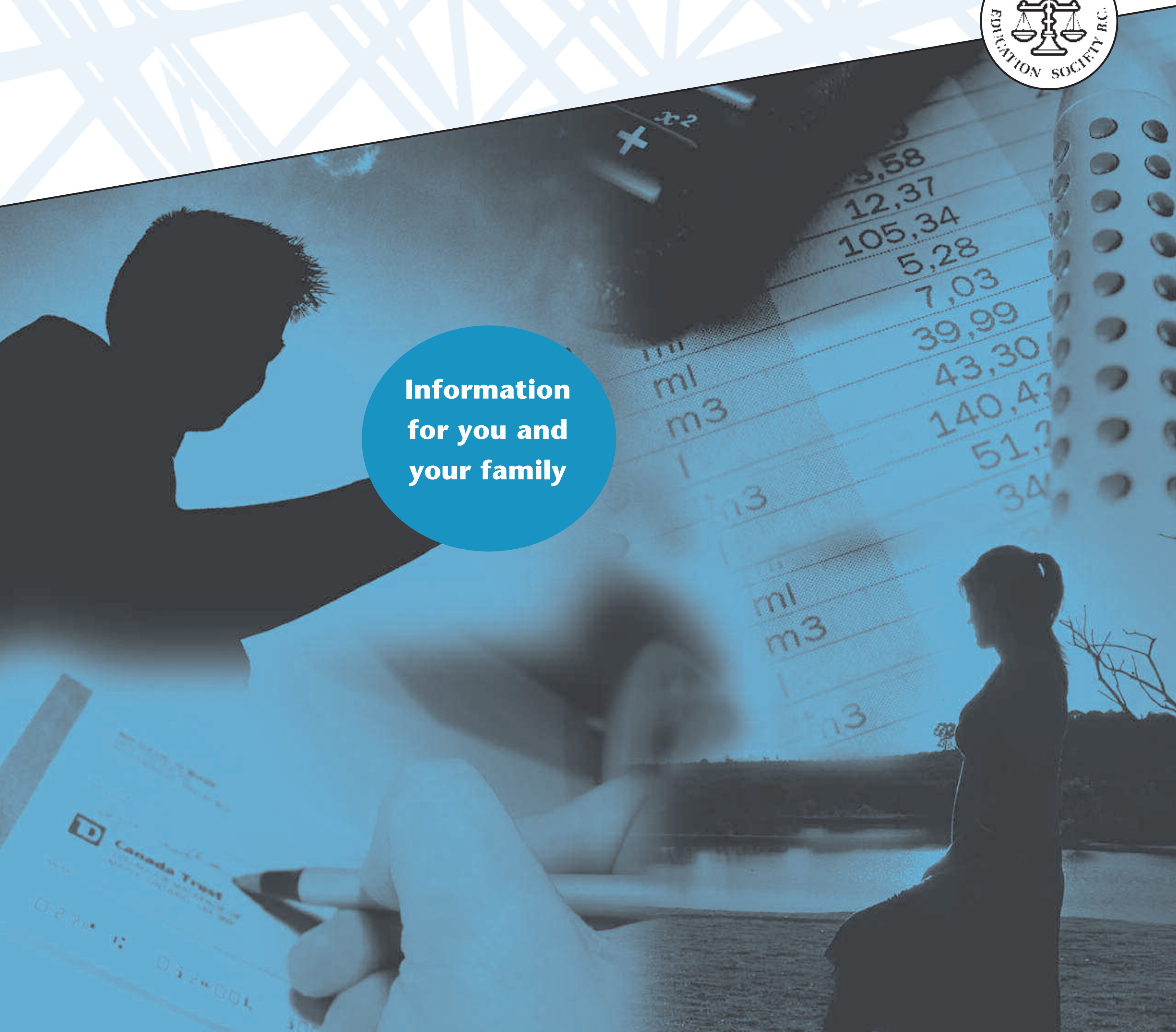
SEPARATED WITH CHILDREN – DEALING WITH THE FINANCES



Information for you and your family

Parent Workbook

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Source Materials
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We are a non-profit organization providing educational programs and services about the justice system in British Columbia. Our education helps the public better understand how our justice system works, and helps people working within the system to better understand the justice-related issues that people in our communities face.

With the support of our partners, funders, and volunteers, we strive to maintain an accessible justice system for everyone.

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THIS WORKBOOK. . .

- Focuses on the financial needs of you and your children when you separate.

- Explains how to start and where to turn for help when you are faced with separating your finances, as well as working out support issues and the division of property.

- Provides information on the effect of conflict on children and how to keep children out of the middle of discussions about finances and support issues.

- Explains how to communicate about financial issues with the other parent.

CHAPTER 1: Introduction

The process of ending a relationship is a challenging one for parents. In addition to dealing with your emotions, formalizing new parenting arrangements, and helping your children make a positive adjustment, you have the task of dealing with your financial situation.

Dealing realistically with your finances will reduce your worry and stress about your financial well being.

This workbook builds on what you have already learned at the Separated With Children – Dealing With the Finances workshop.

It provides more information about:

- The financial issues that may arise when you separate
- How these issues affect you and your children and the family's finances
- Strategies for communicating with your children's other parent about financial matters
- Strategies to help your children deal with financial changes
- What to do when safety issues are involved

It also looks at:

- Child support, including special expenses
- Spousal support
- Property and asset division, including debts
- The tools and resources to assist you to add a financial component to your parenting plan
- Where to get more information and help

This workbook gives you tools to personalize the information from the workshop.

You may wish to use the parts of the workbook that address your specific needs right now and then read through the rest of the workbook over time. You may find yourself revisiting parts of this workbook – to review strategies, to look at other options, to answer new questions, and/or to sort out another financial part. The activities provide an opportunity for self-reflection and information as you plan your next steps.

■ WHO THIS WORKBOOK IS FOR

This workbook is for you whether you are:

- married
- living common law
- have never lived with the other parent

This workbook is for you whether you:

- have already left a relationship
- are thinking of leaving a relationship

This workbook is for you whether you are:

- separating your finances from your child's other parent
- creating a family budget after separation
- formalizing child support, including special expenses
- needing information on spousal support
- sorting out property and asset division, including debts

This workbook is also for family, friends and other people in your support network.

■ SAFETY CONSIDERATIONS

While many parents can benefit from working out a parenting plan where both parents are actively involved, this is not always possible or appropriate.

During separation, stress and distress can lead to heightened emotions, particularly around issues of finances.

When there are serious issues of violence in a relationship, including financial abuse, communication and contact may be restricted for reasons of safety. Some of the strategies for effective parenting that we describe in this workbook may NOT be appropriate in your situation.

The safety of all family members should be your highest priority at all times. Adults have a responsibility to protect children from being victims of abuse or from witnessing ongoing violence.

If you feel your own safety is at risk, or that the safety of your children is at risk, making sure you and your children are safe is your number one priority.

If you are afraid for your own safety and that of your children contact:

VictimLINK (24 hours) at 1-800-563-0808

Your local crisis line

A Family Justice Counsellor through Enquiry BC:

in the Lower Mainland at 604-660-2421

in Victoria at 250-387-6121

elsewhere in BC at 1-800-663-7867

They will refer you to services near you.

You may need to talk to a lawyer or a financial advisor.

The Resources Section of this workbook has a list of other contact numbers that may be of help.

CHAPTER 2: Your Separation is Unique

Each family is unique…

- in the number of children, and their ages
- in the length of the relationship between the parents
- in whether both parents work, and if full-time or part-time
- in the family income
- in how the family manages its money (banking, credit cards, investments)
- in whether they own or rent a home
- in whether they own or lease a vehicle, and how many
- in whether there are pensions or RRSPs for retirement

Here are two examples:

Example 1

> *John and Jane separated after a 17-year marriage. They have 3 children, ages 15, 12 and 9. Both work full time and earn similar salaries. Each has a bank account and they share a household account. They have separate credit cards. They own a home with a mortgage. They each have a vehicle. John has a pension. Jane has RRSPs.*

Example 2

> *Bob and Mary separated after a 4-year common-law relationship. They have one child, age 2. Bob has recently started up a landscaping business, and works from home. Mary is a stay-at-home mom. They have a joint bank account. They pay cash for everything. They rent their 2-bedroom condo. Bob has a truck for business. Mary relies on public transportation to get around. Neither one has pensions or RRSPs.*

The make-up of a family doesn't necessarily give any information about their true financial picture.

For example:

- What is the family's net income?
- How much is the mortgage?
- How much is owed on the credit cards?
- What are the children's expenses?

How the parents managed their finances before separation is also unique to each family.

For example:

- Was there a family budget, and what did it look like?
- Did the parents consult each other before committing to an expense?
- Did one parent do all the spending?
- Did one parent pay all the bills?

The economics of the family and the way the parents managed their finances before they separated may:

a) Affect the separation itself:

- "I can't believe you bought that barbeque after I told you we couldn't afford it."
- "I thought you said you paid that bill last week."
- "What did you do with the $100 that was in our account this morning?"
- "If you want Sally to get braces then you go out and get a job!"

b) Affect the relationship between the parents after they separate:

- "Where is the receipt for the food you bought this morning?"
- "I'm not giving you money for you to put up your nose!"
- "Why should I have to pay for you and the kids to live in our home while I live in a damp basement suite?"
- "You always did pay for your other kids first."

c) Ultimately affect how parents navigate the separation process.

CHAPTER 3: What Money Means to You

Most people have powerful feelings about money that can make it hard to arrive at rational decisions about money. These feelings can also make it harder to keep relationships harmonious when dealing with money. Some people are afraid to deal with money. Others become quite obsessive about their money. It's common for people to harbour a variety of feelings about money at the same time, and even to switch from one set of feelings to another. For example, they may worry and obsess about money one day, and then completely avoid the issue of money the next day.

Just as feelings about money vary, so, too can behaviours. Some people hoard money; others spend it freely. Some are able to pay bills on time and balance their chequebook, while others avoid these tasks as much as possible. Some people take great risks in investing their money; others invest conservatively. Some people exhibit money behaviours that are contradictory, e.g. acting responsibly for some time, and then going on an all-out spending spree.

■ TAKE STOCK OF YOUR OWN ATTITUDES AND BEHAVIOURS ABOUT MONEY

It is important to take stock of your own attitudes and behaviours about money. Begin by coming up with two lists, one positive and the other negative. On the first list, note two or three areas of your "money life" that are a source of pride or pleasure. Here are some typical responses:

- I make enough money to live on.
- I balance my check book regularly.
- I'm a generous gift giver.
- I have more than $15,000 in savings.

The areas of my "money life" that give me great pride or pleasure are:

1. ______________________________
2. ______________________________
3. ______________________________

Now identify two or three aspects of your money life that cause you discomfort or even shame. Some typical responses might be:

- I go on shopping binges periodically.
- I procrastinate about paying bills.
- I bounce checks from time to time.
- I'm in debt.
- I have trouble spending money on gifts for myself or loved ones.

The areas of my "money life" that make me feel uncomfortable are:

1. ____
2. ____
3. ____

Did you find the positive list or the negative one harder to write? Your answer will determine where you need to concentrate your attention. For example, if you feel bad about your negative traits connected with money, more growth and healing will come from acknowledging your positive qualities for a change. And if you tend to deny your negative traits about money, seeing your negative list in a new light may give you the strength to focus on the aspects of your money life that are not serving you or your family well.

■ TAKE THE MONEY PERSONALITY QUIZ

This quiz, designed by Olivia Mellan, may help you learn which of five major money personality types best describes your tendencies.

Below are 20 statements. For each statement, choose the answer that you think comes closest to describing your tendencies. There is no right or wrong answer. Don't worry about the outcome. Be honest with yourself about your answers. Try having fun.

1. **If $20,000 came to me unexpectedly, my first impulse would be:**

   A. To spend it on things I really want, including gifts for others.

   B. To put it in my savings account.

   C. To feel so overwhelmed that I'd put off making decisions about it for quite a while.

   D. To invest it in order to make the biggest profits possible.

   E. To give most of it away and use it to make the world a better place.

2. **When it comes to dealing with my money:**

   A. I make sure that it never influences my life choices.

   B. I enjoy spending it on gifts for myself and others, and on whatever will give me immediate pleasure.

   C. I worry about it a lot and strategize how to make more and more of it.

   D. I hold on to it and enjoy thinking about the security it provides.

   E. I try not to think about it and hope it will take care of itself.

3. **My goals about my money are:**

   A. To save enough of it now so that I never have to worry it in my old age.

   B. Unclear to me.

   C. To have enough of it to ensure that I can buy whatever I want.

   D. To have enough to satisfy my basic needs and then to give the rest away.

   E. To make as much of it as possible, as quickly as possible.

4. **When it comes to following a budget:**

   A. I rework my budget often to figure out ways to have more money to spend and save.

   B. I enjoy following mine closely.

   C. I take pride in living so simply that I've never needed a budget.

   D. I hate the word budget. I prefer the term, spending plan!

   E. I don't have a budget and never want one. My money will take care of itself.

5. **When it comes to spending money:**

   A. I hope I'll have enough money to take care of unexpected expenses.

   B. I enjoy spending money, as long as I keep accumulating it at the same time.

   C. I'd rather save my money than spend it. Spending money makes me nervous.

   D. I don't follow where my money goes, and I don't want to. I focus on more important aspects of my life.

   E. I love spending money, and I tend to spend more than I earn.

6. **I deal with financial record keeping as follows:**

   A. I keep reworking my records, to figure out ways to make more money or to make my money work better for me.

   B. I'm not even sure which records I should be keeping.

   C. I enjoy keeping careful records.

   D. I keep some records but have trouble organizing them and finding them.

   E. I don't keep records. I hate to spend my time this way.

7. **When it comes to saving money:**

   A. I know I ought to be saving money, but I never seem to get around to it.

   B. I enjoy saving large amounts of money and spend a lot of time and energy thinking about how to save more.

   C. I have trouble saving money, and this bothers me sometimes.

   D. I save only for absolute necessities.

   E. Saving comes naturally to me. I am regular and consistent about it.

8. **This is my attitude toward borrowing money:**

   A. I try not to borrow money, but when I have, I find it hard to keep track of my progress in paying it back.

   B. I try never to borrow money from others.

   C. I'm willing to borrow large amounts if it will help me make more, but I worry about amassing debt if the profits don't show up quickly.

   D. I've borrowed money quite often, and I'm pretty casual about paying it back.

   E. I borrow only for absolute necessities.

9. **When it comes to lending money:**

   A. I'm pretty generous and don't worry too much about when I'll get it back.

   B. People tend not to ask me for money. That suits me fine.

   C. I wouldn't mind lending money, but people hardly ever ask me.

   D. I try never to lend money, but if I do, I expect to be paid back promptly.

   E. I don't mind lending money, if I get a good interest rate. I also worry about getting it back on time.

10. **As far as credit cards are concerned:**

    A. I prefer not to have credit cards at all. If I have one, I use it as little as possible.

    B. I tend to use credit cards often and make the minimum payment.

    C. I don't mind running up large charges, as long as I can pay them off quickly. I think about my credit card bills a lot.

