

EC 1484
Revised April 1997

Date Received: 4-15-97
amount Received: 600 -3
Shelf count: 0 \$2.00
Last Invoice: 45903

REMARRIAGE *legal & financial* I S S U E S



OREGON STATE UNIVERSITY EXTENSION SERVICE

Contents

Income and Expenses	3
Property Ownership and Estate Planning	8
Minor Children	12
Other	17
<i>Change of address and/or name</i>	
<i>Taxes</i>	
<i>Insurance</i>	

Many marriages are remarriages; that is, one or both partners were previously married. Often, one or both partners have either minor or adult children.

Research tells us that money is one of the primary sources of stress in a remarriage. (The other primary source of stress is children.) Financial management in your second marriage will be different than it was in your first marriage.

Typically, when two young people marry for the first time, they come to the marriage with few assets and few debts. In a second marriage, it's likely that the partners bring to the marriage both assets and debts. In addition, there are apt to be increased financial pressures in a second marriage due to financial obligations to the prior family.

The materials in this publication are designed to help you think through some of the legal and financial concerns in a remarriage. As you think about these concerns, remember that both you and your

partner have, over time, developed attitudes about money. It's likely that your attitudes differ. Take the time to discover and talk about each other's attitudes.

If both you and your partner have been previously married, you're starting a second marriage. However, you have knowledge and experiences from six previous families: the families in which each of you were raised, the families each of you established in your first marriages, and the families each of you established when your first marriages ended. Now you are creating a new family—the seventh family, bringing with you experiences from the prior families.

Many of your past experiences and the knowledge gained from them are positive and will be helpful as you plan financial matters in your new marriage. However, some past experiences may be negative. It will take time to unlearn things from the past. Be patient with and understanding of each other.

This publication is not intended as a substitute for obtaining necessary legal advice.

Alice Mills Morrow, Extension family economics specialist, Oregon State University.

Income and Expenses

In all marriages, money and how it is spent is an issue. Financial practices evolve over time. The way you handle money in the 10th year of your marriage will be different from the way you handled it in the first year. What is most important in the first years of marriage is to develop methods of communicating about money and resolving differences about money.

You are unique and your marriage is unique, therefore your experience will not be exactly like the experience of others. However, there are predictable stages in money management. Being aware of the stages (described in "Stages in Money Management for Stepfamilies," page 4) will help as you discuss financial issues.

Couples often manage their finances by using one of the following methods:

- The *common pot* approach, in which all income is pooled and used to pay expenses. All expenses are considered obligations of the couple. This is most common in a first marriage and less common in a remarriage.
- The *two pot* system, in which partners keep income separate and each pays his or her own expenses and his or her share of joint expenses.
- The *three pot* system, in which each spouse contributes to a household account for joint expenses and each also has a separate account for individual expenses.

There is no one "best way" to manage money in your marriage. Good financial decisions and practices are those that reflect the philosophy of your relationship and enhance your relationship. Good financial practices make you feel good about yourself and your marriage.

Debts

If either or both partners come into the marriage with credit card debts, car loans, mortgage payments, student loans, and/or financial obligations to children and/or former spouses, current income is needed for these prior financial commitments.

Using the form on page 6, list all of the debts and financial obligations each of you is bringing into the marriage. Talk about who is responsible for which obligations. Some may remain individual obligations and some may be treated as obligations of the couple.

Financial management is both *decisions* and *practices to implement decisions*. For example, if a couple decides that the payment the husband owes his ex-wife is his individual obligation, how will it be paid? Will it be paid from a joint account into which he has deposited the money? Will it be paid from his individual checking account? If so, will he write a check when the payment is due? Will he arrange for an automatic transfer from his account to his former wife's account?

The method of payment does not affect the amount paid, but it may affect the feelings about the payment. Feelings are considerations in determining financial practices. Talking about your feelings related to the money is important.

Income

Discuss the effect marriage will have on the income of either spouse. If one spouse is receiving alimony, will it terminate on remarriage? Will one spouse be moving and temporarily unemployed while seeking employment in a new location? Will one spouse be staying at home to care for

children? Using the form on page 7, record the anticipated monthly income of each partner.

Budgets

A budget is an estimate of income and expenditures for a period of time, usually a month. The couple that is pooling their income—the *common pot* approach—will have one budget. When wife and husband keep incomes and expenses separate—the *two pot* approach—each will have a budget. The couple using the *three pot* approach will have three budgets—his, hers, and theirs.

To make a budget, use one of several budget forms available at bookstores, use a computer program, or make your own form. Write down the income you expect for a month and the expenses you expect for a month. Common expense categories are listed on page 7. Change the list of expenses to fit your situation. Use canceled checks, receipts, and old bills to help you estimate expenses.

Some expenses, such as car insurance, holiday expenses, back-to-school clothes, and property taxes, occur only once or twice a year. Know which months you have these expenses, and figure the average monthly cost. For example, if the car insurance costs \$360 for 6 months, the average monthly cost is \$60. Set aside \$60 each month for this expense.

Each month, record your actual income and expenses and compare them to the estimates in the budget. If your estimates are not accurate, adjust the plan. It will take several months before you will be able to accurately estimate income and expenses. And when your family and its activities change, the expenses change, and the budget needs adjustments.

Stages in Money Management for Stepfamilies

Money may not be everything... BUT...money is a factor in most matters that are important to life. Money affects where you live, how you live, what benefits you can give your children, what you buy, what your household activities include, how you spend your leisure time, and just about everything else. All families must make a multitude of decisions about ways money will be earned, spent, or saved. All families start out with, and continue to face, money issues that require management and control decisions of utmost importance of their well-being.

Money matters are of particular importance for remarried couples; they are considered second only to children in terms of major problem areas that stepfamilies face.

