

Stepping Stones for Stepfamilies--Lesson 5: Understanding Financial and Legal Matters¹

Adapted for use in Florida by Millie Ferrer-Chancy²

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Understanding Financial and Legal Matters

The financial and legal issues that stepfamilies face can be quite complex. For example, financial and legal obligations to children and/or former spouses are often complicated by emotional and financial “baggage.” Usually there are a greater number of people involved—sometimes that includes the courts.

It is understandable why stepfamilies have unique challenges. At the same time, partners in a stepfamily may actually have an advantage in one sense. They may be more realistic about and more aware of what these financial and legal matters are.

This lesson is designed to provide general information for Florida stepfamilies. However, the specific facts of any situation will influence the way in which laws and regulations apply. It will also influence the way in which families respond and function.

For more information, consider consulting an attorney. Other professionals—such as a financial adviser, mediator, counselor or therapist—may also be a source of valuable assistance.

The Realities: Relationships

Partners often have different viewpoints about a lot of things, including finances. Each person brings past experiences, old spending habits, past assets and debts, and possibly legal and financial obligations to the relationship. Studies of remarried couples often indicate that financial matters are handled differently than in the previous marriage.

Former Spouse

Difficult financial dealings with former spouses may show little or no improvement after the divorce. In fact, financial problems may have been a major factor in the divorce.

Financial and legal dealings with an ex-spouse may have to be continued, especially if children are

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involved. These exchanges will likely be even more difficult.

Money to support the children provides a link between families. It also allows for continuation of the problems that were present before the divorce.

Guilt feelings, competition for the children, visitation struggles, and attempts to substitute money for time with the children can foster emotional conflicts.

Children

Children may become especially powerful in these situations. They may use the opportunity to play one parent against the other to their own advantage.

Children can be in a position of having more information about both households than anyone else. They may use this knowledge to manipulate and obtain financial resources from both sets of parents.

For example, they may inform one set of parents about the money or things provided in the other home in an attempt to create competition between the families.

Custodial and Noncustodial Parent

The custodial parent and his or her spouse may make financial decisions about the children without consulting the noncustodial parent. This could be for such things as medical emergencies, braces for teeth, or summer camp.

Noncustodial parents may then be faced with expenses or requests for extra funds without having a chance to be involved in the decision. At the same time, their own household may be facing additional expenses, such as repairing the roof on the house. A feeling of lack of control can leave both parents and stepparents frustrated and bitter.

In Florida, most parents have shared parental responsibility. It is in the best interest of the child for parents to discuss major decisions affecting the child's welfare.

Partner with No Children

A partner who has no children may become resentful about the money leaving the household to support the other partner's children. Support for a former spouse may also be involved.

The resentment may increase if plans to have a baby or make a major purchase have to be canceled or delayed because of the previous legal or financial commitment. On top of that, the childless partner may feel guilty for feeling resentful.

Support

In general, natural parents (whether married or not) are legally and financially obligated to support their children, usually until age 18. An older age can be specified if both natural parents agree. Support can be ended at a younger age if the child becomes "emancipated" by leaving home or getting married and the court agrees a parent needs to obtain a court order to terminate support.

It is wise for the custodial parent not to expect any additional support for the children after that age unless it is specifically identified in the child support order.

Of course, there can be additional support if it is clearly agreed upon by the noncustodial parent, such as for college expenses. But the agreement may not be enforceable if it is not specified in the child support order.

As a general rule, stepparents have no obligation to support stepchildren. Florida has no law requiring support.

Enforcement

Being legally and financially obligated is not necessarily the same thing as actually providing support. Former spouses may need to get help through local family and domestic courts to get child support that is not being paid.

The Child Support Enforcement program can help:

- Locate the absent parent.

- Identify the support obligation.
- Enforce the support order.

For more information, look in your Florida telephone directory under Revenue, Department of - Child Support Enforcement Program or call Child Support Customer Service at 1-800-622-5437. Hours: (non-Holiday) Monday thru Friday, 8AM - 5PM.

