



10 to continue child support while the child is attending teacher's college after his anticipated graduation in 2026.

### **What are the Issues?**

- 1) Has there been a material change in circumstances with respect to whether the child, Darian Ahmed Brihmi, remains dependent pursuant to the *Family Law Act* for the purpose of child support?
- 2) Has there been a material change in circumstances with respect to the father's income?
- 3) If so, what is the father's income for the purpose of support?
- 4) Is the mother entitled to a retroactive adjustment for 2022, 2023, and 2024?
- 5) Has there been a material change in circumstances to warrant a variation in the termination date of April 1, 2026?

### **Background**

[3] The parties are the parents of one child, Darian Ahmed Brihmi, born March 1, 2001. The parties' relationship ended in 2001. This is the fifth Motion to Change brought by the Respondent father. The last Motion to Change resulted in the Order of Henderson J. dated February 21, 2023, which was made on consent of the parties who signed Final Minutes of Settlement.

#### **1. Has there been a material change in circumstances with respect to whether the child, Darian Ahmed Brihmi, remains dependent pursuant to the *Family Law Act* for the purpose of child support?**

[4] The mother submitted documentation to verify that the child is still enrolled in King's college. The child is completing his fourth year of a Bachelor of Arts program. He is a full-time student.

[5] The father called the parties' child as a witness. The child testified that he works part-time at Red Lobster as a waiter and has for the past three years. He earns approximately \$11,000 per annum. He works between 8–10 hours per week. He attends school Monday to Friday. He anticipates graduating in April 2026, and plans on applying to teacher's college, or perhaps law school.

[6] The child receives OSAP funding. His monthly spending on miscellaneous items is estimated at about \$300–\$400 per month. His mother and his maternal grandmother give him money to cover the cost of items required for school, as well as a gym membership, Netflix,

Driver's Licence, fishing licence, food, cell phone bill, and braces. The child was forthcoming, polite, and detailed in his evidence. I accept his evidence in its entirety.

[7] Ms. Eva Mangafic, the child's maternal grandmother, assists the mother with expenses in supporting her grandson. Some of the items she has assisted with have included winter coats, boots, food, lunch money, hydro bills, rent, credit card payments, and her grandson's braces.

[8] The father submits that the child is over the age of 24 and could be working full-time instead of going to school, so he should no longer be considered dependent for the purpose of support.

[9] When a parent claims child support for a child who is at the age of majority or older, that parent has the onus of proving that the child remains under parental charge: *Whitton v. Whitton* (1989), 21 R.F.L. (3d) 261 (Ont. C.A.), at p. 263; *Dring v. Gheyle*, 2018 BCCA 435, 430 D.L.R. (4th) 181, at para. 49; *Olson v. Olson*, 2003 ABCA 56, 225 D.L.R. (4th) 735, at para. 13. This onus can be satisfied by identifying circumstances such as, for example, the child being enrolled in higher education: see *W.P.N. v. B.J.N.*, 2005 BCCA 7, 249 D.L.R. (4th) 352, at para. 18. See: *Licata v. Shure*, 2022 ONCA 270.

[10] However, once an adult child has been found to be entitled to support, the onus is on the moving party on a motion to change to show that the youth is no longer entitled. See: *Licata v. Shure*, 2022 ONCA 270.

[11] The child was considered dependent for the purpose of child support in February 2023. At that time, he was in the same education program, at the same school, and was living with the mother.

[12] I accept the mother's evidence and that of her witnesses that the child remains living at home and is financially not able to support himself because he is in school full-time.

[13] I find that the child remains dependent for the purpose of child support.

**2. Has there been a material change in circumstances with respect to the father's income?**

[14] The father submits that he is not currently working and has not worked since January 2024. At the time the last order was made, February 21, 2023, the father was working. He claims that this is a material change in circumstances.

[15] Interestingly, the father's 2024 Notice of Assessment provides that he earned \$40,579 in 2024. Clearly, the father was working in 2024.

[16] The father states that he has been looking for work since January 2024 but has not been successful. He last worked in January 2024 for a company called ESP and was terminated. He could not provide the reason why he was terminated.

[17] The father also has two younger children. His evidence is that his wife, mother, friend, and family members have been supporting him. His mother passed away a few weeks ago, and he is no longer able to count on her for financial assistance.

[18] The father provided documentation that his phone bill was in arrears in the amount of \$236.96 as of March 2024, his internet bill was in arrears in the sum of \$842.18 as of September 2025, and his rent was in arrears in the sum of \$834 as of September 2025.