Stepfamilies often find themselves starting out with previous resources having been depleted as a result of earlier divorce, and their current (and future) resources strained as they build new relationships while also retaining ties to past ones.

Why the avoidance?

Given the importance of money matters in all families, the unique circumstances of stepfamily situations, and the wisdom each spouse has gained from experiences with money in earlier marriages, one might expect that couples would make every effort to confront important money issues prior to remarriage. Yet this isn't the case. Indeed, studies have shown that even when financial problems contributed to an earlier divorce, when the merger included children on both sides, or when couples claim to know better, they simply do not spend sufficient time discussing finances before remarrying. Why does this happen?

For one thing, stepfamilies start out with a strong desire to succeed. If money problems were a factor in a previous marriage, either or both persons may be reluctant to "open up a can of worms."

If a remarriage unites partners of unequal means, there may be reluctance on the part of the one who stands to benefit economically in the marriage to appear too greedy by seeming overly eager for financial gain, or on the part of the other spouse to appear too selfish, if there is a strong desire to retain ownership rights and controls.

For many individuals, money may also be a taboo topic—more so than political or religious views, or even sex.

Make haste slowly

Much has been written about the dangers of unrealistic expectations in terms of relationships with stepchildren. Advice on how to deal with the most pervasive problem stepfamilies face presents a "go slow" message. Writings about stepfamilies frequently discuss the disappointment of expecting (and unlikelihood of attaining) "instant love."

Money is clearly considered the next biggest problem. Yet, if money is mentioned at all, it is often with the implication that things should be taken care of quickly and smoothly. In the few instances in which money is given more than a passing nod, statements such as the following are common: "It is essential to work out all money matters prior to remarriage." "Before the wedding is the time to consider how money will be handled in the wills." "The time for a couple to talk about money—how much or how little there is and their attitudes about it—is before marriage."

Family finances, money management strategies, and property issues require greater attention. Giving them such casual treatment can cause havoc in stepfamilies who are led to believe that money matters can be worked out easily, or within a short time-frame. However, things don't work that easily.

For one thing, remarriage unites individuals who have over a long period of time, developed independent, different, and potentially conflicting methods and attitudes regarding earning, spending, and saving money.

Another deterrent to having things all worked out in advance is the complexity of finances involved in stepfamilies. Both present circumstances and matters that evolve over time require that attention be given to the information, attitudes, and feelings being disclosed, discussed, and understood. Stepfamily money matters don't stay the same: Support payments change, the family may expand, jobs and income change, even children can and do relocate from the house of one parent to another.

An extremely important point is that while it certainly is advisable to discuss money matters in advance and get as many things into place as possible, couples need to understand that in view of the complexities and sensitivities involved, success can't be expected to happen overnight. Instead, progress generally occurs over time.

Understanding the stages of that progress can give a stepfamily a better sense of how to deal with money matters. Each stepfamily is unique, and will move through stages at different speeds, both prior to and after the remarriage. It is also true that different kinds of money

matters involve different time-frames for working things out. Indeed, one spouse may at times find himself or herself out of step with the other. Nevertheless, recognizing the stages is useful for providing insights into what stepfamilies go through in the normal evolution of dealing with money matters.

Stages in attaining long-term stability

Stage 1—Rose-colored glasses: Romantic beginnings in marriage include the belief that love will conquer all. Initially, couples may feel there will be no money problems (out of ignorance) or that they will easily handle whatever comes up (out of naiveté). This is clearly wishful thinking.

Stage 2—Don't rock the boat: Feelings such as "What's wrong with me? Why do I feel resentful?" "I knew he had previous obligations when I agreed to marry him, so what right do I have to complain now?" "I knew she had children that would consume our time, attention, and money when I agreed to marry her, so what right do I have to feel jealous?" are submerged in an effort not to rock the boat. Stresses build, tensions increase, relationships are strained. The worse it gets, the harder it is to deal with. Remarrieds not prepared for this stage may panic. Rather than doing anything to risk the relationship, they may put on blinders, and refuse to face the realities of problems ahead.

Stage 3—Lay it on the table: At this point, couples are finally able to communicate and compromise, with the feeling that it's okay to be honest

with each other, to argue about spending priorities, to speak candidly about their feelings, frustrations and fears concerning their financial situation. Trust is established and each spouse can finally confront the other with the reality of his or her feelings, needs, and wants and also be open to hearing what the other spouse wants and needs. There will likely be some rough times during this stage. Feelings freely expressed can be painful for both partners.

Stage 4—Getting it together: The couple has arrived at a mutually satisfying lifestyle, and has established an effective, comfortable method of handling finances and making financial decisions. This stage doesn't necessarily involve total commingling of all the assets and incomes of both spouses, but it does mean that the couple has worked through what each spouse's contribution in market and household work is, and they have in place a system for managing both jointly owned and separately held property. They feel comfortable about coping with money problems.

Stage 5—Achieving stability: With time and experience, couples feel in control of their finances, and things really seem "settled into place." Given the ups and downs of family life, money plans are always subject to change as life situations change. At this stage, couples are able to adjust their goals or spending patterns as circumstances require because, over time, they have developed to the point where perspectives are integrated. They now

have mutually accepted goals and processes for managing change.

Pathways to progress

Progress through these stages does not happen in the same way for all stepfamilies. Depending on the particular family, and financial circumstances involved, it will take different amounts of time and effort to work things through. Some couples may find that they are able to talk openly, plan together, and are readily able to move ahead; they may spend little time in the early stages. Others may communicate easily, but lack the tools to implement a successful money system without giving time and effort to gaining additional knowledge of finance, legal issues, etc. Some families may even remain permanently stuck in an early stage.

A strong commitment to the marriage is required, along with a willingness to expend the necessary work effort, to move through the stages. It takes time and trust, as sensitive and important money matters are attended to. For those couples who do what it takes to achieve the final stage, the rewards in terms of the quality of life are great.