    D. I don't take much notice of the status of my credit cards. I often forget to pay even the monthly minimum until I get a warning notice.

    E. I have always tended to avoid using credit. I prefer paying by cash or check.

11. **When it comes to providing for emergencies:**

    A. I don't have enough saved to provide for emergencies. I just hope for the best!

    B. I have no money set aside for emergencies, and I almost never think about what I would do if something bad were to happen.

    C. I keep thinking that I'll have enough to start saving for emergencies soon, but I'm still not quite there!

    D. I've put aside a sizable amount for emergencies, but I still worry about them!

    E. I try to save regularly for an emergency fund.

12. When it comes to paying my taxes:

A. I scramble to get together some minimal records, just to get the taxes done. I'm always surprised at how much money I owe every year.

B. I save regularly for taxes, and most years I complete my tax return well in advance of the deadline.

C. I hate focusing on taxes and try to get them done with as little fuss as possible.

D. I have trouble saving for taxes and doing my tax return, and I feel strapped every year before the deadline.

E. I take pride in having more assets and paying lower taxes every year, if I can.

13. To feel totally satisfied with my income, this is what I'd need:

A. A few thousand more than I'm making now would be largely sufficient.

B. Increasing my earnings by a large amount every year is what satisfies me — $50,000 a year more would be nice!

C. I suppose I could always use more money, but I have no idea how much more.

D. I feel pretty satisfied with what I make right now. A big increase would make me feel uncomfortable.

E. At least $10,000 to $20,000 more than I'm making now.

14. When it comes to investing in the stock market*:*

A. I enjoy investing in the stock market, and I like to diversify to maximize my profits.

B. I don't think about investing very often, but if I did invest, I'd want someone else to make those decisions for me.

C. I choose "safe" and conservative investments.

D. I'm not an expert at investing, but I think it would be fun to invest in more speculative stocks that might offer a high rate of return.

E. I don't think about investing, but if I made any investments, I'd prefer those that were socially responsible.

15. When I want a certain item but it's not within my budget:

A. Either I'll decide I don't really want it, or I'll buy it and figure out how to pay for it later.

B. If I want it, I will buy it. I can always figure out a way to pay for it.

C. I will buy it, whether I can afford it or not.

D. Most of the things I want are not expensive luxury items, so I can afford them. If I do want something outrageous, I may buy it, but the purchase will make me feel very uncomfortable.

E. If the item is important enough to me, I'll figure out how to adjust my budget to afford it. If it isn't that important, I'll forget about it.

16. When I'm feeling down in the dumps, spending money:

A. Is the last thing I would do, putting some more money in savings might lift my spirits.

B. Always cheers me up.

C. Just makes me feel worse. Spending money has nothing to do with happiness.

D. Is not what I think about to cheer myself up.

E. In large amounts, and hatching plans to make more money, makes me feel better.

17. I would take (or have taken) a bank loan under these circumstances:

A. To pay off debts, to go on vacations, or to buy something I really wanted.

B. To finance my education — maybe. (I've never borrowed money, and I never want to.)

C. To set up or expand a business, or to make an investment that would yield a high return.

D. To make essential repairs or to increase my future security.

E. To deal with medical emergencies or other unforeseen circumstances but not for anything else.

18. I worry about money:

A. Never. I worry about important things!

B. A little bit all the time. But I do all I can to manage it well.

C. Constantly. It's the main thing I worry about!

D. Only when financial crises strike.

E. Not very much. I just enjoy spending it!

19. When I think about providing for my future security:

A. I am quite concerned that I won't have enough money in my future, since it's been so hard for me to save.

B. I have such a difficult time thinking about money that all I can do is hope that the future will take care of itself!

C. Since I make sure I have a lot of money at my disposal, the future will probably be fine.

D. Considering how systematic I've been about saving for the future, I feel reasonably confident about it.

E. I don't think about the future in financial terms. I have more important concerns, such as my quality of life in the future.

20. If I won a million dollars in the lottery, my first reaction would be:

A. To feel guilty, thinking about the starving masses who have nothing.

B. To feel shocked, a little overwhelmed, and very relieved that my future was now secure.

C. To be totally overwhelmed — I would have no idea how to handle it.

D. To be very happy and pleased, and to immediately start thinking about how I could simultaneously make my money grow and use it for my own enjoyment.

E. To be wildly excited, realizing that from now on I could buy anything I wanted!

Now that you've completed the quiz, here's the key to determine which combination of money personality types you tend to be:

H = Hoarder; S = Spender; M = Money Monk; V = Avoider; A = Amasser

Refer to the following list as you score your answers, keeping count of how many H's, S's, M's, V's, and A's you've chosen.

1.	A.=S	B.=H	C.= V	D.= A	E. M
2.	A.=M	B.=S	C.=A	D.=H	E.=V
3.	A.=H	B.=V	C.=S	D.=M	E.=A
4.	A.=A	B.=H	C.=M	D.=S	E.=V
5.	A.=V	B.=A	C.=H	D.=M	E.=S
6.	A.=A	B.=V	C.=H	D.=S	E.=M
7.	A.=V	B.=A	C.=S	D.=M	E.=H
8.	A.=V	B.=H	C.=A	D.=S	E.=M
9.	A.=S	B.=M	C.=V	D.=H	E.=A
10.	A.=M	B.=S	C.=A	D.=V	E.=H
11.	A.=V	B.=M	C.=S	D.=A	E.=H
12.	A.=V	B.=H	C.=M	D.=S	E.=A
13.	A.=H	B.=A	C.=V	D.=M	E.=S
14.	A.=A	B.=V	C.=H	D.=S	E.=M
15.	A.=V	B.=A	C.=S	D.=M	E.=H
16.	A.=H	B.=S	C.=M	D.=V	E.=A
17.	A.=S	B.=M	C.=A	D.=H	E.=V
18.	A.=M	B.=A	C.=H	D.=V	E.=S
19.	A.=S	B.=V	C.=A	D.=H	E.=M
20.	A.=M	B.=H	C.=V	D.=A	E.=S

MY SCORE:

# of H's: _____ # of S's: _____ # of M's: _____ # of V's: _____ # of A's: _____

Whichever letter (or letters) turns up most frequently in your answers is the one that represents your predominant money personality type (or types).

My predominant money personality type is: __________________________

My next predominant money personality type is: __________________________

■ BRIEF DESCRIPTION OF MAJOR MONEY TYPES

What follows is a brief description of the major money types, and how each money personality might affect support negotiations. It is helpful to know your own values and beliefs about money. It is also helpful to understand how your former spouse feels about money, because his/her money personality will affect how he/she feels about child support and special expenses.

Hoarder

You enjoy holding on to your money. It may be difficult for you to spend money on luxury items or immediate pleasures for yourself and your loved ones.

A "hoarder" may resent additional requests for money, e.g. to contribute to the children's special expenses. There may be accusations that you are only interested in his/her money.

Spender

You probably love to use your money to buy whatever will bring you pleasure. You may have a hard time saving, budgeting, and delaying gratification for long-term goals.

"Spenders" may find it difficult to budget for child support payments if payday doesn't fall on the first of the month. They may put their own wants and needs ahead of their financial responsibilities, putting them in arrears. They may spend lots of money entertaining the children when the children are in their care, leading to accusations of the "Disneyland" parent syndrome.

Money Monk

You may try to avoid having too much money. You'd feel guilty if a large amount of money came your way unexpectedly.

"Money monks" might feel guilty about accepting the *Child Support Guidelines* amount of support and agree to a smaller amount that adversely affects the children's standard of living. Or they might find themselves accepting a lesser share of the property and asset division.

Avoider

You tend to avoid performing various tasks of everyday money management. You may feel anxious or incompetent about dealing with money.

"Avoiders" may find themselves ignoring requests from the other parent to contribute towards the children's special expenses — not because they don't have the money, but because they don't want to deal with the matter. Or bills may remain unpaid, leading to loss of services, an accumulation of debt, and bankruptcy.

Amasser

You're likely to be overly concerned with keeping large amounts of money at your disposal to spend, save, and invest. This preoccupation may be having a negative effect on your ability to enjoy your life in the moment.

"Amassers" may resent having to pay child support in the absence of an order to do so. They may use delay tactics to put off paying support as long as possible. They may feel entitled to keep the money they earn, and be willing to take the risk of a judge ruling on a support order or property division rather than participate in mediation. They may pay only the Guideline amount of support, and balk at having to pay for any of the children's special expenses.

■ ASSESSING YOUR MONEY PERSONALITY

In what way might your money personality cause you difficulty in life, either as an individual or in dealing with your child's other parent?

____

____

____

What are one or two things about your relationship to money that you think you might like to change or modify in some way?

____

____

____

Based on your experience, can you guess which money type or types best describes your child's other parent? ____

What role, if any, did finances play in your separation?

____

____

____

■ UNDERSTANDING THE PAST, AND LOOKING TO THE FUTURE

What role did you play in managing your family's finances before separation?

It is important to understand your role in managing your family's finances prior to separation in order to assess your strengths and weaknesses around financial matters, and to be able to identify where you may need help.

Lack of information about your household expenses or your mortgage can lead to bills remaining unpaid, loss of services, and defaulting on loan or mortgage payments. It can even put you at risk of losing your vehicle or your home.

Lack of information about your family's assets and liabilities can undermine your efforts to obtain a fair and equitable property settlement.

You may find you need to speak to your bank manager to understand your options about accounts, and separating your finances from that of your former spouse. You may need help from a credit counsellor to understand your debts and the options to resolve them.

How equipped are you to deal with your new financial situation?

- Do you have enough money to meet your basic expenses?
- Do you need help to negotiate an interim order or agreement for support?
- Does the lack of finances mean you will have to consider a move to less expensive accommodation?
- Will you need to look for a job?
- Do you need to set up a separate bank account?
- Do you need to set up a chequing account?
- Do you need to make arrangements for automatic bill payments or the direct deposit of support payments?

When you understand how the past influences the present you'll be in a much better position to make decisions for the future.

CHAPTER 4: Emotions Can Affect Your Financial Negotiations

In Parenting After Separation you looked at the stages of separation and the emotions, behaviours and tasks common to each stage. Let's do a quick review.

■ THE SEPARATION PROCESS

Separation is a very individual process that affects your physical health, mental health, emotional health and financial health.

These aspects are all interrelated and they impact on each other.

For example: On being told by your spouse that he/she wants to separate you might have felt shock or disbelief. Physically you might have felt nauseous, unable to eat. You might have had no energy. You might have had difficulty with sleeping. Mentally you may have found yourself easily distracted, easily confused, unable to focus, unable to remember things, and unable to make a decision, including financial decisions.

When a parent is emotionally in the grief cycle their ability to take in information, their understanding and ability to process the financial separation, and make financial decisions is affected.

Usually the parent who decides to leave the relationship will have already gone through a great deal of the emotional process before the other parent. The other parent may be highly emotional. They may be angry. They may be in denial.

The parent who initiates the separation may have done some financial housekeeping as well as emotional fine-tuning. The other parent is at a disadvantage and may require more time before making financial decisions.

You are role models for your children. They are observing you and learning from you. They are also experiencing their own reactions to what is going on. It is really important to remember to keep children from witnessing or becoming involved in any conflict.

■ DEALING WITH THE EMOTIONS OF SEPARATION

There are many emotions that parents experience during separation.

Which of these emotions did you experience?

ANGRY Proud

Vengeful

GUILTY

anxious

JEALOUS **RESENTFUL**

Fearful

frustrated

SAD

Desperate

Depressed *Excited*

BITTER

HURT

WISHFUL *Happy*

Shocked ***Relieved*** **Agitated**

Embarrassed

Restless

RIGHTEOUS ***honourable***

Let's look at some of these emotions in more detail:

Anger

Anger is the core emotion of divorce. It's painful, it's confusing, and it turns your world upside down. But at some point it should be over. If it's not, the pain, anger, resentment, depression or emotional confusion seems to go on forever, and you are in the clutches of a divorce hangover. In a divorce hangover losses and changes are so painful that many people will do anything to avoid feeling them.

Anger not faced doesn't go away. It is redirected. A divorce hangover begins when anger becomes directed towards whatever or whomever (including yourself) you consider responsible for the divorce. Anger that is redirected can show up as revenge, blame, sabotage, and forced and inappropriate control.

Examples:

"I don't have enough money to pay child support, so I won't pay any. Let her try to get money out of me — it'll be like trying to get water out of a rock!"

"He's got plenty of money, and after the way he's treated me and the kids, I'm going to make him pay plenty of it for my suffering."

Anger often leads to prolonged and expensive litigation.

Depression

Depression is anger turned inward. People who are depressed tend to withdraw or run away. Depression can be used to punish the other person if he/she can't get you to talk or communicate.

Examples:

A person in despair over the break-up of the relationship doesn't want anything to change and refuses to have anything to do with discussions about change. The person may even refuse to "separate."

A person in depression may refuse to talk to the other parent, or accept letters or e-mails. They just won't acknowledge the other parent.

Without communication it is impossible to initiate discussion about finances.

Betrayal

The number one feeling that rules when divorce is impending is abandonment or betrayal. Too often when a parent wants to get back at their former partner they do it economically. Revenge or punishment translates into a desire for dollars and cents.

Examples:

"You fooled around and now I'm supposed to live in a basement suite and support you, the kids, and your boyfriend."

"You left us and now you expect us to live on a few dollars a month while you drive around in a new SUV."

Guilt

Guilt can have a powerful effect on financial decision-making. It can cause you to fall into the trap of being overly generous when negotiating financial matters.

A parent who decides to leave the family can feel responsible for causing the other parent hurt, and for creating upheaval. This may translate into promises and assurances — to keep everything the way it was and to financially support the family in the way they are used to which is not possible if they are setting up a home for themselves.

A parent who moves away from the other parent with the children may agree to give up child support out of guilt of moving.

Financial negotiations are about dollars and cents, not anger, revenge or guilt. You will be able to make better financial decisions if you can manage your emotions and stay focused on negotiating a financial agreement.

■ FINANCIAL ABUSE

After parents separate different financial relationships between the parents are possible. You and your child's other parent may be spending equal time with the children and because of the similarity in your incomes there may be no exchange of support. Or one of you may be contributing to the household income of the other to offset a difference in your earning power. Or the children's primary residence may be with one of you and the other parent is making a support payment based on their Guideline income. Or there may not yet be a support arrangement in place.

