

ASSEMBLY, No. 2538

STATE OF NEW JERSEY

INTRODUCED DECEMBER 5, 1996

By Assemblyman STUHLTRAGER

1 AN ACT concerning post-secondary education expenses and
2 supplementing chapter 34 of Title 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. a. In any case where a custodial parent requests payment from
8 the non-custodial parent of post high-school education expenses on
9 behalf of the parties' child, there shall be a rebuttable presumption that
10 the non-custodial parent shall contribute towards the costs of such
11 education. In determining the amount of such contribution, the court
12 shall consider and make specific findings on the evidence about each
13 of the following factors:

14 (1) Whether the parent, if still living with the child, would have
15 contributed towards the cost of the post high-school education;

16 (2) The effect of the parent's background, values and goals on the
17 reasonableness of the child's expectation for post high-school
18 education;

19 (3) The amount of the contribution sought by the child for the cost
20 of post high-school education;

21 (4) The ability of the parent to pay that cost;

22 (5) The relationship of the requested contribution to the kind of
23 school or course of study sought by the child;

24 (6) The financial resources of both parents;

25 (7) The commitment to and aptitude of the child for the requested
26 education;

27 (8) The financial resources of the child, including assets owned
28 individually or held in custodianship or trust;

29 (9) The ability of the child to earn income during the school year or
30 on vacation;

31 (10) The availability of financial aid in the form of college grants
32 and loans;

33 (11) The child's relationship to the paying parent, including mutual
34 affection and shared goals as well as responsiveness to parental advice
35 and guidance; and

36 (12) The relationship of the education requested to any prior
37 training and to the overall long-range goals of the child.

1 b. The maximum amount that the court may order to be paid by the
2 non-custodial parent shall not exceed the annual cost of a course of
3 undergraduate study at any New Jersey public institution of higher
4 education.

5 c. In no case shall the court order the payment of any costs
6 incurred by the child for post high-school education beyond the
7 undergraduate level.

8
9 2. A parent's contribution towards a child's post high-school
10 education expenses shall constitute a substantial change of
11 circumstances. In any such case, the court shall evaluate any existing
12 support order in effect on behalf of the child, and may modify such
13 order in accordance with the factors set forth in subsection a. of
14 N.J.S.2A:34-23. and section 1 of P.L. , c. (C.) (now pending
15 before the Legislature as this bill).

16

17 3. The child's acceptance of a parent's contribution towards post
18 high-school education expenses constitutes the child's implied consent
19 to supply the parent with copies of all course grades and transcripts
20 within a reasonable time after the child receives them.

21

22 4. Except in a case where a child is financially dependent on a
23 parent because of a mental or physical disability, the obligation to pay
24 support for a child over the age of 18 terminates upon the occurrence
25 of any of the following events:

26 a. The child is emancipated pursuant to law, including but not
27 limited to emancipation by induction into military service and
28 emancipation by marriage, or is emancipated by court order; or

29 b. The child does not consult with the non-custodial parent in the
30 process of deciding whether to seek post-secondary education, the
31 type of post-secondary education, the institution or program to be
32 applied to and the costs of the education; or

33 c. The child fails to provide the non-custodial parent with copies
34 of transcripts within a reasonable time after the child receives them; or

35 d. The child completes the degree, program or course of study for
36 which contribution from the non-custodial parent was originally
37 sought, or completes another degree, program or course of study to
38 which the child transferred upon the agreement of the non-custodial
39 parent.

40

41 5. A parent's obligation to contribute towards a child's post-high
42 school education expenses terminates if the child is not enrolled in a
43 post-high school program or course of study by the child's 21st
44 birthday, unless extraordinary circumstances justify a further delay in
45 the child's enrollment.

1 6. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would clarify the factors used by the family court in
7 determining whether, and to what extent, a non-custodial parent
8 should contribute towards a child's post-high school education
9 expenses.

10 The bill establishes a rebuttable presumption that a non-custodial
11 parent should contribute towards these expenses. In making the
12 determination of the amount to be contributed, the court would be
13 required to consider such factors as whether that parent, if still living
14 with the child, would have contributed towards the cost of the post
15 high-school education; the amount of the funds sought by the child and
16 the parent's ability to pay that cost; both parents' financial resources,
17 as well as the child's financial resources; and the child's relationship to
18 the paying parent, including mutual affection and shared goals as well
19 as responsiveness to parental advice and guidance.

20 These factors were originally set out by the New Jersey Supreme
21 Court in Newburgh v. Arrigo, 88 N.J. 29 (1982), which held that, in
22 general, financially capable parents should contribute to the higher
23 education costs of children who are qualified students.

24 While not contravening the Newburgh decision, this bill would
25 establish certain limits on the scope of the non-custodial parent's
26 contributions. For example, the bill would require that the maximum
27 amount that the court may order to be paid by the non-custodial parent
28 not exceed the annual cost of a course of undergraduate study at any
29 New Jersey public institution of higher education and that payment of
30 costs of education beyond the college undergraduate level could not
31 be ordered.

32 In addition, the bill would provide that, except in a case where a
33 child is financially dependent on a parent because of a mental or
34 physical disability, the obligation to pay support for a child over the
35 age of 18 terminates if the child does not consult with the non-
36 custodial parent in the process of deciding whether to seek post-
37 secondary education, the type of post-secondary education, the
38 institution or program to be applied to and the costs of the education;
39 or if the child fails to provide the non-custodial parent with copies of
40 transcripts within a reasonable time after the child receives them. In
41 addition, the bill provides that the obligation to pay post-high school
42 education expenses would terminate when the child is emancipated
43 pursuant to law, including but not limited to emancipation by induction
44 into military service and emancipation by marriage, or is emancipated
45 by court order; or the child completes the degree, program or course
46 of study for which contribution from the non-custodial parent was

1 originally sought, or completes another degree, program or course of
2 study to which the child transferred with the agreement of the non-
3 custodial parent.

4 The bill does not require a child who graduates high school to
5 immediately begin a course of study, but gives the child until his 21st
6 birthday to enroll in a post-high school program or course of study.
7 If the child has not enrolled by that time, the parent's obligation to
8 contribute towards those expenses terminates, unless the child can
9 show extraordinary circumstances which would justify a further delay
10 in his child's enrollment.

11 Finally, the bill specifies that a parent's contribution towards a
12 child's post high-school education expenses would constitute a
13 substantial change of circumstances, requiring the court to review and
14 possibly modify any existing support order concerning that child.

15

16

17

18

19 Clarifies the factors used by the family court in determining whether,
20 and to what extent, a non-custodial parent should contribute towards
21 a child's post-high school education expense.