Adapted from Stages in Money Management for Stepfamilies, FS 316, by Anita Metzen, executive director of the American Council on Consumer Interests; and Edward Metzen, professor and chair of the Department of Family Economics and Management, University of Missouri, Columbia. Reprinted from the Stepfamily Bulletin, Fall 1988, with permission from the Stepfamily Association of America, Inc.

Current Financial Obligations

Date _____

Obligation	Monthly payment	Date debt will be paid in full	Person(s) responsible for payment
Real estate debt			
_____	_____	_____	_____
_____	_____	_____	_____
Consumer debt (car loans, credit card debt, etc.)			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Other debts			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Child support owed			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Spousal support and/or property settlement owed			
_____	_____	_____	_____
_____	_____	_____	_____

Estimated gross monthly income for _____	
Income	Amount
Jobs/self-employment	_____
Overtime and part-time work	_____
Spousal/child support received	_____
Other _____	_____
Total estimated monthly income	_____
<i>To convert weekly income to monthly, multiply by 4.33.</i>	

Estimated gross monthly income for _____	
Income	Amount
Jobs/self-employment	_____
Overtime and part-time work	_____
Spousal/child support received	_____
Other _____	_____
Total estimated monthly income	_____
<i>To convert weekly income to monthly, multiply by 4.33.</i>	

Common expense categories	
Rent or mortgage	Food at home
House and auto insurance	Food away from home
Property taxes	Clothing
Federal/Oregon income taxes	Transportation (gas, auto parts and repair, bus fare)
Electricity and gas	Contributions
Water, sewer, and garbage	Personal care
Telephone	Medical/dental
Cable TV	Recreation, vacation
Child care	Household supplies
Life and health insurance	Educational expenses
Loan payments	Allowances
Child support payment	Other _____
Spousal support payment	Savings

Property Ownership and Estate Planning

Property Ownership

One of the issues to be discussed by a couple is how property is to be owned.

Property is real estate and personal property. Real estate is land and buildings. Personal property is all property that is not real estate—automobiles, bank accounts, stocks, bonds, etc.

Most property has a deed or title which indicates the owner of the property. Property may be owned by one person—sole ownership—or by one or more persons—co-ownership.

When property is owned by one person, that person has total control of the property and may direct who receives the property at the owner's death.

When property is owned by more than one person—co-ownership—it may or may not have survivorship rights. If property is co-owned with survivorship rights (joint tenancy with rights of survivorship or tenancy by the entirety), when one owner dies, the property passes to the other owner.

Joint ownership with rights of survivorship is a common method of ownership in a first marriage. At the death of the first spouse, property owned by the couple jointly with rights of survivorship passes to the surviving spouse. The surviving spouse then owns it as a sole owner. At her or his death, the property passes according to the directions in the will of the last spouse to die.

In a second marriage, particularly when one or both spouses have children prior to the marriage, it is less likely that the couple wants property one or both spouses owned prior to the marriage to pass to the surviving spouse. Therefore, joint

ownership with rights of survivorship is a less common method of ownership in a second marriage.

When property is co-owned with no survivorship rights (tenants-in-common), at the death of one owner the property does not automatically pass to the other owner. It passes according to the deceased owner's will.

If either or both partners own financial assets—homes, cars, stocks, bonds, etc.—make a list of those assets using the form on page 9.

Decide how those assets are to be owned and what you want to happen to those assets in the event that the original owner dies, or in the event that the new marriage is terminated. How should property acquired during your marriage be titled?

Premarital agreements may be used to clarify property issues. (See pages 10 and 11 for information on premarital agreements.)

Estate Planning

The primary objectives of estate planning are to:

- Ensure that at death, property will be transferred to the desired individuals
- Determine who should handle the business affairs of the estate
- Plan for the financial and physical care of minor children
- Minimize estate settlement and tax costs

Estate planning in a second marriage is usually more complex than it is in a first marriage. Estate planning tools, such as trusts and life estates,

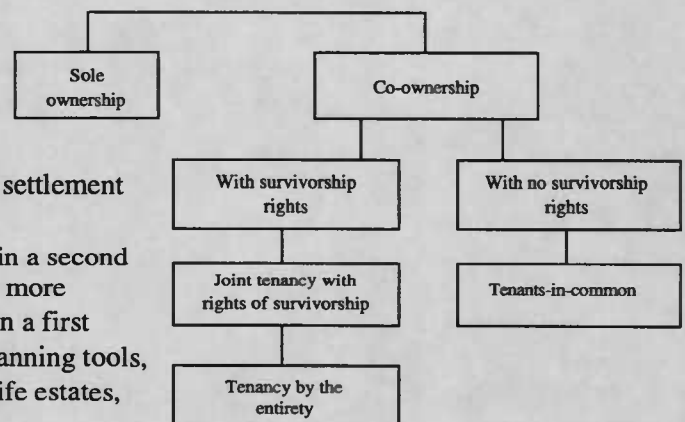
frequently are used in the estate plans of remarried people.

Often in the second marriage, property owned by one spouse prior to the marriage remains in the name of the original owner, and at his or her death passes into a life estate or a trust for the benefit of the surviving spouse, with the direction that at the death of the surviving spouse it is to pass to the children of the original owner.

Estate planning is not just for old people. It is important for any parent with minor children, and especially important for a remarried parent with minor children (see pages 13 and 14).

Review wills, insurance beneficiaries, and methods of property ownership. What would happen to property, income, and expenses if one spouse died? What would happen if both spouses died?

The technical aspects of estate planning are easily accomplished with the help of an estate planning attorney. The more difficult part of the planning is the family questions that must be answered. For example, how and when is the estate to be divided between the children and the new spouse? How is property to be divided if there are both minor children and adult children?



