



Second Separations By Jodi Wyman

While the statistics for the number of marriages that end in divorce remain high, the statistics for divorce in second marriages is even higher. A second or third marriage can be very difficult, in particular where there are stepchildren.

When a second marriage breaks down, the legal issues can often be complicated.

Separating from your spouse does not necessarily mean that you have separated from your stepchildren. More regularly, courts are requiring stepparents to pay child support. Stepparents can be ordered to pay child support and contribute to the child's expenses even if the biological parent is also paying child support. By doing so, the courts are not trying to punish stepparents, but rather are focusing on the best interests of the child, who will benefit if his or her lifestyle can be improved.

Stepparents and even their extended family members can also apply for ongoing access rights to children. If the child also has a regular visitation

schedule with their biological parent and family, this can make a child's schedule very busy.

Spouses who are facing their second separation may also be frustrated that the Family Property Act requires them to divide their assets yet again. Generally, it will only be the assets and debt acquired during the period of time they were with their second spouse which must be shared. This creates an additional step, in that the value of the spouse's assets and debts must be determined by looking back to the date they began their second relationship. Although the Family Property Act aims for an equal division to be fair to both parties, sometimes inequalities do result.

The already-difficult area of spousal support becomes extremely complex when looking at a second marriage. For example, when a person who is receiving spousal support from his or her first spouse remarries, spousal support may not necessarily stop. If it does, what happens

when there is a second separation? Would both ex-spouses be required to pay support? Unfortunately, there are no clear principles in family law at the present time to deal with these situations. The Judges must review the circumstances on a case-by-case basis. This means that it is impossible to predict what might happen in any one particular situation. The new Spousal Support Advisory Guidelines do not address the issue.

If a spouse in a second relationship dies without leaving a will, there can also be complex estate issues if they have children from a first marriage, if their divorce is not final or if there are dependents.

All of these issues are further complicated if the second relationship is a common-law relationship.

One positive factor for people going through a divorce or separation for the second time is that they are more knowledgeable. They have learned a hard lesson in the law.

For that reason, they are sometimes more prepared for a second separation. They have a signed domestic contract, such as a prenuptial or a cohabitation agreement. They have structured their affairs to keep things separated and well documented in the event of a separation. They have made themselves knowledgeable about their own financial affairs and that of their spouse.

Simply being prepared for a second separation or divorce does not however make it any easier.