

New Family / Second Divorce

Child support orders from a prior marriage can wreak havoc on your second marriage. Worse, support orders accumulate, they're not combined, or averaged. So, a second divorce can mean real trouble for a doubly-obligated child support payor. If you're thinking of remarrying, or are already remarried and facing a second divorce, call our attorneys to get the sound advice and planning you'll need to protect yourself while taking care of your kids.

Expenses for a New Family: A modification of child support may be warranted when there's been a substantial change in circumstances. Sometimes, a divorced parent paying child support encounters financial setbacks or expenses. The birth of a child in a second marriage, for example, may warrant a reduction (or cessation) in work hours resulting in a lower "net income" – meaning a possible reduction in the child support obligation. This rationale doesn't always apply, however, to the situation where a person paying child support starts a new family. Why, after all, should a child of a first marriage receive less financial support just because the non-custodial parent starts a new family years later and may have new children to support? Consider the plight of one father with four kids from his first marriage AND a new baby in his second marriage:¹ he paid over \$20,000 a year in child support to his former wife and had never been late on a payment. They agreed to share college expenses based on "the financial ability of [each] party at the time." His former wife earned a comparable salary and had substantial savings at her disposal. His one-year-old son in his second marriage had a respiratory ailment (a recurring benign tumor that obstructed the airway and impaired normal voice development) that required several surgeries and monthly care – costing about \$500 a month. The son's medical expenses prevented the father from paying to his former wife the full amount (\$3,800) of college expenses for their daughter that resulted from the application of a formula. The court said it was too bad and unless he handed over the money – even if it meant that his new son would have to forego the surgeries – he'd go to jail; and that would mean he'd lose his job and then his current wife would have to pay those medical bills all by herself.

Judge's have a saying for this: "the first family comes first."

Illinois law,² however, may provide a way out for parents who owe child support and are also starting a new family – be sure to check with a knowledgeable attorney to see if your situation qualifies.

Child Support in a Second Divorce: In the event a payor suffers a second divorce, the children of the first marriage will continue to receive the same amount for support and the children of the second marriage will receive less. For example, assume a divorced parent pays 28% of his or her net income to his former spouse as support for the two children of the first marriage. After a divorce in a second marriage with, say, one child, that payor would continue to pay 28% of net income to the former spouse of the first marriage and would then have to pay an additional 20% of whatever is left over to the former spouse of the second marriage. Remember: "the first family comes first."

This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or info@illinoisdivorce.com.