

Family Law **ALERT**

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### New Guidance on Parents' Duty to Contribute Toward Child's Car Insurance

For the parent of primary residence, child support rarely feels like enough funds to make ends meet and because of this there is often a battle over what expenses are covered by the payments. The New Jersey Court Rules outline categories that are covered including housing, food, clothing, and transportation with descriptions and exceptions for each but it is impossible to define all potential expenses that may arise in a child's lifetime. When expenses are omitted from the Court Rules parents are left wondering and potentially litigating over whether a certain expense is included in child support or whether it requires an additional contribution. Thanks to a recent Chancery Division case there is now some guidance on the issue of car insurance when a teenager obtains his or her driver's license.

In the case of Fichter v. Fichter, the Chancery Division ruled that "a court may in its discretion find good cause to deviate from the guidelines and require each parent to contribute additional reasonable and affordable monies towards a newly licensed teenage driver's car insurance." The court found that the contribution would fall outside the regular child support payment. The ruling is a clarification of the transportation category in the New Jersey Court Rules which states that the purchase price and expenses associated with a new vehicle for a teenage driver were not included in the guidelines. This exception to the guidelines was criticized in the Fichter opinion for its bias against families who cannot afford to purchase a new vehicle but must still pay the increase in auto insurance. The court found that it would be unfair to require families who do not purchase a new car to attempt to cover the increased auto insurance on child support alone.

Although the Fichter decision will give courts some direction on how to allocate the cost of car insurance for new unemancipated drivers, it does not close the door on future litigation. Rather than provide a bright line rule the allocation is within the discretion of the court and can be ordered upon a showing of good cause. The good cause referenced in the Fichter decision may be broad enough to cover most families as it includes the "special nature and importance of car insurance and the need to adequately protect a child as a newly licensed driver." It will be interesting to see how judges and practitioners apply the Fichter decision to future

cases and negotiations.

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