Financial Assets

Date _____

Assets	Value	Current ownership	Changes needed?
Cash and cash equivalents			
Checking account(s)	_____	_____	_____
Savings account(s)	_____	_____	_____
Money market funds	_____	_____	_____
Savings bonds	_____	_____	_____
Other	_____	_____	_____
Investment assets			
Stocks	_____	_____	_____
Bonds	_____	_____	_____
Mutual funds	_____	_____	_____
Real estate			
Home	_____	_____	_____
Other	_____	_____	_____
Cash value of life insurance/annuities	_____	_____	_____
Partnership and business interests	_____	_____	_____
Retirement assets			
IRA/Keogh/account	_____	_____	_____
Other	_____	_____	_____
Other			
Home furnishings/appliances	_____	_____	_____
Sports and hobby equipment	_____	_____	_____
Automobiles/vehicles	_____	_____	_____
Other	_____	_____	_____

Premarital Agreements

Years ago, marriage contracts were mainly for the rich and famous. Today, however, premarital agreements are used by couples who are neither rich nor famous to clarify issues of money, property, and prior financial commitments.

Premarital agreements are rarely used by young people who have few assets and are marrying for the first time. They are more commonly used in the following situations:

- The financially independent widow and widower marrying late in life. The primary purpose of the agreement is to give up rights in each other's assets, so that at death property passes to children of the prior marriages.
- The couple marrying for the first time in their late 30's or early 40's after each has accumulated assets. The purpose of the agreement is to keep property owned prior to the marriage as separate, rather than marital, property.
- When one or both partners has been previously divorced. The purpose of the agreement is, should this marriage end in divorce, to avoid some of the financial complications experienced in the prior divorce.

The nature of premarital agreements

Property issues. Premarital agreements usually determine how property will be distributed when the marriage terminates either because of death of one spouse or divorce. Property may refer to property either partner is bringing into the marriage and property either partner accumulates during the marriage. Property may be real estate or personal property. Personal property includes tangible property such as vehicles,

jewelry, and furniture, and intangible property such as stocks, bonds, bank accounts, and pensions.

If the premarital agreement is valid, the court will enforce these property agreements when the marriage is terminated. For example, if the agreement specifies that property, and its accumulated value, that the wife inherited from her father is to remain her separate property, the husband would have no right to any of the property at divorce or at the wife's death.

Personal issues. Agreements about personal items, such as church affiliation or who does household tasks, may be in the agreement but are legally unenforceable. For example, if the agreement says each spouse will do one-half of the food shopping, prepare one-half of the meals, and wash one-half of the dishes, a judge will not order either spouse to cook and wash dishes. However, even though not enforceable by the court, discussing personal items and putting them in writing is often useful to the couple, because it gives them the chance to consider the nature of their relationship.

Agreements about the support or custody of children of the marriage, if the marriage ends in divorce, are also unenforceable. These are rights that belong to the child. At divorce, child-support decisions are based on the incomes of both parents. Custody decisions are made on the basis of what is in the best interest of the child.

The legal requirements for a premarital agreement

The Oregon Uniform Premarital Agreement Act requires that a premarital agreement be in writing and signed by both parties. The

agreement becomes effective upon marriage. To be enforceable, the agreement must be entered into voluntarily and each partner must have knowledge of the financial assets and obligations of the other.

Since a premarital contract is a legal document, the logical person to draft it is an attorney who practices family or domestic relations law. Before signing the agreement each partner should have the agreement reviewed by his or her own attorney. One attorney should not represent both partners.

Do homework before seeing an attorney

Before talking with an attorney, each partner should prepare a financial statement and discuss and agree on major concerns. A premarital agreement may be desirable if either or both partners:

- Owns valuables such as real estate, stocks, bonds, jewelry, furniture, or collectibles that he or she wants to keep as separate property
- Wants to keep the increase in value of separate property earned during the marriage from becoming marital property
- Wants an inheritance received before or during the upcoming marriage to remain as separate property
- Wants to clarify financial obligations to a parent or a child from a previous marriage
- Is in a family business and wants to clarify the rights of the new spouse in that business.

The following items will be helpful in starting discussion:

Real estate. List all real estate owned by either partner, its value, indebtedness, and payments. Who

would the owner want to receive this property on his or her death? What would happen to the property at divorce? If a home is sold, will the proceeds remain in the name of the owner or the couple? If a new home is purchased, who will own it?

Financial assets. List all stocks, bonds, money market funds, mutual funds, annuities, checking and savings accounts, and money owed to either partner. What portion, if any, will be merged upon marriage and what will remain as sole ownership in each name? Who will manage these assets? What ought to happen to these assets at death of one spouse or at divorce?

Furniture and furnishings. What items will be jointly owned? What items will be separately owned? Will some items be sold or given away before or after the marriage?

Vehicles. Will the titles of cars, boats, etc., be kept in separate names or will they be reissued in joint tenancy? Who will pay the insurance? Should insurance on the vehicle be changed?

Life insurance. Decide if the present beneficiary designation needs to be changed. Is the present amount of insurance adequate for the new family?

Employment. Will earnings be kept in separate accounts or pooled? Will the marriage have an impact on either party's ability to relocate for employment? Will either discontinue working? What effect will transfer of one party to a different community have on the other party? What effect will an early retirement of one

spouse have on the relationship and financial situation?

Credit cards. Will they remain in separate names? Or will credit be reapplied for in both names? Will a limit be set on the amount that one party can charge without consulting the other? Who pays the bills and keeps the records?

Debts. List all debts either spouse will owe at the time of the wedding. Who is to pay these debts?

Former spouse. If the previous marriage of one spouse ended in divorce, review the divorce decree. What financial obligations, if any, were made to the former spouse — including property settlements, spouse and/or child support payments, life insurance, health insurance, and pensions? Are there benefits from a former spouse that will cease after remarriage?

