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Remarriage of Ex Provides No Relief from New Mexico Child Support

Child support is mandatory in the State of New Mexico and it must be paid whether or not the parents of a child were ever married. The New Mexico Child Support Guidelines are part of the family law statutes and they clearly outline when support is awarded and how it is calculated.

Child support is based on the number of children being supported and the gross monthly incomes of both parents with credits given for work-related daycare expenses and the cost of medical care for the child.

In some cases, additional credits may be given for extraordinary monthly expenses related to the child or income may be adjusted if a parent is paying court-ordered support for another child.

Once support is ordered it is paid until the child turns eighteen (18) or until the child turns nineteen (19) if the child is still in high school. The child support calculation does not include the income earned by a parent's subsequent spouse or partner.

The child support award can be modified when there is a substantial change in circumstances as defined by the Guidelines. The most common reason for a change in circumstances is a substantial increase or decrease in the income of one or both parents. In order to modify support, the monthly child support obligation must change by at least 20%. A substantial change in income on either side may justify an upward or downward modification so long as the obligation changes by 20% or more.

Erroneously, many believe that child support is based upon household income. Thus, a parent receiving support will often seek modification when the paying parent gets remarried or moves in with a partner because the income of the paying parent's household has increased.

This is not an allowable basis for modification. As noted above, the income of the paying party's new spouse or partner is not included in the child support calculation. This can lead to some seemingly unfair child support scenarios where the paying party is in fact paying more following remarriage despite a substantial increase the other party's household income.

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The Guidelines are meant to be simple, but they can easily be complicated by the facts of a case. Thus, any parent involved in child support dispute should consult a family law attorney in order to discuss their rights and responsibilities under the New Mexico Child Support Guidelines.

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