



BLUE OVER BLUE

Image by Harish Sharma from

By David I. Grunfeld

Many states have within their child support statutes a provision requiring parents to contribute toward college expenses, to differing extents. Pennsylvania does not. Here's the story.

Since the 1920s, Pennsylvania courts, up to the Superior Court, had called for the duty of parents to pay educational expenses for their children—based upon past practice, ability to afford it, and other factors.

This was premised upon general language in the child support statute, albeit nothing specific as to post-secondary costs, and upon the common law, but was, over time, extended to college or vocational school beyond high school. Hence, practitioners took that duty into account in negotiating and litigating child support and post-nuptial agreements.

Then, out of the blue, so to speak, along came a man named Ronald Blue, who was sued by his son for contribution toward college expenses. After an order was entered against him in Lehigh County Family Court, he appealed to the Pennsylvania Superior Court, which upheld it. He then appealed to the Pennsylvania Supreme Court, which, in an opinion issued on November 13, 1992 that shocked family lawyers, held that there was no statutory parental duty of support for a child after the child reached age 18 or graduated high school, whichever came last.

Immediately, the Philadelphia and Pennsylvania Bar Associations started drafting a statutory amendment to

overturn the *Blue* case, and by July 1993, such a law was passed and signed by the governor, effectively reversing *Blue*. Then, in reaction to it, litigation exploded across the state as to what should be included in an order (tuition, room and board, books, etc.), and some courts issued guidelines as to closed cases, pending cases, actions for retroactivity, etc.

Along came Mr. Philip Kline, whose lawyer argued that the new statute, which required divorced, separated, or never married parents to be liable for college expenses, was an unconstitutional violation of equal protection, because parents in intact families were not liable for contribution.

The Pennsylvania Supreme Court agreed in a decision issued October 10, 1995, called *Curtis v. Kline*, so now, there was no duty in Pennsylvania for a parent to contribute toward college expenses for a child who had reached majority.

Back went the family lawyers to the legislature, but the Pennsylvania lawmakers were unwilling to make parents in intact families liable for college, thinking that it would result in children reaching majority and suing their non-separated parents for college expenses.

So here we are, almost 25 years later, in a state in which there is no longer any statutory requirement for parents in any relationship to pay for any college expenses. Such a duty is sometimes negotiated as a contractual obligation, and upheld by the courts if so done, but there is no leverage other than moral suasion and affordability to accomplish that.

An interesting bit of history and state of affairs. ■

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