If one partner is a widow or widower, review any changes remarriage may cause in the financial situation. Are there pension benefits or other income that will cease after the remarriage?

Parents. Does either party have aging parents who are dependent now or may become so? Where will parents live? Who will care for them? What financial help will be given?

Children. What are each party's financial and/or parental responsibilities? If a child has special needs, what are they and how will they be handled? What financial promises, both oral and written, have been made to your children concerning education, weddings, business ventures, car insurance, support, and so on? Which, if any, of these issues

should be discussed with the children?

Charitable/religious contributions. Who decides what contributions are made? Will contributions come from husband, wife, or both?

Financial practices must be in keeping with the agreement

If a couple does enter into a premarital agreement, it is important that the daily financial practices are in keeping with the agreement. How property is titled and who pays what expenses is important. Discuss with the attorney the financial practices necessary to keep the agreement intact. Talk with the attorney about the need for each partner to give the other spouse or someone else a power of attorney to manage financial affairs in the event either should become incompetent.

Summary

A premarital agreement can create an atmosphere of open discussion in a new marriage. This will carry over and future concerns about money, work, children, the home, and any other mutual issues can be discussed openly. Both parties need to be aware of all important facts at the time the agreement is written, and neither partner should sign the agreement unless she or he truly agrees with the terms.

Adapted from Premarital Agreements, FS 318, by Alice Mills Morrow, Extension family economics specialist, Oregon State University; and Marsha Goetting, family economics specialist, Montana State University.

Minor Children

When a person with a child marries someone other than the child's parent, the new spouse becomes a stepparent. When stepchildren are minors, there are financial and legal issues to consider.

Legal Custody

Unless there has been a stepparent adoption, a stepparent does not have legal custody. Legal custody differs from physical custody. Physical custody determines where the child lives. Legal custody determines who has the right to make decisions for the child—decisions about education, religious training, medical care, etc.

Even if the child and the stepparent live in the same household, the stepparent does not have the right to make parental decisions such as authorizing medical treatment.

If a child is living with, or spending large amounts of time with the stepparent, the parent with legal custody may give the stepparent the power to authorize emergency

medical treatment for the child. This authorization needs to be in writing.

Schools and youth groups are increasingly reluctant to allow a person without legal custody to take a child from school or from a youth event. The reason for this is that there have been cases of parental kidnapping. If a person without legal custody will be picking a child up from school or an event, plans need to be made with the school or the event organizers in advance.

Employee/Government Benefits

Employee and government benefit programs vary in their treatment of the stepparent and stepchild relationship.

Some employee benefits such as health insurance do not cover stepchildren, some cover all stepchildren, and some cover only those stepchildren living with the employee. Don't assume that stepchildren are covered. Talk with the benefits person at your place of employment.

Government programs, such as Social Security benefits and military

benefits, vary in their treatment of the stepparent/stepchild relationship. If you receive government benefits, find out whether or not those benefits apply to stepchildren. If the children are now covered by some benefits, check to see whether the remarriage will affect the benefits.

Child Support

Remarrying usually does not justify a change in an existing child support order. However, some of the changes common at the time of remarriage may.

A change in the child's living arrangements—the child used to live with mother and has moved to father's—is apt to affect child support. The birth of a child to one of the parents usually is a change affecting the amount of child support. A change in the parent providing the health insurance also may affect the amount of child support.

The way to change a child support order is through a process called "modification." (See pages 15 and 16 for more information on child support modification.)

Estate Planning for Families with Minor Children

Most parents live to see their children's 18th birthdays. Most children never need guardians, conservators, or trusts. Statistically, it's unlikely that one parent will die while his or her child is a minor. It's even more unlikely that both parents will die. But it does happen.

For parents with modest estates and minor children, property and guardianship are the primary estate-planning concerns. (There is no estate tax on taxable estates of less than \$600,000. If the taxable estate exceeds \$600,000, tax planning is needed.) The parents need to decide how to provide income for their children if one or both parents die, to whom their property will be distributed, and how it will be managed to provide financial resources for their children. They also must decide who will care for their youngsters should both parents die.

Estate planning attorneys can help the parents of minor children plan their estates and can help parents weigh advantages and disadvantages of various estate planning tools and techniques. The most difficult part of the parents' planning is making complex family decisions relating to lifestyle, values, goals, and relationships.

Every family is different, so they all have different estate planning situations. Some families have one employed parent; in others, both parents are employed. Some parents are single, either because they have never married or because their marriage has ended through death or divorce. When divorced parents remarry, they create families of "yours, mine, and ours." If a family has a handicapped child, extra planning usually is needed.

Let's look at the estate planning of some young families.

A first marriage

Mary and John Douglas have typical young-family estate-planning concerns. In their early 30's, Mary and John have two children, ages 5 and 7. Mary and John assume that if one of them died, the other would use family assets to provide for the children. They discussed the possibility that the survivor might remarry and have more children, and they still felt comfortable leaving everything to the survivor. They accomplished this by titling car, house, and investments in joint tenancies with rights of survivorship so that if either spouse dies, the property will pass to the survivor. They also have named each other as beneficiary on their life insurance policies. They know that if their assets ever exceed a value of \$600,000, this may no longer be an appropriate plan.

Mary and John also need a plan in case they both die prematurely. Their first idea was to prepare simple wills dividing their assets equally between the two children. However, they reconsidered this plan after learning that the court would appoint a conservator to manage property passing to the children while they are minors. Then, as each child turned 18, each would receive the property to manage, regardless of financial capability. Even though Mary and John think their children are bright, they still don't like the idea of their children managing \$100,000 or \$200,000 while so young.