Changes in Circumstances

A noncustodial parent may feel the court-ordered child support is unfair if his or her situation changes. Certainly, the loss of a job, a major illness, or a family emergency can reduce the ability to provide support.

The custodial parent may feel the child support is no longer adequate because of similar changes in circumstances. Or a child may develop special needs that require more money than expected.

Either of the natural parents can ask the court to look at these changes and decide if the existing support order is reasonable. Further, federal law suggests that child support orders be reviewed for possible changes every three years.

You may want to think about some things before going to court, however. For example, will the change in support amount be worth the emotional stress and legal costs that may occur?

Legal Rights

Having stepchildren living in the home does not mean the stepparent has the legal right for care and custody of them. For example, in a medical emergency a stepparent cannot legally authorize medical treatment. Nor can the stepparent act on the stepchild's behalf in other ways, like authorizing release of records or giving permission for involvement in school-related activities.

To ensure that minor children will receive appropriate emergency care in the absence of the birth parent a limited power of attorney is needed. An attorney can draw up this document.

Dependent Status

Stepchildren may or may not be viewed as dependents for employer fringe benefit purposes. Employers differ in their definitions of "family" and "dependent."

It is important that stepfamilies carefully examine their employers' personnel policies and benefits. Are stepchildren covered for insurance purposes? What benefits, if any, would children receive in the event of an employed spouse's death? Benefits from other sources not related to employment also need to be reviewed. Even if stepchildren are considered dependents, certain actions or requirements may need to be met. For example, the employee may be required to notify the employer, the personnel officer, or the benefit carrier and sign formal documents indicating his or her wishes. The former spouse's signature may be required when a noncustodial parent provides benefits for children. Or, the health status of stepchildren may need to be determined before they can be added to the health insurance coverage of a stepparent.

Adoption

When stepchildren are adopted, legal rights and responsibilities between the children and their noncustodial natural parent no longer exist. An adopted child becomes the child of the adopting parent, just as if born to the parent.

From a legal perspective, adoption places the stepchildren in the bloodline of the adopting parent. For children under 18, the adopting parent must provide support and care with no opportunity to recover these costs from the natural parent. However, adoption by a stepparent doesn't relieve the birth parent of the obligation to pay child support that accumulated before the adoption takes effect.

Resources

Money can have a big impact on the success or failure of the remarriage. Unfortunately, second marriages end in divorce at even higher rates than first marriages, with money and children often cited as reasons for the breakup.

Money Games

Money can be used as a battleground to demonstrate power in a relationship.

Money games may take the form of a custodial parent's threatening to withhold visitation rights in order to force payment of child support. Failure of noncustodial parent to pay child support doesn't mean custodial parent can deny visitation. Noncustodial parents sometimes withhold child support because their visitation rights are being violated. Even if a custodial parent refuses to honor visitation rights, the noncustodial parent cannot refuse to pay child support.

Everyday Financial Matters

Everyday financial matters also can influence stepfamily relationships and functioning. Some stepfamilies may choose to have joint checking accounts, pooling all money into a common pot and dividing it according to the total family's needs and wants. Others have separate accounts or a combination of joint and separate accounts. In the latter case, it is very important to discuss and decide which expenses will be paid from which account.

However, when each remarried parent pays for himself or herself and his or her children's expenses, this tends to create two separate families living under one roof. The problem is greater when there is a large difference in personal resources.

Sometimes a parent not living with his or her children will give too much to a former spouse and the children. This can be done out of guilt or fear of not seeing the children. Overcontributing can create feelings of unfairness, especially if the present household has little or no money for small luxuries or recreation, and the former household is living well.

On the other hand, the noncustodial parent may have the money, but not give enough to support the children. This also can lead to feelings of unfairness.

Using child support for expenses not related to the care and welfare of the children is another area where conflict can occur.

Sharing Resources

Research has linked higher incomes to better stepfamily functioning. This is not surprising. More money may mean less tension since there are more resources and the need to share them is less urgent.

