

## **Current Law on Contributions to Higher Education Expenses**

If a couple gets divorced when the child(ren) are young, their Judgment of Dissolution of Marriage may not contain precise language regarding payment of higher education expenses, partially because it is difficult to predict what their financial circumstances will be that far into the future. Debates over how much each spouse is obliged to contribute towards post-majority expenses often arise when the child(ren) are ready to attend college. The following is a common set of circumstances for divorcing or divorced parents, as well as never-married parents:

- Husband and Wife got divorced years ago, when their child was young
- Mother's income is current less than \$20,000 a year while Father earns a substantial income in excess of \$50,000 per year
- Child has been accepted to a university
- Who must contribute to college expenses?

Section § 513 of the Illinois Marriage and Dissolution of Marriage Act is entitled: "Support for non-minor children and educational expenses." (750 ILCS 5/513). The trial court has the discretion to require one or both divorcing/divorced parents to provide for their children's higher education expenses even after they have become emancipated for child support purposes. *See In re Support of Pearson*, 111 Ill. 2d 545, 551, 490 N.E.2d 1274, 1277 (1986). The court will consider all relevant factors in determining an award for college expenses payment such as: (1) the financial resources of both parents; (2) the standard of living the child would have enjoyed had the marriage not been dissolved; (3) the financial resources of the child; and (4) the child's academic performance. 750 ILCS 5/513(a)-(b).

According to the relevant statute, either spouse can petition for contribution to college expenses before or after the child has reached the age of majority, regardless of whether the parents' divorce judgment contained a provision on education expenses. Common disputes involve the determination of parental responsibility toward college expenses when there exists a significant disparity of income level between the parties. *See, e.g., In re Marriage of Kuhn*, 221 Ill. App. 3d 1, 581 N.E.2d 380 (2d Dist. 1991); *In re Marriage of Bennett*, 306 Ill. App. 3d 246, 713 N.E.2d 1278 (2d Dist. 1999). While the court oftentimes requires both parents to contribute, it typically orders the parent with the greater financial resources to pay a higher percentage of the expenses. *See In re Marriage of Olson*, 223 Ill. App. 3d 636, 166 Ill. Dec. 60, 585 N.E.2d 1082 (2d Dist. 1992)(Trial court appropriately ordered the father to pay 75% of the child's college expenses because he had superior abilities to generate financial resources.)

Lastly, the child of divorcing/divorced parents may also be required to contribute to his or her own education expenses only in cases where the child has assets or job earnings. *See In re Marriage of McGory*, 185 Ill. App. 3d 517, 541 N.E.2d 801 (3d Dist. 1989); *In re Marriage of Thomsen*, 371 Ill. App. 3d 236, 243, 247, 872 N.E.2d 1, 7 (2d Dist. 2007).