Saying “I do” again? Make sure your kids don’t get screwed financially

Love may be better the second time around but, if you have children from a prior marriage, the money stuff can get messy

Beth Braverman (https://considerable.com/contributor/beth-braverman/) | July 29, 2018

All you need is love, love, love. And perhaps a pre-nup.

Money—and the decisions related to it—can cause tension in any marriag But when one or both spouses have been married before, as is the case with more than 40% of recent marriages (https://www.census.gov/content/dam/Census/library/publications/2015/acs/a 30.pdf?eml=gd&utm_medium=email&utm_source=govdelivery), the issues become far more fraught.

That’s especially true for older couples, for whom—unlike younger generations—remarriage is on the rise. According to a Pew Research Center study (http://www.pewsocialtrends.org/2014/11/14/chapter-2-the-demographics-of-remarriage/), two-thirds of previously married people ages 55 to 64 have remarri up from just half roughly 50 years ago.

That means the financial tensions that often come along with love the second (or third or more) time around are on the rise too.

Here’s why: When you remarry, you typically come into the union with more mon than you had the first time you got hitched. Plus, you may have financial baggage from your previous marriage.

Throw adult or nearly-grown kids from your past relationship into the mix, and an already fraught subject becomes even more emotional.

You want to show your commitment to your new partner, of course. But you also want to ensure that if something happens to you, the assets you intended to go to your children don't end up with your new spouse—or, worse, if he or she then dies in the hands of your new partner's kids or his or her next honey.

"People who marry for a second time have split loyalties because they really care about their new spouse and they really care about the children," says Laurie Israel divorce lawyer and author of The Generous Prenup: How to Support Your Marriage and Avoid the Pitfalls (https://amzn.to/2LJEr6G).

To ensure your children get what you want them to have, and your new spouse do too—without hurt feelings and undue tension—here's what you need to do.

Get a prenup and a postnup

Sure, "nups" have a reputation as unromantic. But a strong prenuptial agreement the best way to make certain you get the financial outcome you want.

"A good prenup gives the person with more assets peace of mind about what they' keep, and what they can pass to their children," says Benjamin Valencia, a family lawyer and partner with Meyer, Olson, Lowy & Meyers in Los Angeles. "And it giv a person with less assets peace of mind that they won't be left out on the street."

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Pew Research Center

The agreement, which can cover property and financial holdings you bring into th
marriage as well as any you acquire during it, should clearly lay out what you and your new spouse will share, and what will stay separate. Retaining sole ownership assets you want to leave to your kids makes it simpler for them to inherit later.

If your new partner is doing fine financially, and you want your kids to get most o the money and property you owned before you got married after you die, it's also a good idea to ask your soon-to-be spouse to formally waive his or her rights as part of the prenup.

It's a sensitive issue to raise, no doubt, and you may think you're covered if you've spelled out your wishes in a will (more on wills shortly). But under many state law a spouse's right to claim a big chunk of your assets, typically a third to a half, can supersede a will—unless a prenup says otherwise.

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Work with your own lawyer to be sure you're getting advice that puts your interest first, and your future spouse should do the same.

You can find a qualified attorney through the American Academy of Matrimonial Lawyers here (http://aaml.org/find-a-lawyer). Expect to pay about $5,000 each.

To give the prenup even more legal authority, after you're married, create a secon legal document, known as a postnup, affirming everything you agreed to in the prenup.

Update your estate plan

The prenup deals with the assets you bring into the marriage and accumulate during it, while your estate plan focuses on what happens to them after you've passed away.

A good estate lawyer can help you create the tools necessary. But, as with a prenu it helps if you and your spouse have already discussed what you'd like to do.

"You don't want to let the estate attorney drive the conversation," says Manisha Thakor, vice president of financial education with Brighton Jones. "Start with the outcome that you want and then the lawyer can create the structure to achieve it."

> **"People who marry for a second time have split loyalties."**
>
> **Laurie Israel, divorce lawyer**

For example, if you pass away before your new spouse, you may want your saving

and investments to provide financial support while he or she is alive. But after tha
you may want your children to inherit.

To ensure that happens, your lawyer would need to set up a type of trust, called a qualified terminable interest property (QTIP) trust. You can't rely on everyone involved just doing what you wanted after you're gone, assuming they even know what that is.

At the very least, you'll want to update your will—or draft one, if you don't alread
have one—to spell out who you want to inherit your savings, investments, home (i
you own one in your own name) as well as cherished possessions, such as jewelry
other family heirlooms.

Expect to pay an estate attorney around $1,000 for a simple will and about $5,00
or so for QTIP or another trust. You can find a lawyer near you through the American College of Trust and Estate Counsel here (https://www.actec.org/fellows/directory/).

Name names that spell out who gets what

Also update the beneficiaries on your life insurance policy, IRA and other savings and investment accounts. Otherwise, if the names on the documents don't agree, these beneficiary designations could override what you've said you want to happe
in your will or prenup.

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Manisha Thakor, VP, financial education
Brighton Jones

Want both your new partner and your kids to get a piece of the pie? You can name multiple beneficiaries on most of these accounts—say, giving half to your spouse and splitting the rest between your children, or however else you want to divvy things up.

One exception: your 401(k) or similar employer-sponsored retirement account. By law, your spouse is entitled to inherit all of this money. If this isn't what you want happen, your spouse must legally waive his or her rights, either in a pre- or postnu or a company-provided form.

Think yours, mine, and ours

Any income or assets you earn or acquire after you remarry that you haven't specifically addressed in a pre- or postnup will likely be considered joint property.

If you want to keep some of these assets separate, it helps to have physically separate accounts.

For example, you might have a joint account with your new spouse that you use to pay your living expenses. But you might keep money you use to cover expenses fo your children or want them to inherit in an account in your name only or a joint account with them.

Bonus to joint accounts: The money will pass directly to whoever is named on the when you pass away, no questions asked, and without going through probate.

Drawback: If you have joint holdings with your children that they know about, the would be free to tap those accounts now. Maybe your kid would never do that, but it's something to think about.

However you ultimately choose to set up financial housekeeping, make sure to tal
it through with your new spouse and your kids beforehand.

Being clear about what you want and why, and underscoring that the goal is to make sure everyone you love is taken care of financially, can go a long way to defusing tensions and hurt feelings.

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