Rather than leaving the assets to the children, Mary and John followed the estate planner's suggestion to make wills leaving everything to the surviving spouse or, if there is no survivor, to a testamentary trust for

the children's benefit. The insurance proceeds also will be paid to the trust if both parents die. In establishing the testamentary trust, the parents selected the trustee and prepared a trust agreement giving the trustee the power to manage the trust and use the income for the children. The trust will avoid the inflexibility of conservatorship.

For the Douglasses, the most difficult part of creating the trust involved the family questions they had to answer—questions about what activities and experiences they consider important for their children and, if there is not enough income for everything, which of those are most important. Now they feel they have a flexible plan that will provide financial management tailored to their children's needs.

Mary and John also nominated a guardian for the children in case both parents die. The guardian has the power and responsibility of a parent and makes decisions about the child's upbringing: schooling, religious training, and medical treatment. The mechanical aspects of nominating a guardian were easy; it was done in their wills. The difficult part for the Douglasses was deciding whom to nominate, but eventually they decided John's sister, Ruth, who lives nearby and has been very involved in the children's lives, would be the best choice. They also nominated a good family friend as an alternate in case Ruth cannot or does not want to be appointed when the time comes. Mary and John talked at length with both Ruth and the friend about their dreams and hopes for their children.

Mary and John intend to review their plan periodically to check for financial or family changes that might affect their estate plan.

A family with a handicapped child

When there is a family member who will never be able to care for himself or herself, estate planning is more complex and more important. The Capizzis have been married 25 years and have two sons already finished with college. Their third child is 10 years old and was born with Down's syndrome. Robin lives at home and most likely will never be able to care for herself completely. The Capizzis' estate plan must account for Robin's special needs.

The Capizzis have an estate plan that leaves everything to the surviving spouse, and both feel the survivor would use the assets to care for Robin. But because Robin could outlive both parents, they also need to plan for what will happen when they are gone.

At first, the Capizzis thought they might leave everything to their older children, Douglas and Kurt, and instruct them to care for Robin. But they decided that would not be fair to the boys or to Robin. Instead, they will leave some assets outright to Kurt and Douglas and some in trust to provide income for Robin's support.

The Capizzis also knew that if Robin has income, she would become ineligible for need-based government benefits. In addition, income might be claimed to reimburse the state if Robin ever has to be in a state-supported care facility. With help from their attorney and the Association for Retarded Citizens, they developed an estate plan that leaves Robin's assets to a "spend-thrift trust," ensuring that trust assets will not be used in place of public benefits, and that trust income will not make Robin ineligible for government programs.

Because Robin probably will be unable to make her own important decisions, the Capizzis have

nominated Evelyn's sister, Louise, as guardian. Louise is well informed about Robin's needs and care. The Capizzis know that this plan may have to be changed later as Louise ages. When they decide to name an alternate guardian, they will amend their wills.

A second marriage

Recently married, both Mary and Richard Zinn have children from earlier marriages. Neither of them wants to leave everything to the surviving spouse; Mary has a 10-year-old daughter to think of, and Richard has two children, a 24-year-old and a 14-year-old. Richard's divorce settlement requires that a stated amount of insurance be for his younger child's benefit.

Mary and Richard own nothing in joint tenancy with rights of survivorship except their cars. Their other assets are titled in just one name—some in Mary's name and some in Richard's name.

Mary's will leaves the household contents to Richard and her other assets to a trust for her daughter's benefit. Her insurance proceeds also will pass into the trust. Mary was especially anxious not to have assets passing outright to her daughter since there is a chance the child's father, Mary's former husband, would be appointed conservator.

The trust agreement instructs the trustee to use income and as much of the principal as necessary for the care and education of Mary's daughter. Any assets remaining in the trust will be distributed in installments starting on her 25th birthday.

Richard's will leaves household contents to Mary. He also has named her as beneficiary on one of his insurance policies. Richard considered dividing his other assets and insurance proceeds equally between his two daughters. However, he decided distributing the estate in equal shares may not provide

Gather the following information:

- List of property owned and how it is titled
 - Amount of life insurance payable at death and name(s) of beneficiary
 - Death benefits from employment and Social Security
 - Existing wills, if any
 - Divorce agreements, if any
 - Marital contracts, if any
- Contact an attorney to develop your family's estate plan.

adequately for each child's needs. If Richard died, his 14-year-old would need more financial support than would his 24-year-old, who already is out on her own.

Richard has planned that all the assets earmarked for his children will pass into a trust. The income is to be used for the care and education of his younger daughter. When she is 22, the assets will be distributed in installments to both daughters.

Mary and Richard used their will to name guardians for their minor children. Deciding whom to nominate was even more difficult for the Zinns than for most people because they had to discuss the plans with former spouses who are, after all, still their children's parents.

Your family's objectives

Estate planning is important for families with minor children. Discuss your family's estate planning concerns and objectives.

Adapted from Estate Planning for Families with Minor Children, FS 313, by Alice Mills Morrow, Extension family economics specialist, Oregon State University. Parts of this material previously appeared in an article authored by A.M. Morrow and published in Financial Planning. The material is used with their permission.

Modification of Child Support in Oregon

The purpose of this article is to give parents a better understanding of child support modification. It is not a substitute for legal counsel.

When parents divorce, an important concern is the financial support of their children. The income available for the support of the child influences where the child lives, the school the child attends, the likelihood the child completes high school, and the opportunity for college education.

The amount of child support contributed by each parent is determined under the Oregon Child Support Guidelines. The support amount is based on both parents' incomes and number of children, and is divided between the parents according to their respective incomes. Once a child support order is entered, it remains in effect until it is changed.

The only way to change the support order is through a process called "modification." An unemployed parent may feel that being out of work is a reason to lower the amount of child support he or she pays, and in some cases, involuntary unemployment is a reason to modify the support order. However, unless and until the support order is modified, the original order is enforceable.