When there is a financial inequality between separated parents there may also be a financial power imbalance between the parents and/or there may be financial abuse.

Abuse changes the balance of power between individuals. Too often the victims of abuse are not aware of their rights or even aware that they are victims of abuse. Financial abuse may not be as obvious as other types of abuse, but like physical abuse, emotional abuse or the denial of rights it interferes with the safety and well being of individuals.

In financial abuse money becomes a tool by which the abuser can further control the victim, ensuring either his/her financial dependence. Other forms of abuse very often accompany financial abuse.

Financial abuse between parents can include the following:

- preventing a parent from getting or keeping a job, or controlling their choice of occupation
- forcing the parent to work to support the abuser
- threatening to quit one's job or flee the country if the other parent pursues support
- denying access to financial resources: mail, bank accounts, credit cards, cheque book
- taking away the other parent's cheque book or credit cards
- denying access to financial information such as how much money is coming in, how much is owed
- demanding that the other parent turn over their pay cheque or any other money they receive (Child Tax Credit, BC Family Bonus, GST Credit), including money received as a gift

- forcing the other parent to have all expenditures and purchases approved by the abuser before the money is spent
- forcing the other parent to account for every penny spent
- refusing to account for his/her spending of family money
- withholding money intended for food or medical treatment
- withholding child support
- forcing the other parent or the children to beg or commit crimes for money
- stealing from or defrauding the other parent
- manipulating or exploiting someone for financial gain
- forcing the other parent to have sex in exchange for money
- leaving the other parent destitute
- transferring assets out of the country
- hiding and failing to disclose honestly all family and business assets

Financial abuse interferes with the ability of separating families to reach fair and realistic separation agreements between the two parties. In such cases, mediation is not appropriate.

Help is available

If you feel that you are being abused you can obtain:

- legal advice on your rights, responsibilities, and legal options;
- assistance in developing a safety plan that protects what money is coming in and/or enforces a support order; and
- community resources for help, advocacy and/or counseling, e.g. specialized victim assistance programs, women's centers, men's groups, multicultural and cultural programs, transition houses, Children Who Witness Abuse programs.
- To locate these resources, phone VictimLINK. See page 4 for details.

CHAPTER 5: The Financial Stages of Separation

In this chapter we will look at some of the tasks and timelines that accompany the division of finances during separation or divorce. This is not intended to be a complete guide, nor is it a substitute for legal or financial advice.

■ STAGE ONE: PREPARING FOR FINANCIAL SEPARATION

The time to begin thinking about money issues is not while in the middle of a divorce, and certainly not once the divorce has happened. Parents are in a much stronger position if they start to address their money issues at the point at which they find themselves considering separation or divorce.

Often one person in a relationship has taken primary responsibility for financial management and record keeping. In preparation for separation it is important for the other parent to bring themselves up to speed on the family's financial matters.

- Review the specifics of all financial accounts.
- Make copies of all relevant documents and computer files with financial data.
- Begin an inventory of all separately- and jointly-owned assets.
- Make a list of all outstanding debts.
- Meet with a financial planning professional to discuss the financial and tax implications of decisions that will need to be made as the separation goes ahead.
- Obtain information about separation and property division laws.
- Establish credit in your own name.
- Make an effort to pay down the balance of as many bills as possible.

Gathering financial information keeps legal bills down and provides a more realistic view of the financial situation as decisions are made.

■ STAGE TWO: DURING SEPARATION

This is the time you should be moving toward separating the financial ties with the other parent. You should act promptly to:

- Close all joint credit cards or other lines of credit.
- Separate bank accounts.
- Manage debt.

The goal is to create two financially separate households from one.

- Take your personal documents — such as your birth certificate and passport — out of a joint file and create a new file for yourself.
- Review your insurance policies.
- Negotiate agreements about custody, child support, spousal support, and property division.
- Decide who will take the dependent tax exemptions for children, and who will claim the Child Tax Credit/BC Family Bonus so that each parent can file their tax returns without additional complications.
- Decide on your date of separation (triggering date). The date of separation can be very significant, as it may be used in determining the value of assets, and in determining if a particular debt can be considered a family debt, or if a particular asset can be considered a family asset. It can also be used in determining each person's entitlement to pensions, and exactly when the parents may apply for a divorce decree under the no-fault clause.

STAGE THREE: AFTER THE SEPARATION/DIVORCE IS FINAL

It's time to wrap up the details of the relationship.

- If there has been a name change this needs to be communicated to financial institutions, business service providers and others to make the change on legal, financial and business documents as needed.
- Review health, life and other insurance coverage. Replace any lost protection.
- Consider changing beneficiaries on policies unless there is an agreement otherwise.
- Each parent should contact his or her employer to make changes to benefits as needed.
- Each parent should review his or her will and other estate planning documents.

■ FINANCIAL CHECKLIST FOR DEALING WITH SEPARATION AND DIVORCE

Preparing for Financial Separation:

- [ ] Obtain information about separation and family law, including property division laws.

  How will your property be divided?

- [ ] Review the specifics of all financial accounts.

  Make sure you have access to all information: account numbers, financial institutions, insurers, your tax accountant, important documents and contact information for each.

- [ ] Make copies of all relevant documents and computer files with financial data for yourself.
- [ ] Meet with a financial planning professional and a tax accountant to discuss the financial and tax implications of decisions you will need to make as you plan for separation.
- [ ] Make sure you have access to savings of your own in the event that you must suddenly rely on your own resources to meet household and personal expenses.
- [ ] Make sure you have a credit card in your own name. If not, apply for one.
- [ ] Begin an inventory of all separately- and jointly-owned assets.

  Include investments, cash, vehicles, real estate and furniture.

- [ ] Obtain appraisals of assets such as art, antiques, fine jewellery and other tangible items.
- [ ] Make a list of all outstanding debts.
- [ ] Verify the contents of any joint safety deposit box.
- [ ] Pay down the balance of as many bills as possible.

During Separation:

- ❑ Seek information from a Family Justice Counsellor or Child Support Officer re: child & spousal support, access, custody, guardianship.

  Private family mediators can assist with all the above as well as property and asset division.

  Seek legal advice from a family lawyer about support, property and asset division and options to litigation.

- ❑ Each spouse generally needs to seek legal advice from a separate lawyer.

- ❑ Consider revoking any power of attorney documents that name your spouse as your agent.

- ❑ Contact banks, investment companies and brokerages where you and your spouse have joint accounts.

  Ask what actions, if any, you can take to protect your interest in those accounts.

- ❑ Contact creditors with whom you and your spouse have joint accounts.

  Pay the balance and close the accounts, if possible.

- ❑ Make copies of all legal, financial and other important documents.

- ❑ Take your personal documents — birth certificate and passport, for example — out of joint files and create your own file.

- ❑ Contact your insurance provider to review auto and homeowners or renters policies.

- ❑ Work with your spouse to negotiate a division of assets, custody of children, child support and visitation rights.

  If you want child support or spousal support, make a monthly and annual expense budget — including food, medical care, housing, clothes, day care, school supplies and activities, and other relevant expenses — that could be used to support your case.

- ❑ Discuss and decide with your spouse who will take the dependent tax exemptions for children, and claim the Child Tax Credit/BC Family Bonus.

After the Separation/Divorce is Final:

- ❑ Change names on documents, as necessary, to reflect the division of assets decreed by your Separation Agreement or divorce decree.

  House deeds
  Vehicle titles
  Stocks, Bonds
  Bank accounts

- ❑ If you changed your name contact your service providers to make the change on legal, financial, business documents.

  Contact Vital Statistics to identify documents where you may need to make changes.

- ❑ Review health, life and disability insurance coverage.

  Replace any lost protection. Consider changing beneficiaries on policies you own unless your separation agreement requires you to continue to name your former spouse.

- ❑ Review your will and other estate planning documents.

  If you have no will, prepare and execute one.

- ❑ Contact your employer to make changes to benefits as needed that reflect your requirements as a single person.

- ❑ Obtain advice about filing your first tax return as a single person, particularly if you were still married at the end of the previous tax year.

- ❑ Collect and organize your important legal and financial documents.

CHAPTER 6: Becoming Financially Literate

One of the great myths of separating and divorcing couples is that it is cheaper to live as a single adult than as a couple. The fallacy in this thinking is that before you separated you both contributed to your family's lifestyle and standard of living and yet, if you are like most couples, you struggled each month to make your income stretch to pay the bills.

When feeling the financial pinch, some parents develop a self-serving fantasy about how well the other parent is getting along:

"They can live comfortably on $500 a month because she knows how to."

"My money just bought her new furniture."

"He obviously can afford to give me more because he just bought a new car."

"She is obviously doing well because she's taking the children to Mexico for Christmas."

The truth is often overlooked and parents lose focus, make assumptions, and develop resentments. The task still remains that both parents need to contribute towards the children's expenses based on their means.

In reality, probably neither parent will be particularly solvent after they separate. After separation expenses that you didn't think about begin to surface:

- Two house payments (or rent payments)
- Two utility bills – one for each house
- Two telephone bills — one for each house
- Furniture for the second home or to replace those furnishings that "follow" the spouse who leaves the family home
- Appliances, cooking utensils, and kitchen staples for the second home or to replace those that "follow" the spouse who leaves the family home
- Car payments
- Automotive maintenance and repairs on two vehicles
- Convenience foods (new singles tend to spend more money on take-out, eating out, and fast foods)
- The cost of duplicating children's toys, clothing, furnishings so that the children have belongings at Mom's and Dad's

Most women and men do not consider these “extra expenses” until they’re faced with them. The first thing most do is to liquidate some of their assets to pay for the extras. It’s no wonder then, that everyone feels “cheated.”

After separation both parents usually will have to rebuild their economic lives with reduced resources.

■ TAKING CHARGE OF YOUR FAMILY’S FINANCES

Getting control of your finances means a lot more than just getting control of your money. It means getting a handle on your habits — both thinking and spending — as well as your short-term and long-term goals. Not only can getting control decrease much of your stress, it can also help you efficiently prepare for the future.

So where do you start? Here are some guidelines:

1. **Review the elements of your family’s overall financial picture.**

   If you want to end your relationship with equality you must know what assets and debts your partnership has.

   Exercise 1: Net Worth Statement

   This statement summarizes your financial life as it is at this moment. It is a record of everything you own (assets) and everything that you owe (liabilities).

   Use Worksheet 1 at the end of this section (page 37) to help you determine your net worth as a couple.

2. **Take the time to work on (and live by) a family budget.**

   A budget, or spending plan, can help you balance expenses with income, and helps you make good choices with your money. With a spending plan family members in a household may:

   - increase their chances of making payments on time;
   - decide what they can and cannot afford;
   - increase their savings for education, retirement, large purchases, or unexpected expenses;
   - prevent or reduce impulse or over-spending; and
   - eliminate or reduce debts and loan balances.

There is no “magic” to a spending plan. It won’t change the amount of income in a month, make you save more money than you spend, or prevent a financial crisis. A budget is a tool that puts you in control of your money to meet family needs and wants, as well as to reach family goals. It will show how much money you have, where it needs to go to meet your needs and wants, and when you will be able to reach your goals. A budget puts you in control.

Setting up a budget takes some preparation, and following the plan takes determination. To be successful, all family members should be involved.

Take a hard look at what you consider necessary expenses. Typically separation causes changes in the lives of everyone — you, the other parent, your children, your pets, even your friends. To determine your minimum financial needs, ask yourself the following:

- Will I have enough to support my current lifestyle?
- Will I be able to keep the assets from our property division without having to deplete them to pay living expenses?
- Will I be able to contribute to savings and retirement funds?

If any of the answers is “no,” you’ll have to look at your budget and adjust your standard of living.

3. **Consider whether you can afford to keep the house.**

Keeping the family home might be emotionally satisfying, but it may not make financial sense. You may end up "asset rich" but “income poor.” You may have enough income to pay the utilities and expenses related to the day-to-day upkeep, but you may not have enough income coming in to pay the cost of the taxes, home repairs, and other expenses related to owning a home. The equity in the house won't pay the bills.

If it makes sense for one of you to keep the house, that parent may want to pre-qualify for a mortgage before your divorce is final. Sometimes a divorcing couple will decide that one spouse is going to keep the house, and they take the other parent’s name off the title to the house. Later, the parent who wants to keep the house gets turned down for a mortgage because he/she doesn’t make enough money to qualify to refinance the house in his/her name alone. The parent who leaves the marital home may end up being on the hook for the debt, has no reciprocal asset, and can’t qualify for his/her own mortgage because he/she doesn’t make enough to support both mortgages.

4. **Eliminate discretionary spending.**

   "Discretionary spending" takes on a new reality after separation. Depending on your situation, you may need to consider the following:

   - Do you choose to work or stay at home?
   - Do you choose to keep the family home?
   - Do you continue to hire services e.g. housekeeper, gardener, babysitter?
   - Do you continue to buy the new season's clothes?
   - Do you continue to eat out?
   - Do you continue to travel to exotic places for relaxation and leisure?
   - Do you choose to have your hair, nails, and makeovers done as frequently as you did before you separated?
   - Do you continue to golf weekly or maintain that membership in a fitness club?

   It's important to evaluate your expenses and make reasonable decisions about what you can and cannot afford. There isn't too much you can do about non-discretionary expenses — those that you have no choice about paying, like income tax, CPP, EI, union dues — but it is important to acknowledge them when you calculate your cash flow.

   Most family and personal expenses fall into the category of **discretionary expenses** because the expenses arise from choices you make about your lifestyle, and that of your children.

   A mortgage is a discretionary expense, because when you take on a mortgage you make a choice to own a home rather than rent. A car payment is also a discretionary expense, representing the choice you made to purchase or lease a car rather than use alternative forms of transportation.

   You do have a certain amount of control of your discretionary expenses, even though it may not seem like it at the time. You can't "play" with non-discretionary expenses to free up money, but you can do so with discretionary expenses.

   There are some obvious ways to reduce your expenses:

   - Know what you spend your money on, and where you spend it.
   - Put the reins on spending that increases your debt load, both on necessary items (like food and shelter) and those that are not necessities (like "toys"). This means no vacation, new clothes, or even car repairs — unless you have the cash to pay for them.

- Get rid of those items you don't need or rarely use — expensive toys that sit in the corner, things for hobbies that you never took up, a four-wheel drive SUV that you never take off-road, the boat in the driveway — and convert them into cash.
- Don't take out loans or add additional credit obligations. If you don't own it now, don't buy it. During the separation process is not the time to buy the new house or a new car. This is also not the time to invest in any product or to shift investment assets. Your property could end up being divided in a way different than you thought it could be. What you thought was yours and yours alone could end up being a family asset, subject to property division. Shifting assets could create difficulty in tracking the location and ownership of the asset, and a suspicion that someone is hiding assets. There may be taxes or penalties to pay later in shifting assets from you to the other parent.
- Don't make any financial commitments that you don't understand or are not absolutely clear about.

