

# Can a Stepparent be Required to Pay Child Support?

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A stepparent may support his or her spouse's children for years while married to their parent. But, there is no obligation under Utah or U.S. federal law for the stepparent to pay child support for the spouse's children born from a previous relationship. However, a stepparent can impact the amount of child support that his or her spouse, the biological parent, is required to pay. This can, in effect, cause the stepparent to incur costs from resulting child support increases. There also may be a few legal exceptions in some states, under which a stepparent can actually become directly responsible for child support.

## Ways a Stepparent Effectively Incurs Child Support Costs

Child support is, of course, understood as the court-ordered monthly amount one or both parents must pay, to help financially support their children and help pay their children's general living expenses. Neither Utah state nor federal courts normally consider a stepparent's income in decisions about child support. Still, a stepparent's income or his/her combined finances with his/her spouse can affect the amount of child support the spouse (the noncustodial parent) must pay.

Effectively, the stepparent is arguably incurring a portion of the parent's increased child support cost in cases such as these:

- **Tax Benefits:** The amount of child support is typically determined by a formula that involves a percentage of the noncustodial parent's net income. If that parent's net income increases due to tax benefits from getting remarried, the increase is likely to impact the child support calculation. A resulting increase in the child support amount may be a cost incurred by the stepparent along with his/her spouse (the custodial parent) in such cases.

- **Cost of Living:** Another financial change due to remarrying that can impact child support judgments is a decrease in a remarried spouse's (custodial parent's) cost of living. That reduction can be factored in the family court's considerations of the amount of child support, and the judge may decide to reduce the amount awarded commensurately.
- **Income From Jointly Owned Business:** The biological parent's marital income from a business jointly owned with a new spouse (the stepparent), or the parent's share of marital assets can be factored into the court-ordered amount of child support.

*So, for perspective, stepparents generally are not legally required to pay child support for their stepchildren. They are not at risk of wage garnishment for nonpayment of child support by their spouse (the noncustodial parent).*

Nevertheless, when a person is married to a parent who is paying child support, in effect, that person (the stepparent) is paying it too. This is regardless of the stepparent's freedom from a formal legal obligation to pay the support directly.

## Can a Parent Quit Paying Child Support If the Other Remarries?

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No. Child support is not like alimony or court-ordered spousal support. The child support obligation does not end when the custodial parent remarries. However, in some circumstances a remarriage can cause a change in the financial factors of the child support calculation, as discussed above, and can thereby justify a child support modification, to adjust the amount of the existing order for child support.

## If a Stepparent Divorces, Must He/She Pay Child Support?

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After a child's biological parent and stepparent divorce, there is no legal requirement for the stepparent to pay child support. If a stepparent adopts a stepchild, only then is he or she personally legally responsible for paying child support. (Adoption normally requires the child's biological parent (your spouse's ex) to relinquish all parental rights.) However, there may be a legal obligation to pay spousal support or alimony.

## Two Exceptions that Can Require You to Pay Child Support for Your Stepchildren

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All state governments understand that it would be unfair to require stepparents to pay child support for stepchildren. Nevertheless, there are a couple of exceptions to the general child support laws that can cause a stepparent to bear some amount of responsibility for stepchildren's financial support:

- **In Loco Parentis:** If you are governed by a state that has a statute imposing a financial obligation on a stepparent who has elected to act "in loco parentis" regarding a child. This means that a stepparent has voluntarily accepted some parental functions and responsibilities.

- ***Estoppel:*** Another exception may occur under the “estoppel doctrine.” This is a requirement prohibiting a stepparent from shifting to a different role or abandoning a promise, if the change would harm the child financially. This legal obligation can only be imposed when a stepparent has taken the role of parent to a child, and has been interfering with the relationship between the child and his or her biological parent, and is causing the child to be dependent on their financial support.

## **Wall & Wall Attorneys at Law, P.C., Salt Lake City, UT**

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