

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 839

Short Title: Child Support for Disabled Adult Children.

(Public)

Sponsors: Representative Setzer.

Referred to: Children, Youth and Families.

March 22, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CONTINUED CHILD SUPPORT OF DISABLED
CHILDREN BEYOND THE AGE OF MAJORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.4(c) reads as rewritten:

"(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.

The court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to subsection (c1) of this section. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered.

Payments ordered for the support of a child shall terminate when the child reaches the age of 18 except:

- (1) If the child is otherwise emancipated, payments shall terminate at that ~~time~~time.

1 (2) If the child is still in primary or secondary school when the child
2 reaches age 18, support payments shall continue until the child
3 graduates, otherwise ceases to attend school on a regular basis, fails to
4 make satisfactory academic progress towards graduation, or reaches
5 age 20, whichever comes first, unless the court in its discretion orders
6 that payments cease at age 18 or prior to high school graduation.

7 (3) If the child has a physical or mental disability that prevents the child
8 from earning an income sufficient to provide for his or her reasonable
9 living expenses, the court may extend support payments beyond the
10 child's eighteenth birthday.

11 In the case of graduation, or attaining age 20, payments shall terminate without order
12 by the court, subject to the right of the party receiving support to show, upon motion
13 and with notice to the opposing party, that the child has not graduated or attained the
14 age of 20.

15 If an arrearage for child support or fees due exists at the time that a child support
16 obligation terminates, payments shall continue in the same total amount that was due
17 under the terms of the previous court order or income withholding in effect at the time
18 of the support obligation. The total amount of these payments is to be applied to the
19 arrearage until all arrearages and fees are satisfied or until further order of the court."

20 **SECTION 2.** This act becomes effective October 1, 2005, and applies to
21 actions filed on or after that date.