Exercise 2: Expense Estimator

The Expense Estimator looks at your expenses and asks you to define them as "discretionary" vs. "non-discretionary."

Use Worksheet 2 at the end of this section (page 38) to determine the nature of your expenses.

You may need to make more than one pass at this worksheet. Your first pass may reflect your ideal lifestyle, and that's fine for now. However, you can determine if that lifestyle is workable only after you look at your income sources. If it isn't workable you may need to look at your discretionary expenses to see how much room you have to decrease your expenses.

5. Decrease your debt.

An increasing number of separated couples are showing up with large amounts of debt — mostly credit card debt. It's tempting to overuse your credit cards. An introductory rate of 9% interest or less for a six-month period on outstanding balances suddenly jumps to somewhere between 14% and 20% and now you're in trouble.

You have to stretch just to make the minimum payments. Suddenly you're living beyond your means. You end up paying for that new CD unit you couldn't afford yesterday but charged anyway, for many tomorrows to come. It's tempting to start living off your credit cards when the other parent who moves out stops sending money.

If there is absolutely no money it may be necessary to use credit cards, but do so sparingly. It is more important to pare down your living expenses to the bare bone.

- Do not use credit to postpone a crisis.
- Do not use credit cards or credit lines for anything but essential expenses, and only for a short period of time. Once you run into trouble making credit card payments you have damaged your credit standing. It just isn't worth it.

With the aid of your family budget, begin to designate a specific amount monthly towards reducing the debt.

The next part of this chapter looks at options to decrease your debt, and identifies professionals who can help you achieve a lower debt load.

6. **Start a program of saving instead of spending.**

Not only do you have the benefit of eliminating waste (and have more money as a result), you can begin to focus on long-term goals instead of short-term spending.

Exercise 3: Setting Goals

This exercise helps you to think about where your family is today financially, and where you would like to be in five or 10 years.

Long-term goals: These "dreams for the future" are usually set for more than five years.

Intermediate goals: Usually these objectives would be attainable within one to five years.

Short-term goals: These goals are attainable in the next three months to a year.

Use Worksheet 3 the end of this section (page 39) to identify your goals.

Each goal you choose should have a specific dollar amount assigned to it in order to help make it a reality.

The first goal for many families may be to set up an emergency fund. An emergency fund is usually living expenses for three to six months, to be used in case of an interruption in income.

7. **Don't procrastinate.**

   You cost yourself a lot of your hard-earned dollars if you procrastinate. You need to be aware of the negative effect of compounding — the longer you have the debt the more interest you will pay, and the positive effect of compounding — the longer you have the savings the higher the return.

   Getting control of your finances will make an amazing difference in your life. Less money will be wasted, so you may find you don't have to work as long or as hard to make ends meet. You'll have more time to spend on the important things. Your stress level most likely will decrease.

   It's important to evaluate your expenses and make reasonable decisions about what you can and cannot afford.

   You don't have to live in financial misery after separation if you can:

   - negotiate a reasonable support agreement;
   - negotiate a reasonable property settlement;
   - adjust your spending patterns so that you don't tap into your assets; and
   - take responsibility for some of the financial issues. This may mean getting a job, changing jobs, or getting a second job.

WHAT ABOUT THE CHILDREN?

Let the children help, and tell them the truth within age-appropriate boundaries.

Parents often hate to deprive their children of the designer clothes and shoes they've been getting, the parade of "toys," the summer camps and the vacations. Instead, parents go without other necessities to avoid letting the children know they are having financial difficulties.

When children are part of the financial decision-making and are privy to the income and expenses of a household, within age appropriate limits, they can be incredibly understanding about wanting to help cut costs and make things work.

The alternative is to argue over every purchase a child wants to make, creating a real strain in your relationship, or to have your money woes deepen because you give in every time.

EXERCISE 1: Net Worth Statement

This statement summarizes your financial life as it is at this moment. It is a record of everything you own (assets) and everything that you owe (liabilities).

Use this worksheet to help you determine your net worth as a couple.

While filling in this worksheet keep the following in mind:

- For items that may have tax consequences, fill in the original value of the item whenever possible. This is the cost of the asset when you bought it plus the cost of any renovations.
- If the asset is held in the husband's name, put the value of the asset in the "his" column. Do the same for any assets held in the wife's name. Put any items registered in joint names into the "joint" column. This may help later, when you are going through the complexity of dividing everything.

Assets	Original Value	Joint	His	Hers	Household Totals
Personal					
Bank accounts					
Savings					
Life insurance cash value (not death benefit)					
Residence					
Recreational property					
Collectibles/valuables					
Vehicles					
Furniture					
Investments					
Pension plans					
Registered investments					
Real estate					
Business					
Trust fund					
Other investments					
TOTAL (A)					
Liabilities					
Credit cards					
Taxes owed					
Lines of credit					
RRSP Loan					
Investment loans					
Personal mortgage					
Automobile loans					
Student loans					
Other loans					
TOTAL (B)					
Net worth = (A) – (B)					

EXERCISE 2: Expense Estimator

EXPENSE	**Monthly amount**	**Discretionary**	**Non-Discretionary**
Income tax			
C.P.P.			
Employment Insurance			
Life Insurance			
Health Insurance			
Child support payments			
Housing			
Rent/mortgage			
Property taxes			
Insurance			
Maintenance			
Utilities			
Cable/Phone/Internet			
Furnishings			
Pet care			
Miscellaneous			
Food			
Clothing (incl. cleaning)			
Transportation			
Car loan/lease			
Insurance			
Gas			
Maintenance incl. parking			
Personal care (toiletries, hair)			
Child care			
Allowances			
Gifts			
Vacations			
Tuition fees			
Recreation/entertainment			
Cash			
Savings/investment			
RRSPs			
Education savings			
Donations			
Personal loan payments			
Credit card payments			
Professional fees			
TOTAL EXPENSES			

EXERCISE 3: Goal-Setting Worksheet

Short-term goals - up to 12 months

1. ___________________________ $______
2. ___________________________ $______
3. ___________________________ $______
4. __________________________ $______
5. ___________________________ $______

The total of **short-term** goals = ______

Divide by number of months = $______ required per month

Short-term goals = $______ per month

Medium-term goals - 1-5 years

1. ___________________________ $______
2. ___________________________ $______
3. ___________________________ $______
4. __________________________ $______
5. ___________________________ $______

The total of **medium-term** goals = ______

Divide by number of months = $______ required per month

Medium-term goals = $______ per month

Long-term goals – more than 5 years

1. ___________________________ $______
2. ___________________________ $______
3. ___________________________ $______
4. __________________________ $______
5. ___________________________ $______

The total of **long-term** goals = ______

Divide by number of months = $______ required per month

Long-term goals = $______ per month

Long, medium and short TOTALS = $___________(into savings account)

■ DEBT WARNING SIGNS

Use the following self-test periodically to determine whether you have too much debt.

	Yes	No
1. Are you using your credit cards or borrowing to pay for items you once paid for with cash?	❑	❑
2. Are you paying more to service your debts today than you did previously?	❑	❑
3. Are you paying your bills with money you had saved for another purpose?	❑	❑
4. Are you using your savings to pay bills?	❑	❑
5. Do you have an emergency fund of at least 3-6 months of basic living expenses?	❑	❑
6. Are you only paying the minimum balance due on your charge accounts each month?	❑	❑
7. Are you extending repayment schedules — paying in 60 or 90 days bills you once paid in just 30?	❑	❑
8. Have you maxed out or close to maxing out your credit cards and other sources of borrowing money?	❑	❑
9. Are you taking out new loans before old ones are paid off, or taking out loans to pay an existing one?	❑	❑
10. Are you unsure about how much you owe?	❑	❑
11. Are you usually late in paying bills?	❑	❑
12. Are you threatened with repossession of your vehicle, cancellation of your credit cards or other legal action?	❑	❑

IF YOU ANSWERED:	"No" to all questions,
YOU ARE:	Managing credit well.
YOU SHOULD:	Continue practising good money management.

IF YOU ANSWERED:	"Yes" to any question 1–5,
YOU ARE:	Getting out of control.
YOU SHOULD:	Stop using credit until current debt balances are paid.

IF YOU ANSWERED:	"Yes" to any question 6–10,
YOU ARE:	On the verge of trouble.
YOU SHOULD:	Stop using credit. Develop a budget and debt payment plan.

IF YOU ANSWERED:	"Yes" to question 11 or 12,
YOU ARE:	In serious trouble.
YOU SHOULD:	Consult a financial planning professional now, before your financial goals become impossible to achieve.

DEBT RESOLUTION

This section outlines the options you have when it comes to resolving your debt.

1. **Consolidate your debt into one loan.**

2. **Use a combination of reducing and/or eliminating non-essential expenses and paying down the debt.**

3. **Approach your creditors directly to initiate a payment plan.**

4. **Use credit counselling**

   Credit counsellors may help you negotiate with your creditors. They offer a debt management plan, which means that the credit counsellor will arrange a payment plan with your creditors in terms that you are able to afford. The Business Practices and Consumer Protection Agency must license credit counsellors to administer debt management plans.

   Not all creditors co-operate with credit counsellors, the most notable being the government about debts such as income tax arrears. Be careful to determine the fees charged.

5. **Arrange a lump sum cash settlement**

   Seek out the help of a credit counsellor or mediator to arrange a lump sum cash settlement in which a specific amount of money is offered to your creditors to eliminate the debt as an alternative to bankruptcy or a lengthy debt repayment proposal.

   Usually a certain percentage of the debt is settled, e.g. a settlement of fifty cents on the dollar would mean that the creditor would accept 50% less on the debt.

   Lump sum cash settlements are dependent upon the circumstances of the individual or family, e.g. compassionate grounds, hardship, etc., and the willingness of creditors to accept them.

6. **Make a consumer proposal**

   A consumer proposal is an offer made by a debtor to his or her creditors to modify his or her payments. For example, you may propose that you will pay a lower amount each month, but over a longer period of time. Or you may propose that your creditors accept being paid a percentage of what you owe.

Consumer proposals are a legal remedy under the *Bankruptcy and Insolvency Act*. The procedure begins when you seek the help of an administrator who might be a trustee in bankruptcy or a person appointed by the Superintendent of Bankruptcy. He or she will ask you about your financial situation, assess it, and give you advice about what kind of a proposal may be best for you and your creditors. The administrator will ask you to sign the required forms.

The administrator sends creditors a copy of your proposal and a copy of the report on the proposal. The administrator will ask the creditors to accept or reject the proposal.

In cases where 51% or more of the dollar value of the creditors vote in favour of accepting the proposal, the proposal is approved and is deemed to be approved by the court after a further 15-day period.

The advantages of a consumer proposal are:

- No interest is charged.
- A reduced amount is paid to creditors.
- Monthly payments are arranged on what people can afford, up to a 5-year period.
- It may include lump sum cash settlement proposals.
- It is a court approved arrangement.

The disadvantages of a consumer proposal are:

- The proposal is currently restricted to a total debt of $75,000 excluding mortgages on the principal residence.
- It is not available for businesses.
- Amendments to the proposal require the approval of creditors.
- There is an automatic default after 90 days of missed payments, unless amended.

7. File for bankruptcy

Bankruptcy is a legal action people choose to have their creditors (debts) discharged through a trustee in bankruptcy. One of the major purposes of bankruptcy is to provide a legal means to solve impossible debt problems and give families a fresh start.

To file for bankruptcy you must:

- Be insolvent (unable to meet your obligations as they become due and payable);
- Owe at least $1,000; and
- Have insufficient assets to pay creditors.

There is a fee for bankruptcy. For a simple bankruptcy where there are minimal assets and negligible earnings the minimum cost is approximately $1700 as of 2006. Most trustees will allow the fees to be paid over a nine-month period.

You can keep some of your property in a bankruptcy. The amount of property you can keep varies from province to province. In BC you are allowed to keep:

Equity in a principal residence:	$12,000 for Greater Vancouver and Victoria; $9,000 for all other regions
Equity in a car:	$5,000
	$2,000 for someone who has child or spousal support arrears
Equity in household goods and appliances:	$4,000
Equity in tools of the trade:	$10,000
Essential clothing	any amount
Medical and dental aids	any amount

Non-locked in RRSPs (Registered Retirement Savings Plans) and RESPs (Registered Education Savings Plans) are not exempt from bankruptcy.

Secured creditors are different, as this type of creditor owns the security up to the value of the car or merchandise. A secured creditor may allow you to keep the merchandise or car (the legal word is "chattel") although you would have to continue to make the monthly payments or renegotiate a new contract. Some creditors will repossess the item.

If you have any questions about which property you can keep, and to what value is exempt from bankruptcy, you are encouraged to get legal advice or consult a bankruptcy trustee.

For further information on consumer proposals or bankruptcy contact:

The Office of the Superintendent of Bankruptcy
300 West Georgia Street Suite 1900
Vancouver BC V6B 6E1
Tel 604-666-5007 or
http://strategis.ic.gc.ca/epic/internet/inbsf-osb.nsf/en/Home

CHAPTER 7: Getting Financially Organized

It can be helpful for present and future planning to know where you stand financially upon separation. The next part of this workbook will focus on formalizing a financial agreement. A Written Agreement drawn up by Family Justice Counsellors may only address issues regarding the children.

■ TYPES OF ORDERS AND AGREEMENTS

This section outlines the different options for formalizing an agreement on support.

1. An Informal Agreement

If there are no safety issues, and you and your child's other parent can talk openly and agree on support matters, you can develop an informal agreement. It's a good idea to write down what the two of you agree to, in case there are problems later.

2. Written Agreement

A written agreement is an agreement, in writing, between you and your child's other parent that says what both of you have agreed to. A written agreement is often called a "separation agreement" if it is drawn up by lawyers and includes a property settlement.

A written agreement can include your decisions about how the children are to be supported financially, whether one parent is going to contribute to the financial support of the other, and how you are going to divide the things you own, your assets, and your debts.

You and your child's other parent can draft a written agreement with or without the help of a lawyer or mediator, either using your own wording or with the help of self-help packages such as the one available from Self Counsel Press titled "Separation Agreement."

You and the other parent can put whatever you want in an agreement. For example, you can say which school your child should attend or where your child may register for soccer. In writing up a written agreement, you may refer to the *Child Support Guidelines* to see what is fair and what is in the best interests of the child (for child support), or the Spousal Support Advisory Guidelines (for spousal support) but there is no requirement to follow these guidelines and you are free to make an agreement in any amount.

You should know, however, that if you apply for a divorce you are required to attach a copy of your written agreement to the paperwork. Unless the support amounts comply with the Guidelines a judge will reject your application for divorce.