[19] The father also submitted loan documentation that he owes \$26,255.14 to the Ontario Government for a Canada-Ontario Integrated Student Loan. However, he maintained that he had not completed any retraining and was last in school in 2001. The father confirmed that this loan existed in February 2023. When asked why there was a Canada Training Credit on his 2024 Notice of Assessment, the father replied that it was a carry over. Later, the mother inquired as to why the father's TD Bank statements referred to his account as a student account and he said that he was last a student in 2021. The father's dates and timelines as to when he last attended school do not align.

[20] The father testified that neither he nor his wife work because their son suffers from ADHD, and they are required to be available for him during the day. The father's wife admitted on cross-examination that both younger children attend school on a full-time basis. The father did not provide any medical documentation to support his position.

[21] The father testified that he has no skills. At first, the father denied ever having a cleaning business; later he admitted that he and his wife had one but that they had never worked it, and that was more than four or five years ago. His wife, on cross-examination, admitted that they had a cleaning business but had not worked it during the last three years.

[22] The father was presented with the May and June 2025 bank statements of his TD Bank Account. The father was asked where the TD ATM Deposits of cash came from. There is a total of \$1,775 included on his May 2025 statement. There are e-transfer deposits totaling \$426.52. The father said that his wife, mother, her family, and his family give him money to support him. He provided the same explanation for the deposits on his July 2025 Statement.

[23] The father's wife, Saadia Ouallah, testified that she gives him money and supports him and that they receive help from her family.

[24] The father's wife testified that the father does not support the family in any way and does nothing for them. He is searching for a job but cannot find one. She supports him yet she also does not work. She believes that any money he has should be directed to her children as they are younger and that it is not fair that they should have to pay for a 25-year-old.

[25] The father's wife testified that the father did attend school in 2021 and 2022 for security training and that he last worked as a security guard. She was not sure how they paid for it. She said that the father has no money and is supported solely by her, her family, and his mother. She said

that he chose to attend school after his last employment was terminated rather than look for work at that time.

[26] The father's wife maintained that neither one of them earns an income and that they are solely supported by family members and the child tax benefit of about \$700 per month. She last worked in 2022 in a daycare.

[27] I do not accept the father's wife's evidence. It is self-serving, vague, and not credible.

[28] The father called a friend, Tarek Aboukhamis, to confirm that he has loaned the father money over the years. They have known each other for about 25 years. The father owes him \$2,500, having borrowed a total of \$3,000 over the years. He does not keep track of the payments because they are friends, but he knows how much is owing to him and that his friend is suffering financially. Mr. Aboukhamis' evidence was of little assistance, and it was clear that he was there to support his friend and to agree with whatever was proposed to him.

[29] The father's evidence does not ring true. He was vague, evasive, and laughed during his testimony at certain questions put to him in cross-examination. He failed to provide a realistic explanation for the monies deposited to his bank account. He provided multiple reasons as to why he should no longer have to pay child support, including his mother having passed away a few weeks ago, having two younger children, having to borrow money from friends, having a younger son with ADHD, and experiencing undue hardship.

[30] What the father did not provide was proof of any efforts made to find employment other than his assertion that he sends emails and resumes "everywhere" without receiving responses. He failed to provide any medical evidence as to how his son's diagnosis of ADHD affects his ability to earn income, and he failed to provide any evidence with respect to proving his claim for undue hardship.

[31] I find the father's circumstances to be self-inflicted. He is either intentionally not earning an income for the time being on the belief that this will terminate his support obligation, or he is working and not reporting his income.

[32] Unlike an original application where the recipient must show that the payor is deliberately underemployed or unemployed, in a Motion to Change, once income has been fixed, the onus is on the payor to show a change in circumstances. *Kolodziejczyk v. Kozanski*, [2011] O.J. No. 152 (Ont. C.J.). Section 14 of the *Child Support Guidelines* sets out various scenarios for changes in circumstances.

[33] I do not accept the father's evidence that there has been a material change in circumstances in his employment situation.

[34] The existing order provides that the father's income would be the greater of his actual earnings or the imputed amount of \$35,000. I find the father's income going forward to remain the same.

**3. Should there be a retroactive increase in the amount of support payable based on the father’s actual income?**

[35] Paragraph 8 of Henderson J.’s order, dated February 21, 2023, provides that the Respondent’s income for child support purposes shall be the greater of his actual income or \$35,000 annually for so long as child support is payable.