It is likely that at some time during the years a child support order is in force, modification of the order will be in the child's best interest. Most divorced parents will at some time be involved in the modification process.

Modification is least difficult when the parents are able to work together—by themselves, or with the help of a mediator, counselor, or attorney—to agree upon changes in child support in compliance with the

Oregon Child Support Guidelines. Modification is more difficult when parents are experiencing conflicts over the divorce and their parenting roles, and when parents are unable to communicate about financial issues.

Review of support orders

A support order may be reviewed to determine whether the award should be increased or decreased in two situations:

(1) *Significant and unanticipated change of circumstance.* To justify a change in the support payment, either an increase or decrease, there must be a significant and unanticipated change in the needs or financial circumstances of the child and/or either parent since the entry of or last change in the support order. This includes changes in:

- Employment status. For example, the employment of a formerly unemployed parent, a substantial salary change, or permanent job loss.
- Health insurance. For example, father used to provide the health insurance and now mother provides it.
- The child's living arrangements. For example, the parents have reconciled and are now living together with the child. Or perhaps the child is living with neither parent.
- One parent's life. The birth of a child to one of the parents usually is a change affecting the amount of child support. However, remarrying and/or having a step child move in usually do not justify a change in child support.

(2) *Two-year review.* A support order may be reviewed if it has been at least 2 years from the time the existing support order was entered,

established, or most recently modified or reviewed.

Modification of support orders

The request for modification of a child support order may be prepared by a private attorney, the county district attorney's office, the Support Enforcement Division (SED) of the Oregon Department of Justice, or by the parent. All modifications, regardless of who requests them, must be in compliance with the Oregon Child Support Guidelines.

Private attorney. A child support modification may be handled by a private attorney. The attorney represents and gives legal advice to the parent hiring the attorney. In addition to the modification, the attorney also may handle related issues such as custody and visitation.

The parent seeking the modification hires an attorney, who files a petition, serves the other party, schedules a hearing, conducts "discovery" (gathers evidence), and at the hearing presents specific evidence showing a substantial change of circumstances in the form of itemized costs, bills, and income. If parents working together—either by themselves or with the attorney, a counselor, or a mediator—can agree on changes, the attorney may file the modification without conducting discovery and without a hearing.

The cost of having a private attorney handle the modification depends on the amount of work required. The most expensive cases are those requiring extensive discovery, and those with issues likely to be appealed. The least expensive cases are those where the parents can work together and agree on the changes without going through discovery and a hearing.

County district attorney. A child support modification may be done by the county district attorney's office at no cost to the parent. Modification through the district attorney's office may take up to 6 months.

The county district attorney is not the parent's attorney, but rather represents the State of Oregon. The district attorney can take action only on child support—not on visitation or custody matters. The district attorney cannot give the parent legal advice.

Support Enforcement Division (SED). Any child support case where the custodial parent receives public assistance (Aid to Dependent Children or Medicaid) is automatically reviewed by the SED at least every 3 years. This review will be done 24 months after the entry of the last order, if requested by either parent. The SED may review a support order less than 24 months old if one of the parents requests it and if there has been a significant and unanticipated change of circumstances.

The SED does not represent the parent, but rather represents the State of Oregon. Modifications through the SED are free. The SED can take action only on child support—not on visitation or custody matters. The SED cannot give legal advice.

The parent. A parent also may do a modification (this is called *pro se*).

To order forms for a modification, see *Additional information*.

Review your situation

Regardless of who files the modification, you will be asked to provide information and documentation of income and expenses. You will need copies of any and all relevant child/spousal support orders, your most recent federal and state income tax returns, payroll stubs or wage statements, and if applicable, documentation of the cost of health insurance and/or child care.

Review the current support order and gather as much information as possible showing changes occurring since the date of the order. If you do not have a copy of the child support order, you may get one from the circuit court in the county where the support order was filed.

Gather as much information as possible about your own and the other parent's financial situation. The modification is based on the situations of both parents and the child. If you are the parent with whom the child lives most of the time, you may be very aware of an increase in the child's expenses and changes in your situation. There also may be changes in the other parent's life. *Until information is gathered from both parents, it is not possible to predict whether the modification will result in an increase or a decrease in the amount of child support.*

If you receive a motion for the modification of your child's support order and you disagree with the amounts shown, do not ignore the motion. Mail your written objection to the clerk of the court where the motion was filed within 30 days, and request a hearing. Send a copy of the hearing request to the person or attorney making the motion to modify. **If there are no objections and no request for a hearing within 30 days, the modification may be entered as a final order.**

Additional information

To order Oregon Child Support Guidelines and Worksheets, and forms to modify child support orders, contact the local Support Enforcement Office (listed in the "State Government" section of the phone book under "Department of Justice"). Or contact the Oregon Support Enforcement Division, Department of Justice, 1495 Edgewater NW, Suite 260, Salem, OR 97304. Phone: 503-378-4879 (choose the option for "general services").

Adapted from Modification of Child Support in Oregon, FS 326, by Alice Mills Morrow, Extension family economics specialist, Oregon State University.

Other

Financial and recordkeeping details are important as you begin your marriage. Things that might need your attention are listed below.

As you think through the financial/legal issues in your marriage, there are likely to be differences. An

individual learns about money—how it is to be handled and what it means—from family, friends, and experiences. You and your partner have learned different financial values, attitudes, and practices.

These differences will become evident as you make financial

decisions and as you perform daily money management tasks.

The couple that learns to talk about money and resolve differences will rarely find money interfering with their relationship. So, begin talking and listening.

When You Marry: Some Financial and Recordkeeping Tasks

When you marry, there are many changes and lots of activities going on. This publication discusses financial and recordkeeping tasks that are sometimes overlooked.

If either partner has a change of name and/or address

Financial statements and bills.