As money tightens and more resources must be shared between the two households, the chances for tension and conflict increase. Unequal financial situations of the custodial parent and noncustodial parent can make the problems even worse.

Inheritances

Who will inherit (and how much) can be very complicated in a remarriage, especially where there is a significant difference in resources and property (assets) of spouses (and ex-spouses).

Stepchildren do not inherit from a stepparent unless there is will, trust, beneficiary designation or legal contract (such as property titles) indicating that property will be distributed this way. Similarly, stepparents do not inherit property from stepchildren unless it is indicated in one of these types of documents.

However, when the stepchildren have been adopted, inheritance occurs in the same way as a natural child and parent. Inheritance still goes according to the will, trust, beneficiary designation or legal contract. If none of these exists, however, property is distributed according to state law. Florida law includes provisions for children.

An attorney can help families use estate planning tools to meet their objectives and goals. For example, it is possible to provide for the final distribution of property to children, while providing financial support for (but not control of the property by) a former spouse.

Stepping Stone: Making it Work

Each stepfamily is different, and what works for one may not work for another. Here are a few tips that have helped some stepfamilies gain a sense of security and comfort when managing their legal and financial affairs.

- Probably the most important tip is **communicate, communicate, communicate!** Members of a stepfamily need to communicate

with each other. They need to be sure to understand the legal and financial realities facing the family, to discuss past experiences with money, and to determine how family finances and other related issues will be handled. The ideal time to do this is before the remarriage. Unfortunately, research suggests that few stepfamilies actually do so. Working with professionals also may be helpful, where appropriate.

- Review savings and investments, insurance and other family assets. Determine how items are titled/owned, who is insured, and what would happen in the event of a death.
- Evaluate the way checking accounts are set up. Putting all money into a common pot and dividing it according to the total family's needs and wants seems to work for some stepfamilies. Family decision-making is very important to the success of this system.
- For older children, give a portion of the child support directly to them for clothing, recreation and personal expenses.
- Draw up a legal agreement about how financial emergencies and unexpected expenses will be handled. If you do not want a legal arrangement, at least communicate with the other parent about these issues.
- Talk out feelings with counselors or others in the same situation. Remember, friends can only listen so long before they begin to feel helpless. Friends may also give bad advice.
- Express your thanks to the former spouse for little things that are given and received.
- Accept the importance of the other family's needs.
- Communicate between families about expected expenses. This can increase understanding and acceptance of financial needs. It may help both families to plan and meet the expenses when they are due.

- Relax expectations. There are no perfect solutions. Think about all the things you can control in your financial situation. Worry less about those you can't control.

Communication is Crucial

Whether the stepfamily is just forming or has been a family unit for a number of years, addressing the questions listed below may open communications. The problems may not necessarily go away, but at least it brings them out into the open. It also may help make expectations more realistic.

- Do you want joint or separate checking/savings accounts or some combination of the two? If separate accounts or a combination of joint and separate accounts are used, which expenses will be paid from each account?
- Are you willing to share information about what your financial assets and liabilities are? If not, why not?
- How are assets titled? Will assets acquired during the remarriage be held in joint or separate ownership? Is there a designated beneficiary? What are the implications in the event of a death? Should ownership of these and other assets be changed? Who should inherit family heirlooms?
- What estate planning tools can best be used to meet estate planning objectives and family goals?
- Who will be covered by life insurance? Who will the beneficiary be? What provisions will be made for natural children or stepchildren?
- Who is responsible for children's health care decisions and expenses? This includes medical insurance and those items not covered by insurance.
- Should a limited power of attorney be established to allow a stepparent to make decisions on behalf of the child, such as in an emergency?