Make sure you and the other parent sign the agreement. It's also a good idea to get legal advice before you sign an agreement, to make sure that you have protected your rights. (You and the other parent should each see separate lawyers.)

Some or all parts of your written agreement may be legally enforceable. There is no requirement to file a written agreement in court, but if you want to apply to make changes to an agreement, it must first be filed with the court.

3. Consent Order

A Consent Order is like a written agreement but a judge reviews it, either in person or as a desk order, and then signs it. Like a Written Agreement, parents must agree to the terms of a Consent Order before presenting it to a judge.

Because a judge must review a Consent Order, the child support amount in a Consent Order cannot be below the amount applicable under the *Child Support Guidelines*.

Parents often use a Consent Order when they agree to change or cancel an existing Court Order or a Consent Order, since a Written Agreement cannot replace or change an order made in court. A Consent Order is always filed in court, and is legally enforceable.

4. Court Order

When parents cannot agree on the amount of support, either parent may apply to the court to ask that a judge make an order or ask that a judge change a previous agreement or order.

The judge *must* follow the *Child Support Guidelines*, where relevant, in setting the amount of child support. The judge has the flexibility to vary the child support to take into account such things as hardship, custodial arrangements, and/or arrears.

The judge *may* apply the Spousal Support Advisory Guidelines, where relevant, in looking at the range of spousal support.

A Court Order is legally enforceable. A Court Order may only be varied by another Order, not by an Agreement.

An order made in the Provincial Court of British Columbia can be changed or cancelled by a subsequent order made in Provincial Court or an order made in Supreme Court. An order made in the Supreme Court of British Columbia can only be changed or cancelled in the Supreme Court of British Columbia.

■ MEDIATION AS AN ALTERNATIVE TO GOING TO COURT

In mediation, you and your child's other parent work with a person who is specially trained to help you reach an agreement.

It is not a mediator's job to make decisions for you or to give you legal advice. A mediator will:

- Provide a neutral place for you and your child's other parent to meet.
- Assist you to define the issues you need to resolve.
- Keep the discussions on track.
- Assist you to develop and /or to maintain a working relationship with the other parent — something that is particularly important if you have children. Co-parenting requires regular communication and some on-going contact between parents while your children are growing up.

Mediation is not always appropriate

Mediation is a very good way of resolving family issues. But it isn't for everyone.

- If you have experienced violence or emotional abuse, or you are afraid for your safety or the safety of your children, mediation may not be for you.
- Mediation is a voluntary process. If one party does not want to mediate, you will have to choose another option to resolve your dispute.
- Mediation requires that all participants share relevant information so that informed choices can be made. If one parent is withholding information, or deliberately hiding details about their finances, and it comes to the attention of the mediator, he/she will end the mediation.

Is mediation confidential?

Mediation is a private process, not open to the public. For the most part what happens in the mediation is confidential. Make sure you talk about this issue with your mediator before you begin mediation.

Is an agreement binding?

Any agreement you reach may be filed with the court and then it is enforceable. If your agreement is not filed in court the agreement is usually considered to be a contract. Remember that no agreement may be reached in mediation unless everyone involved agrees.

Do I need a lawyer if I want to use mediation?

Mediators will recommend that both you and the other parent seek legal advice before signing an agreement. However, by using mediation it is likely that you will use fewer legal services and those you use will be different than if you did not use mediation.

Why should I choose mediation instead of court?

Mediation:

- Is generally less expensive compared to the expense of going to court.
- Can result in a more timely way of resolving disputes. In an era when it may take as long as four to six months to get a court date, and more than a year if a case is appealed, mediation is a welcomed alternative. When parents want to get on with business or their lives, mediation may reduce the emotional stress of separation on both you and your family.
- Can help you and your child's other parent communicate with each other about the issues surrounding your separation, including child custody, guardianship, access, support, and the division of property.
- Gives you the tools to solve your own problems and allows you to keep more control over what happens to you and your family. In mediation, you and the other parent work together to identify and solve the issues that arise in your family due to the separation or divorce. The mediator listens to what is important for both of you and helps the two of you come to your own decisions about the future. If you have children, the mediator will help you focus on decisions that will be best for them. If you go to court, the judge will decide for you, using the limited range of options available under a Court Order.
- Allows you to customize your agreement. It also allows for more creative and flexible arrangements that suit your particular circumstances.
- Is informal and private. While you (or the other parent) may ask your lawyer to attend mediation with you, usually there is no one else there but you, the other parent and the mediator, unlike the courtroom, which is open to the public.

- Results in higher satisfaction rates than the court process does. Parents who go through mediation are more often satisfied with their agreements because they have participated in the solutions.
- Results in a stronger commitment to follow through and comply with the terms of their agreement than when the decisions have been imposed by a judge.

How long does mediation take?

The mediation meetings are normally about one or two hours long. There could be from two to four meetings, on average, depending on how many issues need to be resolved.

Sometimes, the mediator may meet with each of you separately

There are circumstances where you and the other parent may not choose to be in the same room together to work out issues. The mediator will use a conciliation approach and act as the "go-between" so that solutions are still possible. The mediator may also give each of you "homework" after each session to identify and prepare for future sessions.

What happens once an agreement is reached by mediation?

A mediator will write up your agreement in a document called a Memorandum of Understanding which can be incorporated into a legal document by lawyers; family justice counsellors can write you a consent to an order or a written agreement (for matters to do with custody, access, guardianship, child maintenance, or spousal support); or the two of you may write up your own separation agreement or written agreement with the help of a self-help package from Self Counsel Press.

If you and the other parent were common-law spouses, then your agreement also ends your relationship. If you are married and either of you seeks a divorce, the agreement can be shown to the judge who can approve it or make it part of the divorce order.

What if you need to change the agreement?

Sometimes you need to change the agreement. Typically this happens because the needs of the children change over time. You can change it by agreement with the other parent. Once again you can choose to use the assistance of a mediator or one of the other options mentioned at the beginning of this chapter.

If you and the other parent cannot agree, then you have to ask a judge to change it.

How do I find a family mediator?

The options you have in locating a mediator will depend on whether your case is filed in the BC Supreme Court or the Provincial Court.

The Ministry of Attorney General provides a variety of services to support separating families, including mediation by family justice counsellors. These services are available mainly to people of modest means with custody, access, guardianship or child support disputes in the Provincial Court. Check the blue pages in your phone book for a family justice centre near you, or call the Family Justice Enquiry Line toll free: 1-888-216-2211; in Vancouver: 604-660-2192.

For more information on how family justice counsellors can help, visit the Family Justice website: www.ag.gov.bc.ca/family-justice/help/counsellors/index.htm.

If a family justice counsellor cannot help you, you may choose a mediator from the private sector. Family mediators come from many fields, including law, social work, and education. Some good places to start looking for a family mediator are the British Columbia Mediator Roster Society, Family Mediation Canada, the Law Society of British Columbia, and other mediator/mediation organizations listed in the yellow pages of the telephone book.

The British Columbia Mediator Roster Society manages a list of qualified civil, family and child protection mediators. The Family Roster is a list of private family mediators who can mediate custody, guardianship, access, child support, spousal support and property and asset division (including debts). Call toll free: 1-888-713-0433; in Victoria: 250-356-8147; or access the list of mediators on their website: www.mediator-roster.bc.ca.

Family Mediation Canada (FMC) is an organization that assesses and certifies family mediators according to its own guidelines and standards. FMC is a mediator organization whose list of mediators includes only family mediators. Contact FMC at: www.fmc.ca.

In 1984 the Law Society of British Columbia became the first in Canada to recognize the practice of family mediation and to regulate that practice. For information about family mediators contact the Law Society of British Columbia at: www.lawsociety.bc.ca.

Private family mediators are also listed in the yellow pages of your local phone book.

FACTORS AFFECTING THE WILLINGNESS OF PARENTS TO PROVIDE SUPPORT

Why do some parents financially support their children and others don't, even when there is an agreement or order to do so? Research from the Department of Justice Canada suggests that there are factors that affect the willingness of parents to pay support:

- There is a greater willingness to pay if there is a Court Order or Agreement that details the parenting arrangement after separation. Willingness to pay is even higher when there is an agreement rather than a Court Order as long as the agreement is in writing.

- There is a greater willingness to pay if there is an agreement in writing about when the paying parent will spend time with the children. Actual contact between the supporting parent and the children raises this willingness to pay even higher.

- Paying parents who reside with their children some of the time, or at least see their children regularly and often, and participate in their care and essential activities are more likely than others to pay child support.

- A parent with an order or agreement to pay a larger amount of child support is more likely to pay than if the amount is for a smaller amount. Since smaller amounts usually correspond to lower *Child Support Guideline* income, it may be that the parent required to pay under a Child Support Order just can't make ends meet.

- Parents with orders or agreements for smaller child support amounts tend to feel that their contribution isn't significant to the children's well being, and therefore it won't be "missed."

- At the time of separation financial support usually either follows the pattern in place before the parents separated, or is left to each parent to sort out. For example: Will the person who left continue to pay the mortgage? Who will pay the children's soccer registration in the fall? In order to minimize the impact on the children it is important that parents have a discussion about sharing parenting duties and how the support of the children is to be defined.

- Paying parents with strong concerns about the child-rearing practices of the other parent are less likely to pay child support. For example, there may be disagreement as to what the children should or should not be allowed to do, or about the kind of environment in which the children are being brought up (including the presence of a new partner).

- Paying parents are more inclined to support an expense where there is an observable benefit to the children. For example, a paying parent who sees an improvement in their son/daughter's math grade after a session of tutoring is more likely to support that expense. Where there is no observable benefit the paying parent may see the expense as "frivolous" or "indulging the children."

- Parents who feel they have been consulted before the other parent has made a commitment to a particular activity are much more likely to freely contribute to the expense. When one parent commits to both parents funding an activity without first consulting with the other parent, what could have been a "request" for financial support now feels like a "demand," and can influence the other parent's willingness to contribute to the expense. Important financial decisions that concern the children should be discussed between the parents, taking available finances into consideration.

- Parents who are given the opportunity to discuss an expense before permission has been given for a child to attend or participate in an activity are more willing to contribute to that expense, if they have the finances to do so.

- Willingness to pay is usually higher when the request for additional money is presented in a neutral or positive manner that gives the paying parent time to attend to the request, and to make arrangements for the payment.

In Chapter 9 we will discuss effective strategies for approaching the other parent with a request for extra support.

HELP IN LOCATING A PARENT

The court must sometimes settle family justice issues. If court action is required the current addresses of both you and the other parent are needed. If the other parent has moved without providing a forwarding address you may need help locating him/her.

There are resources that can help when you don't know the location of the other parent.

If you are applying to Provincial Court to obtain, change, or enforce a Court Order or Agreement for:

- spousal or child support,
- child custody, or
- child access or guardianship,

you can ask the family registry to submit a request for search on your behalf.

The registry will ask you to fill out a Search Request Form. To complete the form you will need to provide information to identify your child's other parent. This information is essential to the success of the search.

If you are enrolled in either the Family Maintenance Enforcement Program or the Family Maintenance Program, the program automatically requests searches as required.

The results of the search are reported back to the court registry, not you personally.

A search request can take up to six months.

You can also:

- Use personal resources – family, friends, employer, last known address.
- Use a "people finder" program on the Internet.
- Hire a private investigator.

CHAPTER 8: Children and Money

Most of us have strong feelings and opinions about money based on childhood experiences and the values and beliefs of our parents. Often these experiences, values and beliefs are different for each parent.

Trying to teach your children about money is a difficult task, particularly in families where children moving between two homes may encounter different values. This section provides some guidelines that may help.

- Children learn by observation and example.

- Children learn about money by experience. It is important for parents to communicate with children about money matters in very concrete terms. Any time money is earned, moved, spent, donated, shared, borrowed, or saved, an opportunity exists for you to teach your children about how the money world works.

- Children need to know each parent's financial picture, in age-appropriate detail, so that they can participate financially themselves. Let your child know you know you can't afford to buy everything you want, either. Explaining the bigger financial picture will help children be more aware when making financial decisions.

- Children's understanding and use of money follows developmental guidelines. Include children in family financial decisions and discussions appropriate for their age.

- Children's education about money should focus on the concepts of earning, spending, saving, borrowing, and sharing. You can begin to work with the first three concepts when children can talk in sentences. Children need to be a little older to comprehend the concepts of borrowing and sharing. These two concepts require an understanding of math and ability to see things from another's viewpoint. These skills don't fully develop until several years into elementary school.

- Children need help to keep track of their earnings and spending.

- Children should never be loaned more money than they can repay. Keep the amount realistic for their financial means. Discuss how to save money to buy something instead of borrowing to buy it.

How Children Receive Money

Children may receive money by allowances, by parents doling it out upon request, as gifts on special occasions, or by earning it. There is no right or wrong way to provide children with money, and because each family is in a unique financial situation, deciding whether or not to use an allowance is a family decision.

Many parents feel pressured by their children into giving an allowance because the children's friends are receiving an allowance. There may not be enough money in the family to provide an allowance or parents may not want to provide an allowance. There are many ways besides allowances for parents to provide learning experiences about money.

If you do give an allowance it can be adjusted if your financial situation changes. When parents include children in discussions of family financial problems, they are quite often surprised at how supportive and helpful children can be during these times.

■ HOW ARE YOU DOING IN TEACHING YOUR CHILDREN MONEY HABITS?

Here is an exercise that may help you evaluate what you are or are not doing to teach your children money habits for life.

"Yes" answers indicate ways you are helping your child learn money management skills.

"No" answers could mean you may need to help them more.

These are general questions for all children. The stage of development of the child will dictate how involved you get with the topics presented in the questions.

Yes	No	
❑	❑	1. Do each of my children have some money to manage without my interference?
❑	❑	2. Have I helped my children set up a spending and saving plan?
❑	❑	3. Do I avoid using money as a reward or punishment?
❑	❑	4. Do each of my children do some regular household chores?
❑	❑	5. Do I set a good example by being truthful about money matters?
❑	❑	6. Do I give my children more financial responsibilities as they get older?
❑	❑	7. Am I a good money manager, giving my children a good example to follow?
❑	❑	8. Do I allow my children to make their own decisions about money when there are alternatives?
❑	❑	9. Do I praise my children if they have made wise decisions with their money?
❑	❑	10. Do I help my children find ways to earn extra money that is age appropriate and suits their abilities and skills?
❑	❑	11. Do I allow my children to make mistakes related to money and help them to understand the consequences?
❑	❑	12. Do I sometimes verbalize my own desire to acquire more goods and services than my income can handle so that my children know that I say "no" to myself, too?

