument that the children, as full-time college students, remained dependent upon her, obviating plaintiff's suggestion they should be emancipated.

On appeal, following a detailed review, the appellate court affirmed, concluding the trial court's emancipation orders were "amply supported by substantial credible evidence in the record," relieving plaintiff of all financial obligations.

To seek court review of an emancipation request, a movant must establish a prima facie basis for emancipation. Generally, the statutory presumption of adulthood attaches to a child over eighteen, as set forth in N.J.S.A. 9:17B-3. The burden then shifts to the parent opposing emancipation to present evidence the child is not emancipated. *D.T.H. v. M.L.L.* reflects that in certain circumstances the child's financial dependence alone may be insufficient to defeat emancipation. Rather, *D.T.H. v. M.L.L.* emphasized the children's rejection of plaintiff's "sphere of influence." When children, such as the two in *D.T.H. v. M.L.L.*, make it clear they want no relationship with a parent and their conduct fully demonstrates a desire to enforce their own decisions of rejection of their parent, the conduct allows the court to conclude the child has moved "well beyond the sphere of influence" exercised by their parent.

The Appellate Division's affirmance of the trial court's emancipation order noted defendant and the children had ample opportunity to present evidence reflecting the children made some effort to have a relationship with the plaintiff. Instead, the overwhelming proof was to the contrary. Once movant's proofs are considered the burden to rebut the statutory presumption of emancipation and the accompanying evidence shifts to the other parent and, also to the adult child who seeks to continue the support obligation. See *Llewelyn v. Shewchuk*, 440 N.J. Super. 207, 216 (App. Div. 2015). The child's view,

presented by offered proofs grants an opportunity to establish the basis of estrangement and the child's attempts at mutual affection and parent-child interaction.

Therefore, when a child withdraws from parental supervision, abandoning appreciation for the fundamental relationship between parent and child, they exercise control and demonstrate independence, lending proof of emancipation. Factors identified in *D.T.H. v. M.L.L.*, include: the child's negative reaction to the estranged parent's efforts; the refusal to attend reunification therapy; purposeful exclusion of the parent from impactful life decisions (i.e., college); initiating and changing their surname; and refusing to alter any conduct. Also important is the fact that the estranged payor parent continued for years to restore the parent-child relationship. Further, no event was identified to suggest the payor parent had committed acts to cause the estrangement. See *Gac*, 351 N.J. Super. at 65 (noting "a judge could reasonably find from the evidence that defendant's abusive conduct during the marriage so traumatized the children as to render nugatory any real possibility of a rapprochement"). This is not an exhaustive list but facts that illustrate the breadth of the factual consideration undertaken by a reviewing court.

This nuanced area of the law will likely continue to evolve.

Marie E. Lihotz, a former presiding judge of New Jersey's Appellate Division, is of counsel to Archer & Greiner, concentrating in the arbitration and mediation of business, contract, employment, probate and family disputes. **Olivia E. Mendler** is an associate in the firm's family practice group, who handles a wide variety of family litigation matters ranging from domestic violence, custody and divorce matters.