

USLegal Guide to Preparing for Divorce



INTRODUCTION

This guide provides helpful tips on how to prepare for a divorce. Valuable information is provided to allow a spouse to protect their position and minimize liabilities during this transition period. Being prepared can increase the odds of obtaining what you want in a divorce settlement, as well as reduce litigation expenses.

CONTRACTS

Do not sign any contracts, promissory notes, deeds, mortgages or similar documents at the request of your spouse. Your refusal to sign may tip the other spouse off, but the consequences of signing may be far worse than those of disclosure. Review all beneficiaries named on existing policies and accounts (insurance policies, bank accounts, investments, etc.) to determine which may need to be changed.

RECORDKEEPING

Keep a diary of relevant events, including the comings and goings of your spouse. If your spouse is away from home a lot (out at night, away on trips, etc.), record the dates and times, as well as your spouse's explanations. Identify, collect, and organize the financial information you and your attorney will need. You should have a record of names, account numbers, addresses, and phone numbers for all of your assets and debts. Items to have copies of include pay stubs and employment information, your most recent bank statements, credit card statements, investment account statements, retirement account statements, loan applications, last three to five years tax returns & W-2's, property tax bills, mortgage statements, credit report, etc. In other words, anything that has bearing on your financial situation. If there is a business involved, get a copy of the tax records, assets, and debts. Other paperwork to make copies of are deeds, prenuptial or antenuptial agreements, wills, trusts,

marriage certificates, birth certificates, powers of attorney, etc. You should also write down all applicable social security numbers and drivers license numbers. Make a list of the return addresses of all mail received by your spouse from brokerage houses, banks, insurance companies and credit card issuers.

BUDGETING

- Create pre- and post-divorce budgets
- Determine the amounts of temporary maintenance and child support you realistically need
- Create a plan to obtain the assets you are rightfully owed
- Analyze various settlement options
- Establish a post-divorce financial plan
- Explore career options
- Formulate a savings plan
- Reexamine investments and retirement goals

TAXES

Make sure that all federal, state, and local taxes are paid to date. This can be a major hassle once the divorce is finalized, and a tax lien is the last thing that you need as you start your new life. If you suspect that your spouse has not reported taxes properly and stands to be audited, consider filing amended tax returns as married-filing separately. copies are obtained from either:

1. the IRS and/or State(s),
2. a paid preparer, or
3. the spouse that prepared the return.

Request for transcripts can be made by calling 1-800-829-1040. To order by mail, taxpayers need to complete the Request for Transcript of Tax Return IRS Form 4506T.

CONSIDER INSURANCE COVERAGE

If you are covered on your spouse's insurance, get complete medical and dental check-ups done for you and the children. Have a medical and dental examination. If convenient, undergo any treatments which are needed or which you anticipate needing in the

near future if they are covered under your spouse's insurance. It's important to have any necessary procedures done now while you are covered. Begin checking into getting your own coverage for health, automobile, and home, and take these expenses into account for your post-divorce budget.

DOCUMENT YOUR VALUABLES

An inventory of assets should be made, especially any gifts or inheritances that are separate property. You should photograph of videotape the contents of your home including any garages, sheds or out buildings, to record the assets and fixtures contained in each. A separate safe deposit box may be considered to store your valuables. If non-marital assets are commingled with assets purchased or improved during the marriage, it may not be possible to claim the asset as yours in the event of divorce. However, some "tracing" of non-marital assets may be possible. For example, if a non-marital asset is sold during the marriage and the proceeds from the

sale are used to purchase another asset, it may be possible to "trace" a non-marital interest in the new asset.

BE ON GOOD BEHAVIOR

If you are already separated, don't start dating someone else. This will not only anger your spouse, but it may make your spouse less cooperative during the actual divorce. Don't conduct yourself in a manner that could give rise to allegations of misconduct during the proceedings.

ESTABLISH YOUR OWN CREDIT

If you don't have any credit in your name alone you should establish some now. You can do this by obtaining a credit card, but remember you want a card that is in your name only. You should get your annual free copy of your credit report so that you are prepared to discuss who will be responsible for handling any debts or negative information that appears on it. It is important that anything in dispute can be resolved before the divorce is final.

CLOSE JOINT ACCOUNTS

Before you separate when possible, close all joint credit accounts. Closing them before divorce proceedings will keep an angry spouse from using the account and running up charges that you may later be held responsible for. You need to prevent your spouse from being able to clean out any joint accounts you have together. If you fear your spouse doing such a thing you can protect yourself by opening accounts in your name alone, remove ½ the funds from the joint accounts, and deposit them into your new accounts.

Do not hide the fact that you have done this and do not spend the money foolishly. Document what you spend so that you can have an accounting for it during settlement negotiations or in court. If you think your spouse might abuse savings accounts, money market accounts or any type investment accounts you should consider having the accounts frozen.

Offer to close the accounts by paying a smaller amount than is

owed. This is called an accord and satisfaction. If this is done, get a letter from the creditor that the account has been paid in full and a written promise that they will not file anything negative about the account to the credit reporting agencies.

If you and your spouse both contribute to shared 401k or any other investment accounts, stop contributing. You do not know who is going to end up with that money so it is best to keep as much as you can with yourself at this time. You can usually stop the contributions by telling your employer the situation.

CHILDREN

If you're a parent, you need to be prepared for how to tell your kids about the divorce. In doing so, you also need to learn ways to help them cope and to understand how their lives will be impacted. It is essential that the parents present a united and amicable front to the children. No blame should be assigned to either parent and most important of all, the children must

understand that the divorce is not their fault. Thought must begin to be given to the determination of physical custody, legal custody, and visitation parameters been established for the noncustodial parent. Support and financial matters, such as which spouse will get dependency exemption, how insurance, health, and education costs will be covered, etc. should be addressed in budgeting. Support System Divorce is difficult on almost everyone and those going through it often need support. Sometimes, all a person needs is a friend who can sympathize with the situation. Friends, family, and other advisors, such as career counselors, financial planners, ministers, therapists, etc., can help guide and encourage you when the going gets tough. A strong support system is very important thing for dealing with the emotional turmoil of divorce.

CHANGES TO THE WILL

If you have a will, this should immediately be discussed and adjusted based on the divorce

settlement agreement when you financially prepare for divorce. It may not happen for many years, but imagine how you would be rolling over in your grave if your estate were passed to your ex-wife 40 years from now. You should have your attorney consider things about who would be the executor of the estate or, if you have children, how children from your current marriage may be treated when compared with possible children or stepchildren from a future marriage.

STAYING IN THE MARITAL HOME

Depending on your circumstances and the laws of your state, you could weaken your position on custody and possibly your personal or marital property if you move out. It is usually advantageous to remain in the home, especially when children are involved or the other spouse earns more income. You should discuss any plans to move from the marital residence with your lawyer before making a decision. Of course, take immediate action if domestic abuse is at issue.

A home can be very expensive to maintain in the long term. A mortgage, taxes, utilities, maintenance and general day-to-day upkeep add up. Down the road, will you still be able to maintain the house once the marriage is dissolved? Make sure you calculation the numbers ahead of time - and determine your ability to acquire a new residence - before you stake your claim and fight to keep your home. Whichever spouse stays in the home is often going to have to offset keeping that asset by giving the other spouse a larger share of the remaining assets.

COMMUNICATIONS

Get a cell phone in your own name and get a new e-mail address. When you are getting a divorce, it is important that you be able to communicate without fear of the other spouse having records or access to your communications.