

Worried about the break up of your marriage? *It doesn't have to result in a vicious battle.*

You can make your situation better. Read the wise advice in this article series authored by experienced family lawyers. Then consider how you'll proceed in the best interests of yourself and your family.

Article 7: Resolving your family law dispute: issues in child support

This is the seventh of ten articles designed to help people understand the complex area of family law. The articles are not a substitute for legal advice. They are meant to help you focus on the issues that you should consider when faced with family conflict.

What are the issues in child support?

The courts and lawyers generally deal with resolution of family issues by dividing them into broad categories. The categories are usually dealt with in the following order:

1. Parenting plan;
2. Child support;
3. Spousal support and;
4. Division of property.

We have talked about steps towards developing a parenting plan in my previous article. In our opinion, it is wise to deal with this issue first because so much of the rest of your resolution depends on what will happen with the children.

The first issue arising out of the parenting plan is child support. The Child Support Guidelines chart how much child support will be paid for the number of dependant children, based on the income of the person who pays (the payor). Issues can arise around the income of the payor, or whether or not a child is dependant.

The Guidelines also state that support payments may be adjusted if parenting is divided and where a parent has more than 40% of the care of the children. I am always reluctant to emphasize this point, because I sometimes suspect parties will fight for time with their children based on this formula. At the end of the day, the best interests of your children should not depend on you paying more or less money to support them. When lawyers and courts suspect this problem they will often either ignore the 40% rule or adjust time spent with the children to achieve a just result.

Child support is intended to compensate the recipient for the normal day to day expenses of the children, such as clothes, school fees, and recreation activities. However, the law recognizes that there are expenses that go beyond the normal ones, and that both parents should share those based on their incomes. Those expenses, called "Extraordinary Expenses", include such things as day care expenses, orthodontics, special educational or counseling needs, or special lessons. The list is flexible, and depends on a number of factors, but it is important to recognize that there is an obligation.

If you receive child support, you will not pay tax on it as income. If you pay child support, you will not be able to count the payments as a tax deduction. Child support is payable whether you are a man or a woman. It is based solely on where the children live, the number of children and the payor's income.

The principle behind the Child Support Guidelines is that children should benefit from the income of both parents, so even though a parent receiving child support is earning more than the parent paying it, the Guideline table amounts apply.

Child support is always open for review, and it changes sometimes, based on your income and that of your former spouse. I tell people who are obligated to pay it to simply do so, and change the amount when their income changes. You don't need a lawyer to explain your table obligations to pay child support.

Ronald J. Smith and Glenda Peacock are family lawyers and mediators based in Kelowna, BC. They wrote this article series to help people learn about preparing for collaborative and constructive solutions to the legal issues involved in marriage breakup.

You can contact Smith Peacock for a consultation by phoning 250.860.7868 or 888.787.6484.

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