[36] The Order provides for an obligation to exchange income disclosure by June 1 and adjust the amount payable by July 1 of each year. The father did not provide his income disclosure until he commenced this Motion to Change. It was at that time that the mother was aware that he had earned more than \$35,000.

[37] The father should not be rewarded for withholding information. The court may also consider whether the payor made voluntary payments against the arrears, continued to pay in accordance with their ability to pay, cooperated with enforcement agencies, and showed a willingness to support the child rather than evading child support obligations. Genuine efforts to continue paying as much as the payor can show good faith and a willingness to support the child.

[38] The father stopped making voluntary payments of support as of January 2024. The only payments made were those garnished by the Family Responsibility Office.

[39] According to his Notices of Assessment, in 2022, the father earned \$46,467, in 2023, he earned \$46,875, and in 2024, he earned \$40,579

His child support obligation would have been as follows:

Year	Guideline Amount	Amount ordered	Over(under)payment
2022	\$431.11	\$304.00	(\$127.11) x 12 = (\$1,525.32)
2023	\$434.70	\$304.00	(\$130.70) x 12 = (\$1,568.40)
2024	\$365.60	\$304.00	(\$61.60) x 12 = (\$739.20)
		<b>TOTAL</b>	<b>(\$3,832.92)</b>

[40] Pursuant to the Order of Henderson J. dated February 21, 2023, I find that the father owes retroactive child support to the mother in the sum of \$3,832.92 for the period of 2022 through to 2024. I find that a material change in circumstances is not required as this amount is calculated pursuant to the terms of the existing order.

**4. What is the amount of ongoing child support?**

[41] As the child is still dependent for the purpose of support, the father will continue paying support in accordance with the *Child Support Guidelines*. The existing order provides that the father’s income is imputed at \$35,000. According to the 2025 *Child Support Guidelines*, the

guideline amount for one child is \$284 per month. This amount is payable as of January 1, 2025.

**5. Should child terminate when the child graduates in April of 2026 or continue throughout a subsequent degree.**

[42] Paragraph 10 of Henderson J.'s order, dated February 21, 2023, provides that child support shall end no later than April 30, 2026. This, would be subject to the child's right to bring his own Application.

[43] A child who pursues education beyond the first post-secondary degree can remain eligible for support: see, for example, *Easton v. Coxhead*, 2018 CarswellOnt 14173 (S.C.J.), at paras. 66–67; and *Haist v. Haist*, 2010 ONSC 1283 (S.C.J.), at paras. 54–59.

[44] Darian continues to live with his mother and may continue his education. During this time, he would remain financially dependent on his mother. Darian's evidence is that he may apply to teacher's college or to law school. The plan is not solidified.

[45] I recognize that Darian will remain dependent if he continues his education. Any income he earns will assist in defraying his expenses. However, the parties had agreed to a termination date of April 30, 2026, and neither party provided any evidence as to why the parties had agreed to this termination date at first instance, or how the circumstances may have changed since the time the parties entered into the consent order.

[46] Without this evidence, I am unable to conclude that the previous order should be varied. Therefore, the termination date of April 30, 2026, will remain in effect.

**Order**

[47] Therefore, I make the following Order:

- 1) The father will pay to the mother, the sum of \$3,832.92 in retroactive child support for the period of January 1, 2022, through to and including December 31, 2024. This amount shall be paid at the rate of \$200.00 per month commencing January 1, 2026, and payable on the first day of each month thereafter.
- 2) Commencing January 1, 2025, and on the first day of each month thereafter, the father will pay to the mother child support in the amount of \$284.00 per month based on an imputed income of \$35,000.00 in accordance with the *Child Support Guidelines* for one child.
- 3) The remaining terms of the Order of Justice Henderson dated February 21, 2023, shall remain in full force and effect.
- 4) If the parties wish to make brief cost submissions (no more than three pages) with any offers to settle and a bill of costs, the mother may do so within seven days of

the release of this endorsement and the father within seven days thereafter. A written submission shall be typed or written legibly, with double spaces between the lines and characters of at least 12-point size.

--- "*Justice Alexandra J. Bignucolo*" ---  
Justice Alexandra J. Bignucolo

**Released:** December 15, 2025

**CITATION:** Mangafic v. Brihmi, 2025 ONSC 6945  
**COURT FILE NO.:** FC522-09-06  
**DATE:** December 15, 2025

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
FAMILY COURT**

**B E T W E E N :**

Suzana Mangafic

Applicant

**- and -**

Badr Brihmi

Respondent

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**REASONS FOR JUDGMENT**

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BIGNUCOLO J.

**Released:** December 15, 2025