A month before you move, make a note of your new address on bills and financial statements you receive. Most statements have an area for making a change of address. If not, include a change of address card available from the post office.

Magazines, newspapers, and periodicals. The post office forwards these for 60 days at no charge. However, most publishers take 4 to 6 weeks to make an address change. As soon as you know your new address, notify publishers. The post office has change-of-address cards. Cut an address label from each publication you receive and tape it in the space on the notification card that reads "OLD ADDRESS." Fill in your new address and mail it to the publisher.

Post office. File change of address using the form available

from the post office. As mail is forwarded from your former address, notify the sender of your new address.

Department of Motor Vehicles (DMV). You must notify the DMV of address or name changes within 30 days. Apply in person for a name change and take your auto title and registration.

Social Security. If your name changes, call the Social Security Office and request a name change form. The local Social Security office is listed under U.S. Government in the phone book, or call their toll-free number, 1-800-772-1213.

Voter registration. If you move to a new city or town, register to vote as soon as you have moved. If you move but stay in the same city or town, check with the county Elections Office to see whether you must re-register.

Internal Revenue Service (IRS). Send address change to the IRS center where you filed your last return. If you don't, you may not receive correspondence about that return. If you filed returns at other IRS centers in the past 3 or 4 years, notify them. Include your Social Security number.

State Revenue Department.

Send address change to the State Revenue Department where you filed your last return. If you moved from another state, notify the state where you filed your last three or four returns. Include your Social Security number.

Employers. Send a change-of-address card to any employer you have worked for during the year, to ensure timely receipt of your W-2 wage and tax statement.

Insurance

Auto insurance. Notify your insurance agent of changes. Make an appointment with the agent to discuss coverage.

Property insurance. Whether you own or rent, your household contents may be insured under a homeowner's policy. Since marriage is a time when new furnishings and appliances are acquired, it's an appropriate time to review the need for property insurance. It also is a time to start a household inventory. This is a record of household furniture, furnishings, appliances, etc., and should include the purchase date and cost as well as title and ownership. This serves as a basis for

determining the amount of insurance protection needed, filing claims in case of loss, and making replacement or purchase plans.

Health insurance. Before marriage, contact the office in charge of fringe benefits where you work and see what health insurance benefits are available for your spouse and how and when you must add new family members. If each of you has an existing health insurance policy, investigate the benefits of each in order to decide whether or not to continue both policies.

Life and disability insurance. The need for life insurance and disability will change as your family changes. If you have life insurance policies, you may want to change the beneficiary and/or add contingent beneficiaries to reflect your new marital situation. Review the life and

disability insurance available through your employment.

Estate planning

Estate planning is determining who will receive your property when you die. You already may have done some estate planning, such as naming beneficiaries on life insurance policies, pension plans, and savings instruments. You may have prepared a will. Review what you have done and determine what, if any, changes are needed.

Income tax withholding

After marriage, your tax filing status will change. Get W-4 forms from your employer and see whether the amount of taxes to be withheld needs to be adjusted.

Financial management

Finances are a part of the marriage relationship. It's important that each of you has the opportunity to participate in financial decision-making and budgeting.

Some things to discuss:

- Expected income and expenses in the first year
- Method for paying bills and keeping records
- Amount of emergency funds needed
- Amount of money you feel you should save
- Appropriate amount of credit to use
- Financial goals

Adapted from When You Marry: Some Financial and Recordkeeping Tasks, FS 317, by Alice Mills Morrow, Extension family economics specialist, Oregon State University.

Share the financial practices and procedures that were helpful in your remarriage. Send comments to:

Alice Mills Morrow
Extension Home Economics
161 Milam Hall
Oregon State University
Corvallis, OR 97331

For further reading

To order copies of the following publications, send the publication's complete title and series number, along with a check or money order for the amount listed, to:

Publication Orders
Extension & Station
Communications
Oregon State University
422 Kerr Administration
Corvallis, OR 97331-2119
Fax: 541-737-0817

EC 1465, *Parenting After Divorce*, by Sue Doescher, Jan Hare, and Alice Mills Morrow (Oregon State University, Corvallis, 1995). 75¢

EC 1421, *Estate Planning: Your Will*, by Alice Mills Morrow (Oregon State University, Corvallis, 1994). 50¢

FS 314, *Revocable Living Trusts*, by Alice Mills Morrow (Oregon State University, Corvallis, 1996). No charge.

EC 1234, *Where Are Your Valuable Papers?* by Alice Mills Morrow (Oregon State University, Corvallis, 1996). No charge.

EC 1267, *Financial Planning: Family Goals*, by Alice Mills Morrow and Sheila Fitzgerald Krein (Oregon State University, Corvallis, 1991). No charge.

EC 1381, *Family Financial Planning: Preparing and Using Financial Statements*, by Alice Mills Morrow (Oregon State University, Corvallis, 1992). 75¢

If you would like additional copies of this publication, *Remarriage: Legal and Financial Issues*, EC 1484, send \$2.00 per copy to the above address.

You may order up to six no-charge publications without charge. If you request seven or more no-charge publications, include 25 cents for each publication beyond six.

We offer discounts on orders of 100 or more copies of a single title. Please call 541-737-2513 for price quotes.

World Wide Web

You can access our Educational Materials catalog and some of our publications through our Web page at <http://wwwagcomm.ads.orst.edu/>

© 1997 Oregon State University

This publication was produced and distributed in furtherance of the Acts of Congress of May 8 and June 30, 1914. Extension work is a cooperative program of Oregon State University, the U.S. Department of Agriculture, and Oregon counties.

Oregon State University Extension Service offers educational programs, activities, and materials—*without regard to race, color, religion, sex, sexual orientation, national origin, age, marital status, disability, and disabled veteran or Vietnam-era veteran status*—as required by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. Oregon State University Extension Service is an Equal Opportunity Employer.