- Will a former spouse receive retirement or other benefits? To be eligible for retirement or other benefits, will the current spouse have to meet certain requirements, such as length of marriage before the benefits apply?
- Should the family set up a budget? How will records be kept and by whom? How will unexpected expenses be handled? When should credit be used?
- Should goals be set? Who should be involved in setting them? What needs of former spouses and natural children living with them need to be taken into account? Under what situations can goals be changed?
- Is child support at the correct level? How do you see it changing in the future?
- How will child support be used? Who participates in decisions involving the use of child support funds? How will expenses for the children be handled?
- How will higher education expenses be met for the children? Was this stated in a child support order?
- Who receives the tax exemptions for the children? Are any of the children's expenses paid by the noncustodial parent tax-deductible?
- How much money do children get? How often?
- Will children earn income through special jobs around the home or from outside employment? Who monitors whether work around the house is done to the desired standard? For what types of expenses can the income be used?
- Will a marital property (prenuptial) agreement be prepared? If so, what will it include?

Week 5 Activities

Select one or two activities listed below and begin working on them during week 5. Remember the strategies learned in Lessons 2 and 3.

It is a good idea to complete all of these activities at some point in the near future because of their importance for your stepfamily.

Doing some of these activities may involve difficult discussions and decisions. It may also include communicating with one or more professionals, such as an attorney, financial adviser, employer personnel officer or insurance agent. Or, you may need to consult with an ex-spouse.

If the relationship with a former spouse is difficult, it may help to stress how important and beneficial knowing this information is to the children.

1. Develop Goals and a Spending Plan

As a couple, develop short-term and long-term goals for the family. Involve the children to the extent that they can understand.

- Decide which goal is most important, second most important, etc.
- Define consequences for all family members, including natural children, stepchildren or former spouses, if appropriate. Then, develop a plan for spending that works toward achieving some of these goals.

2. Review Insurance Policies

Review all insurance policies which cover family members or property owned by family members. This includes life, health, disability, car, and renter's or homeowner's policies. This step may require seeking information about policies owned by former spouses.

- Determine if the insurance amounts are appropriate.
- Determine if the people and property that should be covered are covered.
- Are there gaps in the coverage?
- Who can legally make policy changes?
- Make any needed changes.

3. Review Designated Beneficiaries

Review life insurance policies, pension and other retirement plans and benefits, and savings and investments where there is (or could be) a designated beneficiary.

- Determine who will receive the benefits/assets in the event of a death.
- Make any appropriate changes.

4. Review All Assets

Review all bank accounts, real estate holdings, savings and investments, and other assets.

- Determine how each is titled and what the implications are in the event of a death.
- Make needed changes, where they are appropriate.

5. Establish an Estate Plan

Begin establishing an estate plan (if you have not already done so) by setting estate planning objectives.

- Review and revise (if necessary) wills, trusts and other estate planning documents.
- Make sure the documents and the estate plan work toward accomplishing estate planning objectives and family goals while minimizing settlement costs and taxes. Don't forget to plan for guardianship of minor children.

References

This lesson was adapted from:

Coleman, Marilyn, and Lawrence Ganong. *Living in Stepfamilies: Making Financial Decisions*. University of Missouri Cooperative Extension Service, GH 3507, 1991.

Morrison, Jeanne. *You and the Law in Missouri: The Rights and Responsibilities of Stepparents*. University of Missouri Cooperative Extension Service, GH 3509, 1989.

Winckler, Judith J. *Building Strong Stepfamilies: Financial and Legal Issues*. Cornell Cooperative Extension Service, Broome County, 1992.

Other references include:

Lown, Jean M. "Remarriage and money," *Families in Transition: Structural Changes and Effects on Family Life*. FE/HM Pre-conference Workshop, American Home Economics Assn., Cincinnati, OH, June 1989.

Miner, Cynthia M. "Financial management practices of remarried couples," *Families in Transition: Structural Changes and Effects on Family Life*. FE/HM Pre-conference Workshop, American Home Economic Assn., Cincinnati, OH, June 1989.

Florida Dissolution of Marriage (FL Bar CLE 5th ed.1998)

Adoption, Paternity and Other Florida Family Practice (FL Bar CLE 4th ed. 2000)

Florida Guardianship Practice (FL Bar CLE 3rd ed. 2000)

Litigation Under Florida Probate Code (FL Bar CLE 3rd ed. 1997, 1999 supp.)

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