



Factors the court considers when making an order for provision by step-parents

By Judith A. Kanyoko



Often parties enter into marriage with children from previous unions. While the relationship is working, the question of parental responsibility for such children hardly arises. The children are often deemed and may be treated as children of the family, entitled to maintenance and all that appertains to the duties of parents. However, issues of parental responsibility often arise when the relationship falls apart.

Previously, the court has held that it would be against the values of the Constitution for a party who has had a relationship with a child similar to that of a father or mother to renounce all responsibility and duty to maintain the child when he or she falls out

with the parent of the child. Under Section 94 of the Children Act, the Court may order financial provision to be made by a parent for a child including a stepchild who has been accepted as a child of the family. However, the court is to be guided by the following factors in making such an order:

- a) The income or earning capacity, property and other financial resources the parties have or are likely to have in the near future;
- b) The financial needs, obligations, or responsibilities which each party has or is likely to have in the near future;

- c) The financial needs of the child and the child's current circumstances;
- d) The income or earning capacity, if any, property and other financial resources of the child;
- e) Any physical or mental disabilities, illness or medical condition of the child;
- f) The manner in which the child is being or was expected to be educated or trained;
- g) The circumstances of any of the child's siblings;
- h) The customs, practices and religion of the parties and the child;
- i) Whether the respondent has assumed responsibility for the maintenance of the child and if so, the extent to which and the basis on which he has assumed that responsibility and the length of the period during which he has met that responsibility;
- j) Whether the respondent assumed responsibility for the maintenance of the child knowing the child was not his child, or knowing that he was not legally married to the mother of the child;
- k) The liability of any other person to maintain the child;
- l) The liability of that person to maintain other children.



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