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No Escaping Death, Taxes and New Mexico Child Support

Both the New Mexico family law statutes and the relevant case law impose a duty on all parents to provide financial support for their children. This issue most commonly arises when parents divorce or separate and one parent must pay the other monthly child support.

However, the issue can come up in other situations as well. For instance, child support often arises in the guardianship setting. Parents may be and often are required to pay a third party guardian or custodian child support if that person is caring for their child. This will most commonly arise in a situation when someone is appointed as a guardian for a child pursuant to the Kinship Guardianship statute. It can also arise when party other than a biological parent is granted custody by the state after the Department of Children Youth and Families determines that the parents are unable or unwilling to care for their child.

The monthly child support amount is calculated according to the New Mexico Child Support Guidelines. That support continues until the child is 18, until they are 19 if they are still in high school or until the child becomes emancipated by some other means, i.e. by getting married or joining the military. It is a simple mathematical calculation based purely on the income of the parties, health and dental premiums and child care. On some occasions, other factors may be considered.

Because child support is required by law and it is a fairly straightforward calculation, it is rare that a parent will get off the hook for child support. One exception was recently set forth by the New Mexico courts providing that parents no longer have to pay child support for a child who becomes emancipated before they turn 18, by either marriage, military service or by court order pursuant to the Emancipation of Minors Act.

Though child support is a simple mathematical computation, the calculation of support is often fraught with contention. After all, the end result is entirely dependent upon the numbers going into the equation. These numbers, such as the parties income, are often hotly contested and it generally advisable to have the assistance of an experienced child support attorney if determining the proper figures to plug into the formula.

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