



## Child Support for Adults by Scott Abel

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The Child Support Guidelines were meant to provide consistency and predictability in determining the amount of child support to be paid. The payor's income was determined, and depending on the number of children, the amount of child support was predetermined.

One area where there is not this consistency and predictability is payment of child support for children over the age of 18 years.

It may sound counter intuitive to pay child support for an adult – a child over the age of 18 years is no longer a child. However, if that adult child is unable to withdraw from the charge of their parents, then they are still considered children for the purposes of child support. This is generally when a child is disabled, or still in school after they turn 18.

However, the Guideline amount of support may not apply, depending on the circumstances of the child.

The Court starts with a presumption that the Guideline

amount is appropriate, and then looks to circumstances to suggest why the amount would be inappropriate. The more “traditional” the circumstances, the more likely the table amount will be appropriate, although the child may still have an obligation to contribute something towards their own expenses.

For example, if the child is 18 years of age, living at home, going to university full time, and working some part-time hours, the table amount of support is more likely to be considered appropriate.

However, if the child is going to university, has a partial scholarship and is residing on campus, in another city, then the table amount of support may no longer be appropriate.

If the table amount of support is inappropriate, the Judges normally use of two options to determine how much child support ought to be paid.

In the first approach, the court could look at the table amount, plus the expenses relating to

post secondary education, less the child's contribution, to determine an amount of support.

This approach uses the table amount as a starting point, and reduces that amount based on the child's own ability to contribute towards their support. The specific expenses relating to tuition and books are also considered.

In the second approach, the table amount is ignored altogether, and the total expenses of the child are considered, which would include rent, food, and the expenses of schooling. Again, the child has an obligation to contribute towards their own expenses.

The second approach simply looks at the expenses of the child to make sure their needs are met, regardless of what the table amount of support would indicate as a starting point.

Whatever approach the Judge utilizes, it is apparent that the predictability and consistency of the Guidelines become less obvious. The Judge has a

discretion to consider and determine the amount of support to be paid, for an adult child. Unfortunately, less predictability usually means more cases going to a contested hearing.