■ CHILDREN, MONEY AND SEPARATION

How your children adjust to your separation is directly related to how you, as their parents, are adjusting. A child's greatest fear in separation is being abandoned. Your child's basic sense of safety and security depends on confidence in his/her parents' commitment to provide support.

During separation and divorce children often witness a great deal of emotion around money, or lack of it, that can affect their sense of safety and security. Common reactions are anxiety, fear, resentment and anger.

In this section we look at children's age-appropriate reactions to tension in their family around finances, and possible remedies.

***Mother**:* *"You'd better make sure you have a car seat when you come to pick up Brian on Saturday."*

***Father**:* *"Do you know how much those things cost? I can't afford to get one by Saturday. Why can't I just use yours?"*

***Mother**:* *"Isn't that typical. You've got money to go out with your buddies after work but not enough to buy the necessities for your son."*

Children from Birth to 18 months are able to detect that there is some tension between their parents, but they cannot understand the reasoning behind the conflict. If tension continues the child may appear to be nervous, especially around new people.

Remedies:

- Don't fight in front of the child.
- Reduce the child's startle reflex caused by exposure to loud voices and expressions of anger.

Father:	*"Let's go, Kelly. I have to drop you off before I go to work."*
Kelly:	*"Do you have to go to work? I like it when you stay home."*
Father:	*"Sorry, sweetie. I have to go to work to earn money."*
Kelly:	*"I have some money. You can have it."*
Father:	*"No, sweetie, I'm afraid it's not enough. Daddy has to go to work, but I'll see you on the weekend."*
Kelly:	*"Daddy, I don't feel well. I don't think I can go. Please let me stay with you."*
Father:	*"Kelly, you're fine. Now hurry up or I'm going to be late."*

Children from 18 months to 5 years realize that they are separate entities from their parents. Often separation involves changes in residence, preschool or childcare providers, or changes in routines because of available finances, e.g. the primary care parent may have to go to work.

Children need predictability and a stable environment. Change in environment at this age can be very difficult for children. They may react by insisting their immediate needs be met, even if there is tension at home. They may vie for a parent's attention at a time when the parent may no longer have the same amount of time to give because of new responsibilities, emotions, or stress.

At this age a child's world is centered on itself, but he/she is aware of tension in the environment. A child will react to perceived threats to his/her security with physical and emotional regression. For example, if a parent is upset and crying, or yelling and angry, or leaving without the normal goodbye routines, the child may react with bedwetting or become more "clingy," unable to sleep in his/her own bed, having nightmares etc.

Remedies:

- Develop and keep to a routine.
- Reduce the number of changes in the child's world.
- Limit the number of transitions.
- Do not show tenseness with actions.
- Don't fight in front of the child.
- Look to friends and family to spend some time with the child.
- Read books to your child to illustrate what is happening.
- Encourage your child to talk.

(Sandy overhears his mother arguing on the phone with his dad about child support payments)

Sandy *:* *"Mom, are we going to be okay?"*

Mother*:* *"Of course we are. You don't need to worry."*

Sandy*:* *"You know I don't have to play soccer this year."*

Father*:* *"How was your weekend?"*

Jim*:* *"Great! Mom bought me a new pair of runners. They cost $160 but mom said I was worth it."*

Father*:* *"But I just bought you a new pair of runners a few weeks ago.*

What's wrong with them?"

Jim*:* *"Nothing. I just wanted new ones."*

Claire*:* *"What do you mean I can't go to camp at Spring Break with all my friends? I always go!*

Mother*:* *"I know, sweetheart. But this year money is tight. Maybe you can go next year.*

Claire*:* *"You're ruining my life! You obviously don't want me to have any friends! Why should I care about your money problems?"*

Children from 6 – 11 years are developing friends and understand loss when separation occurs. They are also able to recognize the changes resulting from your separation. Children may have to cope with changes to residence, school, and childcare providers, which may affect their ability to continue activities or relationships with friends.

They may have to cope with changes to routine because there isn't the same amount of money, e.g. you may not be able to register your child in the next swimming lesson, or your child may not go to the summer camp they were accustomed to going to.

Even relatively small worries like whether or not they can continue to go to Scouts or ice skating can build up to a breaking point in a child's mind, producing erratic outbursts, tears, and periods of tiredness. There may be less money for snacks, school lunches, and food at home, leading to the child hoarding food.

Children may be exposed to the emotions and behaviour expressed by their parents around finances. They may witness their parent's fear, anger or distress over lack of money, and react with physical and/or emotional regression. They may hear the word "no" more often to do with money matters — toys, treats, special events — and react with attention-getting behaviour and self-centered behaviour.

They may react to competition between their parents over money by playing one parent against the other for bigger "rewards." They may experience feelings of abandonment after overhearing negative comments about the other parent's lack of financial support.

Remedies:

- Remove all conflict from the child's presence. Don't fight in front of the child.
- Don't show your anger at your child's other parent, or his/her spending habits.
- Don't make negative comments about your child's other parent and money matters, either in person or over the phone.
- Explain changes in routine simply and without drama, without laying blame.
- Allow the child time to adjust to new things.
- Develop a financial plan to deal with the children's needs.
- Establish a formal financial agreement with the other parent to address the children's expenses.
- Communicate with your child's other parent about on-going and unexpected expenses.
- Avoid getting into a competitive, over-compensating cycle with the other parent.
- Encourage your child to talk to you about their fears or worries.

On returning from a visit with his father, Jamie confronts his mother about her trip to Bellingham in his absence:

***Jamie**: "Dad can barely make ends meet and you're off spending the money he gives you for us."*

***Mother**: "I know you'd really like to have friends over for a birthday party, but the landlord upstairs wouldn't approve."*

***Ken**: "You know how much I was looking forward to a birthday party. Why did we have to sell our home? Why couldn't you and dad just try a little harder to get along?"*

***Dad**: "Katie, I've got tickets for the two of us to go to the Hedley concert on your birthday."*

***Katie**: "But mom has asked me out for my birthday dinner at my favourite restaurant that night."*

***Dad**: "I'm sure your mom can make reservations for another night. I thought Hedley was your favourite group?"*

***Katie**: "Hedley is performing the next night, too. Maybe you could change your tickets. Mom's already made the reservation."*

***Dad**: "I can try. But I really wanted to take you on your birthday."*

Adolescents 11 – 18 years are very aware of what is going on in their parents' lives, including separation. Not only are they aware of what surrounds them, but they also are very critical about the situation. Adolescents are more conscious about not being different from their peers, and differences are accentuated. Adolescents are embarrassed by their parents' separation and are resentful of how it affects their lives. Changes in finances hit teenagers very hard. Adolescents are easily caught in the middle. Adolescents can develop serious psychological problems as a result of a poisonous emotional atmosphere.

Remedies:

- Talk to your adolescent about changes in your financial situation.
- Be honest about your financial situation. If adolescents are constantly told "no" or there are big discussions about expenditures, it adversely affects the relationship between you and your teen.
- Talk to your adolescent about budgeting and money management. Help your teen understand planning, so they can maximize their funds to select items that their budget allows.

- Don’t use adolescents as messengers about money.
- Share your adolescent’s financial concerns with the other parent and brainstorm solutions.
- Non-residential parents should try to introduce their adolescents to the parent’s own normal living conditions rather than take them to “special” places when they visit.
- Encourage adolescents to participate in money management – earning money, saving money, comparing earnings and expenses.

MONEY MATTERS, LOVE MATTERS MORE

Children of separation and divorce who are exposed to conflict — jealousy, bickering, betrayal, back-stabbing, and vicious arguments — between their parents, and between a parent and family members, develop a fear of personal vulnerability. As a result they are constantly concerned with how much money they have. Ask children of divorce what they want to do in life, and many will respond, “make money.”

Children need to be taught that the true measure of self-worth is personal integrity, not net worth. They need a basic sense of self-esteem in order to feel confident, to use their initiative, and to try new things.

Some separated parents have difficulty modelling these qualities for their children. Here are some suggestions for helping your children understand that money matters, but love matters more:

- Assure your children about your commitment to their support.
- Expect your children to help with family finances through prudent spending and possibly part-time work.
- Encourage your children to discover their own passionate interests.
- Do not “put down” your child’s other parent for giving gifts, and don’t make your children feel guilty accepting them.
- Demonstrate to your children that the time you spend with them is more important than the money you spend on them.
- Make it clear that you will not be ruled by fads and advertising.
- Create an atmosphere where the children can ask about and understand family finances.

CHAPTER 9: Communicating With the Other Parent About Finances

It is not the separation or divorce, but the post-separation parental conflict that is the culprit of most adjustment problems in children. The source of most post-separation parental conflict is ineffective communication.

In Parenting After Separation you learned to relate to your child's other parent in a businesslike relationship. You also learned that sometimes parents play games that put children in the middle of their parents' battles. And you learned some strategies for negotiating informally with the other parent and for keeping children out of the middle of conflict.

In this section you will find strategies for communicating with the other parent about financial matters.

Agreements or orders that address child support and spousal support generally refer to ongoing financial responsibilities. It is important that you have any agreement or order about support in your possession, and that you understand the details.

- Is there a Child Support Order?
- Does it include special expenses?
- Does it speak generally about special expenses, or is it specific? Is one of you responsible for medical/dental insurance plan payments for the children?
- Is there a Spousal Support Order?

If you have negotiated an agreement or order that addresses support it is important that you respect the terms of the agreement or order because it is a legal contract and can be enforced.

If you are the payor you should make paying your support in a timely manner a priority — at the same level of importance as paying your mortgage or rent. The parent receiving the support is counting on that money to pay their mortgage or rent, and other bills in a timely manner.

Beyond a support agreement or order you may find yourself having to communicate with your child's other parent about extra expenses (those not covered in the agreement or order) and unexpected expenses (those that are not planned).

Take a look at the following situations and consider the responses.

Mom:	*Janice's basketball team is off to a tournament in Victoria the weekend after next. The notice from school says that we need to pay $280 by this Friday.*
Dad:	*Why are calling to tell me about this? I give you child support.*

Do you think Dad is upset about contributing to his daughter's weekend tournament? Or could he be upset about the fact that he wasn't included in the decision that his daughter go in the first place?

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Brad:	*Mom, I need a cheque for $100 for Wednesday.*
Mom:	*What's it for?*
Brad:	*Something about if I don't pay I don't get my cap and gown for the graduation ceremony.*
Mom:	*You have to buy your cap and gown?*
Brad:	*No, it's a deposit. We get the money back when we turn the cap and gown back in next week.*
Mom:	*How long have you known about this? Payday isn't until Friday. How do you expect me to come up with $100 on short notice?*

How would Brad feel after this conversation with his mom?

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Dad:	*Kyle has a birthday party to go to on Saturday in Ladner from 4:00 to 6:00 p.m. You will need to take him out to buy a birthday present.*
Mom:	*But this is my weekend with Kyle. I have already made plans. You'll have to come by and pick up Kyle and deliver him to the birthday party and then bring him back afterwards. I don't have the money for gas. I pay you child support. You should be buying the birthday presents.*

How does Mom feel about being told what she has to do with Kyle on her weekend, and then being asked to absorb the extra and unexpected costs of Kyle attending the birthday party?

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■ STRATEGIES FOR REDUCING CONFLICT AROUND EXTRA AND UNEXPECTED EXPENSES

Research has shown that involving the other parent in the decision-making process increases their willingness to contribute to unexpected expenses. It is also important to remember that a request for money always provokes an emotional response. When someone is approached unexpectedly about contributing money, it is easy to go on the defensive.

The parent being asked may feel they have already paid their child support and shouldn't have to contribute anything more. The inference is that the other parent should be managing their money more effectively.

The reality is that money is personal, and the parent being asked may not want to reveal their financial resources. If there isn't extra money to contribute, the responding parent has the choice of either turning down the request, or offering to help out at the expense of other bills.

The following strategies can reduce conflict around these particular expenses:

1. Do your homework.

Before you approach the other parent, gather all the financial information and any other details about the expense that will be important to share: what the money is for, how much, and when is it due.

2. Decide HOW you want to communicate.

Decide upon the most effective way to communicate this particular financial request. For example, do you use the phone, e-mail, letter, fax, voice mail, or communication book, or do you talk in person?

3. Timing is everything.

Allow enough lead-in time to give the other parent time to digest the request and get back to you with an answer.

4. Invite consultation.

Initial communication should be to provide information and invite consultation. The goal here is to include the other parent in the decision-making process.

5. Stay child-focused.

The request should be child-focused; e.g. "Johnny is really excited about being selected for the all-star baseball team and it would be a really good experience for him to be able to go to the provincial tournament with his team." vs. "I need $200 to send Johnny to the provincial baseball tournament this weekend."

6. Invite feedback within an appropriate deadline

Ask the other parent to get back to you by a specified day or time; e.g. "Could you get back to me by next Wednesday so that I can let the coach know at the next practice?" vs. "I need to know as soon as possible." Or "What is there to think about — yes or no?"

7. Listen to each other without interrupting.

8. Offer possible solutions and be open to other solutions;

Don't presume that your solution is the only one. There may be different ways to achieve the same goal; e.g. treat the expense as a special expense and share it proportionately, or share the expense equally, or organize a payment plan, or offer a payment in kind (offer time or services which may bring down the overall cost). Options should also include how much, when, and how.

9. Clarify the details.

Decide who will be paying for what and when, e.g. "If you pay the coach the full amount on Wednesday I can pay you back next Friday." Or "You can pay your portion in two equal installments over your next two pay periods." Or "I'll pay the tournament fees now if you will handle soccer registration in the fall."

10. Write up the plan.

Follow up the discussion with a written summary of the details that each of you agreed to so that both of you have the same information and can track expenses.

11. Discuss and decide what information will be shared with your child.

If the two of you decide you cannot afford the expense, you should discuss what information would be shared with the child and how you plan to do that. You want to present a unified decision to the child to avoid blaming.

12. Build on your successes.

As communication between the two of you improves, there will be less chance of misunderstandings and conflicts between you and a better chance of a healthy upbringing for the children.

■ OPTIONS FOR COMMUNICATING WITH THE OTHER PARENT

Communicating in person

When you are negotiating in person, there are other considerations for a successful negotiation:

- Use a neutral tone of voice. Ask yourself if you would be speaking with a plumber, someone you work with, or a stranger, in that tone of voice.
- Be aware of the messages your body language is giving the other parent. Make sure your body language and facial expressions are consistent with your words. You can use honeyed words and still send darts with your eyes.
- Avoid the other parent's known "triggers." Don't act snotty, superior, or self-righteous. Be kind. Manage your own "triggers."
- Give the other parent an opportunity to speak.
- Listen.
- Resist the urge to interrupt.
- If emotions run high, take a break. If your emotions become too overwhelming, learn to breathe slowly or ask that the conversation be continued later. Leave if you have to.
- Back off. If the other parent is emotionally closed, don't keep talking and explaining. You get angry and the other parent gets irritated. Just wait for a better time.
- Bounce it back. If you are attacked verbally, tell the other parent, "I refuse to receive that. I need to be respected in this conversation, and if you can't do that we should continue this conversation later." If the other parent continues to bait you into an argument, leave calmly and quietly.
- Don't take the outcome of the discussion personally.

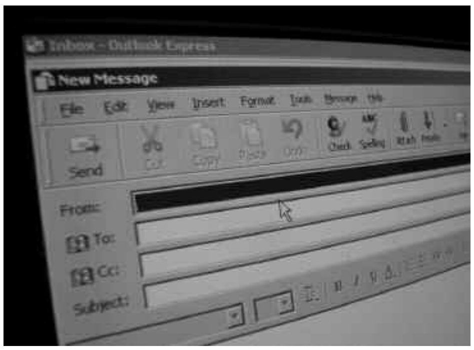
Communicating on the phone

Talking on the phone is more common when you have trouble talking face-to-face, but it can be a set-up for rejection. It's easier to react to voice tone and inflection and hang-up when it appears the other parent doesn't agree with you. Your emotions can easily rise if the other parent fails to hear you, understand you, or validate you.

Stick to the facts. Reduce the emotion. If you find yourself or the other parent going off on tangents or around in circles, bring it to a close. "I want to consider everything you have to say, but right now I'm having a hard time."

Use the non-violent hang-up. Tell the other parent courteously, "I'm going to hang up now. I'll talk to you tomorrow after work." And hang up. Politely.

Communicating in a letter or by e-mail



Writing notes helps prevent face-to-face confrontations. You don't have to see it as the coward's way out, just an alternate until you are healed enough to talk in person. Letters allow you to release your ugly emotions on paper and then clean up the letter before you deliver it. They give the other parent time to digest your thoughts and prepare their own response.

Tips for keeping your letters healthy include:

- Check all the "you" statements.
- Correct "always" and "never."
- Clean it up. Delete any shaming, attacking, and cursing words. Eliminate all accusatory statements.
- Change the part where you ask them to change.
- Set your boundaries ahead of time, as well as the consequence that will follow. For example: "If you don't pick up the children by 6 p.m., I won't be doing it for you. The daycare will charge you for the extra time they have to watch the kids."
- Avoid responding to negative or abusive letters.
- Keep a copy of any plans that are negotiated so that you can refer to them later.

■ CHILD SUPPORT

In the Parenting After Separation Workshop you covered the basics of child support and the Federal *Child Support Guidelines*. The goal of this section is to review child support and offer insight into some of the special situations that arise.

Who has a legal duty to financially support the children of a relationship?

Both parents have a legal duty to financial support their children, even after they separate.

If you are a stepparent, you too may be ordered to pay child support even if the child is not your biological child. A stepparent is a person who is or was married to one of the child's parent or lived together in a marriage-like relationship with the child's parent for a period of at least two years. To be required to pay child support under *the Family Relations Act*, a stepparent must have contributed to the support and maintenance of the child for at least one year and the child's parent must have applied for support within one year after the date the stepparent last contributed to the support of the child. Under the *Divorce Act*, the stepparent must have been married to the child's parent and stood in place of a parent to the child."

If you are applying for child support from a non-biological parent you must file your application within one year of the date of that person's last contribution to the support of the child.

What is child support and why is it paid?

Child support is money paid by one parent to the other to help distribute the expenses associated with the children being in that parent's primary care. The parent who has primary care is also expected to contribute towards the children's living expenses, based on their gross income. The parent with primary care of the children usually pays more than their "share" of child support as they absorb all the expenses that aren't covered by the other parent. With both parents contributing to the children's expenses, the children's living conditions will be better than if only one parent provided support.

When parents have split custody (the custody of two or more siblings is divided between their parents) or shared custody (the children spend at least 40% of their time with each parent), these expenses are presumed to be shared more equally. As a result, the *Child Support Guidelines* allow for special provisions for parents with these kinds of parenting arrangements.

Can I waive child support?

Child support is the right of the child, not the parent who has custody of a child. If you are the primary caregiver for your children you cannot agree to "give up" child support in order to have no further contact with the other parent.

The children live with their other parent, and he/she has moved in with another person. Do I still have to pay child support?

Child support continues even if the parent who has primary care of the children enters into a new relationship. The obligation to pay child support would be transferred to the new spouse only if the new step-parent adopted the children.

What if the other parent never sees the children?

The obligation to pay child support continues even if a parent never sees the children and has no role in the children's lives.

Can I stop paying child support if my access is cancelled or interfered with?

No. Child support is not a fee paid in exchange for time with the children. The children's living conditions should not be affected by conflict between you and the other parent.

Do I have to pay child support when the children spend time with me?

Yes. Child support is averaged over the year. The parent who has primary care of the children must maintain the children's living environment even when the children are spending time with the other parent or with extended family or friends, or when the children are away from home at camp or on a vacation.

What expenses does child support cover?

The base amount of child support a parent pays is presumed to cover a very wide scope of common day-to-day expenses associated with raising children: the children's share of the rent, utilities and groceries; clothing; school expenses; and activities. In some circumstances the basic amount can be increased to include other expenses so long as they qualify as "special and/or extraordinary expenses" under the Child Support Guidelines. Examples include daycare, tutoring, and a portion of medical and dental expenses.

Can I ask the parent to whom I pay child support to provide receipts to show me how he/she spends the money?

No. By definition a person who receives child support is free to spend the money at their discretion. If you deduct money from the child support you normally pay to cover the cost of something you bought for your child, or to pay an activity fee for your child, you will still owe money as child support unless the other parent agrees to the lower payment.

Special expenses are treated differently. If your agreement or order includes special expenses you may ask to see receipts to show that the expenses have been paid.

Is child support affected by an order for spousal support?

If there isn't enough money to pay both child support and spousal support a child support order will take precedence over a spousal support order.

How long does child support continue?

In British Columbia child support continues until each child is 19 years of age.

A child 19 years of age or older may be eligible for support if he/she is unable to withdraw from the care of his or her parents. The two main reasons why a child might not be able to "withdraw" are: the pursuit of a post-secondary education; or, a serious chronic illness that prevents the child from becoming self-supporting. In general the courts will allow an adult child to benefit from child support for one program of post-secondary study so long as the child is enrolled full-time.

■ SPECIAL AND/OR EXTRAORDINARY EXPENSES

In addition to basic child support a paying parent may also be required to cover a portion of other kinds of expenses so long as they qualify as "special and/or extraordinary expenses" under the *Child Support Guidelines*.

What are "special and/or extraordinary expenses"?

"Special and/or extraordinary expenses" are defined under section 7 of the *Child Support Guidelines* as follows:

- child care expenses, as long as those expenses are the result of the custodial parent's employment, illness, disability or education or training for employment;
- the child's portion of the medical and dental insurance premiums;
- health-related expenses that exceed insurance reimbursement by at least $100 annually, including: orthodontic treatment; professional counselling provided by a psychologist, social worker, psychiatrist or any other person; physiotherapy; occupational therapy; speech therapy; and prescription drugs, hearing aids, glasses and contact lenses;

- extraordinary expenses for primary or secondary school education or for any other educational programs that meet the child's particular needs. Tutoring costs falls under this category where the tutoring is necessary for the child's academic performance. So, too, can special costs related to particular courses, including workbooks, instruments, equipment or materials, field trips.
- expenses for post-secondary education; and
- extraordinary expenses for extracurricular activities.

How are special and/or extraordinary expenses shared between the parents?

In the absence of another arrangement between the parents, expenses are shared by the parents in proportion to their income, after deducting any contribution to those costs made by the child or the government (through things like grants or tax deductions).

The idea is to look at the total pot of money available to the child and to figure how much each parent's share of that pot is, and pay the expense according to that share.

What is being shared is the *net* cost of an expense — in other words, the amount actually being paid. The net cost of daycare, for example, is the cost of daycare less any daycare subsidy the provider is receiving and less any tax credits that arise from claiming the expense.

Changes to the *Child Support Guidelines* that were introduced on May 1, 2006 clarify when these special and/or extraordinary expenses should be paid.

First, expenses are extraordinary if they exceed what the requesting spouse can reasonably cover, in light of his or her income. In deciding what a parent can reasonably cover, the court takes into consideration the income of the requesting parent as well as any child support received.

Second, just because an expense occurs doesn't mean it will automatically be shared. The courts consider:

- the amount of the expense in relation to the receiving parent's income (including the child support amount);
- the nature and number of the educational programs and extracurricular activities;
- any special needs and talents of the child or children;
- the overall costs of the programs and activities; and
- any other similar factor that the court considers relevant.

The courts also consider the necessity of the expense in relation to the child's best interests and the "reasonableness of the expense." This includes considering the family's means (how much money they have) and their spending pattern before the separation.

Can we make our own agreement about how special and/or extraordinary expenses will be shared between us?

You can agree to the expenses you will share and how you will share them.

You can agree to share expenses which do not necessarily qualify as "special and/or extraordinary expenses" under the *Child Support Guidelines*, e.g. the registration fee for an activity, birthday parties, fees related to social outings, and extraordinary purchases such as a computer.

You can also agree on how you will share expenses – 50/50 vs. in proportion to your incomes.

And you can include details of the payment of such expenses in your agreement, e.g. taking turns to pay for program registration fees, a lump sum payment either annually or seasonally, or paying within 30 days of production of a receipt for the expense.

■ THE ELEMENTS OF A CHILD SUPPORT ORDER

A standard Child Support Order must include the following elements:

- The names of the payor (person paying support) and recipient (person receiving support)
- the Guideline income of the payor
- The names and birthdates of each child covered in the agreement
- The amount of support
- The effective start date for support payments
- The frequency of payments
- The date of the month the payment is due
- The duration of the agreement

In order to be enforceable an agreement for special expenses must *also* include:

- The name of the child the expense applies to
- The nature of the expense

- The payor's share of the net expense, preferably in dollars and cents

You can negotiate important details of the child support payment, such as the date(s) when payment is to be made. Sometimes orders aren't paid just because the order is for the 1^{st} of the month, at a time when all other payments are expected to be made from a limited pay. A monthly payment of $600 could be paid in equal installments of $300 on the 1^{st} and 15^{th} of the month. You can also choose to include details on the form of payment — whether by cheque, money order, or direct deposit.

Legal Fees

Your legal fees are tax deductible if you paid them:

- to establish a Child Support Order
- to enforce a Child Support Order or Agreement

Changes to the *Child Support Guidelines* came into force on May 1^{st}, 2006

These changes updated the Child Support Tables for all provinces and territories and reflect changes to tax rates.

For more information about child support and the *Child Support Guidelines* please contact your local Family Justice Centre or:

Department of Justice Canada 1-888-373-2222

http://canada.justice.gc.ca/en/ps/sup/index.html

You can use the Child Support Online Lookup below to figure out basic child support amounts.

http://canada.justice.gc.ca/en/ps/sup/lookup/index.asp

■ SPOUSAL SUPPORT

What is spousal support?

Spousal support is a payment of money by one spouse to the spouse who has been financially disadvantaged as a result of the relationship ending.

Following the end of a common-law or married relationship, each spouse has a duty to become independent and self-sufficient as soon as possible. A spouse who is capable of supporting him/herself following the end of the relationship may not be entitled to receive spousal support.

Spousal support is available for married spouses under both the federal *Divorce Act* and the provincial *Family Relations Act*. Spousal support is available to unmarried couples under the *Family Relations Act* alone. Spousal support is also available to same-sex married and common-law couples.

Considerations

The court may *not* take into account "spousal misconduct," such as adultery or family violence, when making an order for spousal support.

The fact that a receiving spouse is dependent on social assistance and has no other source of income does not cancel the other spouse's obligation to pay spousal support.

The spousal support provisions of the *Family Relations Act* are almost identical to those of the *Divorce Act* in that both require the court to give priority to child support.

Where the paying spouse simply cannot pay both spousal support and child support without going broke, the court is required to make an order for child support at the expense of an order for spousal support.

A claim under the Divorce Act vs. the Family Relations Act

A claim for spousal support is treated differently under the two laws.

The provincial *Family Relations Act* gives the court the authority to reduce the spousal support amount if the court decides that a spouse or former spouse is not making reasonable efforts to become independent and self-sufficient. This provision is *not* echoed in the federal *Divorce Act*.

If you are making a claim for spousal support under the federal *Divorce Act*, you:

(a) must be or have been married; and

(b) must have lived in the province in which the claim is made for at least a year before the action is started.

Spousal support is available for married couples under the *Family Relations Act* as long as the application is made within two years of a court making an order for divorce.

Spousal support is available to unmarried couples under the *Family Relations Act* as long as you have lived in a "marriage-like" relationship for at least two years AND the application is made within one year of your relationship ending.

Means, Needs and Circumstances

While spousal support is decided on the particular circumstances of the case, there are some general trends:

Length of Marriage*:* The longer the marriage, the greater the likelihood that a judge will make an order for spousal support. As well, the longer the marriage the stronger the presumption will be that you and your former spouse should have an equal or almost equal standard of living after you separate.

Difference in Incomes*:* An order for spousal support is more likely to be made when there is a substantial difference in income between the parties.

Economic Disadvantage*:* The more one spouse has lost as result of the marriage, such as job skills, job opportunities or employability, the greater the likelihood of an order for spousal support.

Earning Capacity*:* The more one party's earning capacity is reduced because of family obligations like child care, for example, the greater the likelihood of an order for spousal support.

The Spousal Support Advisory Guidelines (SSAG)

Often spousal support orders came at the end of a long trial and at considerable expense to both parties. The Spousal Support Advisory Guidelines (SSAG) were introduced on January 27th, 2005. The SSAG are an attempt to bring more certainty and predictability to how spousal support is determined under the federal *Divorce Act*. These guidelines are not legally binding and are voluntary.

The SSAG do not deal with whether a person should receive spousal support. They deal only with the amount and how long it should be paid, once a judge has made an order for spousal support.

The SSAG are informal guidelines only. They do not give a single number for how much support should be paid, only a range of numbers. The precise number chosen with that range is still a matter for negotiation or adjudication, depending upon the particular case.

The SSAG presents two formulae: the "without child" formula, and the "with child" formula. The "with child" formula is used when there are children of the marriage and an obligation to pay child support is in place at the time spousal support is determined.

The SSAG are being used in cases before the court in British Columbia. In some cases the spousal support being ordered falls within the SSAG, and in some cases it does not. The court is not bound to consider the SSAG when it makes an order.

J.P. Boyd, a local lawyer, has prepared a rough calculator for the two primary formulae set out in the draft Spousal Support Advisory Guidelines. The calculator is available on his BC Family Law Resource website at: www.bcfamilylawresource.com.

The full draft of the Spousal Support Advisory Guidelines can be viewed at: www.justice.gc.ca/en/dept/pub/spousal/project

Types of orders

(a) Interim Orders

The courts generally rely on a "means and needs" test – does the person making the application have a need for support, and does the other spouse have the ability to pay support – in making an order for interim support.

The courts will not bankrupt someone to ensure that spousal support is paid. If there isn't enough money to go around and meet both the payor's reasonable monthly needs and the applicant's monthly expenses, then there isn't and the court will usually try to spread the economic hardship between the parties.

(b) Definite and Indefinite Orders and Agreements

Under both the *Divorce Act* and the *Family Relations Act* a court may make an order for spousal support for periodic payments for a fixed period of time (a "definite" term), or for forever (an "indefinite" term), depending on the particular circumstances of each case. In general the longer the marriage or common-law relationship was, and the older the parties are, the more likely the court will be to make an indefinite order for spousal support.

(c) Lump Sum Orders and Agreements

A "lump sum" order or agreement for spousal support requires the payor to make a one-time-only payment of spousal support. This kind of spousal support payment is fairly rare.

Lump sum payments are not likely to be ordered where the payor has a similar need for financial independence to the recipient or where the recipient has a significant amount of debt.

Lump sum awards are also available on interim applications.

Spousal support and division of property

The issues of spousal support and the division of the family assets are complicated and somewhat intertwined. Usually spousal support is discussed at the same time as, or after, the family assets have been divided between the parties.

If the financial disadvantage of one spouse is taken care of by an unequal division of property, spousal support may not be considered.

If the manner in which the assets were divided goes some way towards overcoming the financial disadvantage arising from the separation, but not all the way, spousal support may be ordered as a "top up" to the division of assets such that this objective is met.

Income tax considerations

Spousal support payments are included in a person's total income reported for income tax purposes.

Spousal support payments can be claimed by the payor as a tax credit if the following criteria are met:

- The recipient must be able to use spousal support payments at their own discretion.
- The payments are made on a periodic basis (the payments are made weekly or monthly, and the order or agreement for spousal support is for an indefinite period or expires on some predetermined event). Lump sum payments are only tax deductible if they are paid to catch up on past-due periodic payments.

- The payments are paid for the financial support of the recipient.
- The payments are made to a spouse or former spouse, under a court order or written agreement, while the couple is living apart because of the breakdown of the relationship.

If a paying spouse wishes to ensure that he or she can claim spousal support payments as a tax deduction, the order or agreement which addresses spousal support must clearly state that the payments are for spousal support. If not, the federal *Income Tax Act* requires the payment to be treated as child support payments.

Unexpected taxes may result if spousal support payments are made directly through a company the payor owns, either on a company cheque, or in the case of support being declared as salary payments.

The *Income Tax Act*'s treatment of spousal support payments applies to same-sex common-law partners effective January 1st, 2001. The rules do not apply to an order or agreement made before 2001 unless the parties opt into the taxable/deductible scheme by way of a joint election for 2001 and subsequent taxation years.

Third-party payments

Sometimes spouses negotiate what is called third-party payments, i.e. payments are made directly to a third party instead of the spouse. An example of this would be mortgage or car payments made on behalf of the eligible spouse.

Third-party payments may be deductible to the payor, and taxable to the recipient, in the year of payment if all of the following conditions are met:

- They are paid under a court order or written agreement;
- The order or agreement specifically states that the *Income Tax Act* applies to the payment, or contains a clear and unambiguous clause stating that it is the parties' understanding that the third-party payments will be deductible to the payor and taxable to the recipient;
- They are paid for the financial support of the recipient;

Legal Fees

Your legal fees are tax deductible if you paid them:

- to enforce an existing court order or written agreement to collect late spousal support
- to resist the payor's attempt to reduce spousal support

Maintenance enforcement

In BC you can register a child or spousal support order or agreement with the Family Maintenance Enforcement Program. Many maintenance payments are paid on time and in full, but some people like having a third party (FMEP) involved to track the payments.

If payments aren't made, FMEP will contact the payor to try to get payment voluntarily. If this doesn't work, FMEP may take enforcement action. The Family Maintenance Enforcement Program can use a number of methods to enforce the order, including denying a driver's licence to a payor who has not paid.

The Family Maintenance Enforcement program can use federal databanks, including those of the Canada Customs and Revenue Agency, to locate payors who are behind in their support.

For more information…

Ask a family justice counsellor or a support person at a Family Justice Centre to make a referral to the Family Maintenance Enforcement Program outreach officer

or call the FMEP InfoLine:	Greater Vancouver: (604) 775-0796 Greater Victoria: (250) 356-5995 Elsewhere in BC: 1-800-668-3637

■ PROPERTY AND ASSET DIVISION

When a relationship is over ultimately the question becomes "who gets what?" The division of property is governed by provincial law and therefore varies from one province to another. In British Columbia the *Family Relations Act* governs property division. Part 5 deals with the division of property and Part 6 deals with the division of pensions. While the *Family Relations Act* generally applies to both married and common law spouses, Parts 5 and 6 of the *Act* only apply to married spouses.

What is a family asset?

The definition of property — the stuff to be split between spouses — varies from province to province. In BC only property that qualifies as a "family asset" is subject to division between spouses.

The *Family Relations Act* defines a "family asset" as property owned by one or both spouses and ordinarily used by a spouse or a minor child of either spouse for a family purpose.

"Ordinary use" usually means normal use in the course of normal life, rather than the odd occasional or casual use.

A "family asset" may include the following:

- Property owned by corporations
- Transferred property
- Savings accounts
- Pensions and RRSPs
- Business ventures

Property that does not qualify as a family asset may include:

- Assets owned before the marriage
- Assets exempted under a marriage contract
- Assets accumulated after the date of separation
- Gifts or inheritances received during a marriage
- Family heirlooms
- Items of exclusive personal value
- Business assets
- Gifts from one spouse to another
- Proceeds from a life-insurance policy
- Personal injury settlements or court awards
- Traceable property

Whether an asset qualifies as a shareable "family asset" rests on whether it was ordinarily used or was intended to be used for a family purpose.

All of a couple's assets are presumed to be family assets. It is up to the spouse to prove that a particular asset is *not* a family asset.

The kinds of assets that are most frequently questioned as family vs. non-family assets include:

Gifts and Inheritances

Gifts and inheritances given to a specific spouse for his or her own personal use are not generally considered family assets. However, in some cases, such as if an inheritance was used to pay down a mortgage or a family debt, the asset may be classified as a family asset. In general, the longer an inheritance or gift was used for a family purpose the more of the asset will be considered to be a family asset.

Severance Pay

Severance pay or a "buy-out" package is characterized as "future employment income," and thus is not a family asset. It may, however, be considered in deciding what the amount of a spouse's child or spousal support obligation should be.

Dowry Assets

Dowry assets are usually treated as a personal gift and are not shareable, especially where the dowry is received before marriage as a payment for the marriage.

Where the dowry consists of assets brought by a spouse into the marriage and are intended to be used for the benefit of the family or are used for the benefit of the family, they will be treated as shareable family assets.

Pensions

The amount of a pension that accumulates from the date of the marriage until the triggering event is considered a shareable family asset. Contributions made before marriage and after the triggering event, and the interest accruing on those periods of contribution, are, in general, not shareable.

Canada Pension Plan Benefits

CPP credits are normally split between spouses on divorce. BC is one of only a few provinces that allow a couple to choose not to divide their CPP credits. If such is the case, CPP in Ottawa must be notified or they will divide them automatically.

Court Awards

A court award for damages for personal injury or another civil wrong is considered personal to the spouse who receives it and is not generally a family asset. An award containing an allotment for lost wages may have that part taken into consideration for the purposes of child or spousal support.

Artwork

Art located in the family home and used for the enjoyment of the family and decoration of the home is a shareable family asset.

Jewellery

In general, jewellery is personal in nature and will not be characterized as a family asset. This includes gifts of jewellery made by one spouse to the other. Jewellery given to the family as an asset or a form of savings will be treated as a shareable family asset.

What is a "triggering event"?

A "triggering event" is a selected date following the end of a relationship that:

a) defines each spouse's interest in the family assets; and

b) fixes the pool of family assets to be divided.

A triggering event changes each spouse's interest in an asset from a shared interest in the whole asset to ownership of the asset as a tenant in common.

The different triggering events defined in the *Family Relations Act* are:

1. the execution of a separation agreement;
2. the pronouncement of a judicial declaration that the spouses have no reasonable prospect of reconciling with each other and resuming married life;
3. the pronouncement of a divorce order; and,
4. the pronouncement of an order that the marriage is a nullity.

Note that #2, 3, and 4 all require a court application.

A triggering event has the effect of giving each spouse a defined one-half interest in a family asset and helps to protect each spouse's interest in that asset from things like:

- A claim a third-party creditor might have against one spouse in debt.

- The bankruptcy of one spouse and the consequent loss of his or her assets from the pool of family assets available for division.
- A unilateral decision to sell an asset made by one spouse.
- A claim against the estate of a dead spouse.

Assets acquired after the triggering event may not necessarily be "family assets" that can be shared.

How are family assets divided?

The *Family Relations Act* presumes that each spouse ought to share equally in all family assets when their marriage breaks down. It is possible, however, for assets to be divided unequally, or reapportioned.

The court may order, or the spouses may agree, that only a few specific assets rather than all of the family assets should be reapportioned in one spouse's favour.

Factors courts don't usually consider in reapportionment include:

- the conduct of the spouses during the marriage;
- a desire to "punish" a spouse;
- the lack of children of the marriage;
- which spouse actually owns a particular asset; or,
- the spending habits of a spouse during the marriage (but not following separation).

How is the value of the property determined?

When it comes time to divide the property it is the net value of the asset (the value of the asset less any debts against it) that is used in the calculations; e.g. if you own a house worth $700,000 and there is a mortgage of $300,000 still outstanding on it, the net value of the house is $400,000.

The Canada Pension Plan itself splits Canada Pension Plan credits.

Other pensions must be valued first before they can be divided. Both the valuation and the division of pension benefits must follow the rules of the particular pension plan.

RRSPs are divided by filling out a special form from the Canada Revenue Agency, and sending the form to the bank of the spouse who has the RRSPs and having the bank transfer all or some of the RRSP into an RRSP account held in the name of other spouse. You can specify a percentage or a fixed dollar amount that is to be transferred.

What does property division look like?

Either by agreement between the spouses or by a court order property may be divided as follows:

- certain assets are allotted to each spouse;
- one spouse is required to make a payment to the other to compensate that spouse for his or her share of a particular asset;
- an order is made that an asset, like a home, be sold and the proceeds divided between the spouses; and/or,
- a schedule of payments for the equalization of the assets is made.

How can I protect my "share" of the family assets?

If you suspect that your spouse may try to sell off, or transfer, assets before they can be divided there are several steps you can take to protect yourself:

- Take a careful tally of what each of you owns.
- Get a triggering event.
- Register an interest in real property.
- Protect your interest in those assets from claims made by creditors, third parties, and against the prospect of your spouse's bankruptcy.
- Obtain an interim order that a share of the family assets be distributed prior to the trial. In general, this sort of interim distribution can only be done by consent or where one of the spouses needs to pay for expert help and otherwise cannot afford to pay the expert. In all cases, there must be some source of liquid assets from which an interim distribution can be made.

Tax considerations

- The transfer of RRSPs between spouses is tax-free.
- A "Special Property Transfer Tax" form allows spouses to transfer the title of property between them without having to pay tax on the transfer, as would normally be the case if the house was sold to a third party purchaser.
- Consult with an accountant for more information regarding taxes.

■ IN SUMMARY…

- Money is a big part of the ongoing dynamics between parents.
- Take your time. Don't let anyone rush or pressure you into changes.
- Work to regain balance in your life — physically, emotionally, and mentally.
- Know your rights and responsibilities around support issues.
- Work towards financial independence from your former spouse.
- Live within your financial means.

Resources

CREDIT COUNSELLING

The Credit Counselling Society http://www.nomoredebts.org/	604-527-8999 1-888-527-8999
The Canadian Credit Counsellors Society	604-853-9225
Consumer Credit Counselling http://www.iamdebtfree.com/	604-435-7800 1-800-565-4595
Douglas P. Welbanks and Associates . http://www.debtorassistance.com/	604-728-0968
Solutions Credit Counselling Service Inc. http://www.creditsolutions.ca/	604-588-9491 1-877-588-9491

DEBT AND INSOLVENCY

Office of the Superintendent of Bankruptcy http://strategis.ic.gc.ca/epic/internet/inbsf-osb.nsf/en/Home	604-666-5007

CONSUMER PROTECTION AND ASSISTANCE

Business Practices and Consumer Protection Authority www.bpcpa.ca	1-888-564-9963
Ministry of Public Safety and Solicitor General **Compliance and Consumer Policy Division**	604-660-2421
	1-800-663-7867

CHILD SUPPORT:

Department of Justice Canada	1-888-373-2222

Information about Canada's child support laws and guidelines.

Includes answers to frequently asked questions and help to calculate support payments.
http://canada.justice.gc.ca/en/ps/sup/index.html

Child Support in BC - Information for Parents
general information for parents about child support in BC. (August 2004)
www.publiclegaled.bc.ca/snapfiles/child%20support%20May05%20Revised.pdf

Child Support Tables
http://canada.justice.gc.ca/en/ps/sup/grl/pdftab.htm

Family Justice Centres
www.ag.gov.bc.ca/family-justice/index.htm
Info Line: throughout BC: 1-888-216-2211;
in Vancouver: 604-660-2192

MAINTENANCE ENFORCEMENT:

Family Maintenance Enforcement Program
www.fmep.gov.bc.ca/

InfoLine Numbers	Greater Vancouver:	(604) 775-0796
	Greater Victoria:	(250) 356-5995
	Elsewhere in BC:	1-800-668-3637

Canada Child Tax Benefit 1-800-387-1193
http://www.cra-arc.gc.ca/benefits/cctb/menu-e.html

Universal Child Care Benefit
http://www.cra-arc.gc.ca/benefits/uccb/menu-e.html
http://www.universalchildcare.ca/en/home.shtml

BC Family Bonus
http://www.rev.gov.bc.ca/itb/fam/fam.htm

Kids Sport 604-737-3190

Healthy Kids Program 1-800-748-1144

Lucy L. Woodworth Fund for Children 604-875-9111

Vancouver Board of Parks and Recreation
Leisure Access Card Program 604-257-8497

City Of Surrey Leisure Access Program 604-501-5100
http://www.surrey.ca/Living+in+Surrey/Parks+and+Recreation/Recreation+Services+and+Places/Leisure+Access+Program.htm

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