

Planning for a Divorce

Think Before You Act

Before you take the plunge, the saviest attorneys advise you would do well to make some preparations. It might seem heartless, but if you plan to ask your spouse for a divorce, or if you think your spouse might want one from you, there are some matters you should take care of first. Attend to these issues before your partner even realizes you're ready to call it quits and you'll be ahead of the game during legal negotiations.

We know that the notion of a pending divorce— even one not yet broached with your spouse— can send you into a tailspin. The mere thought of divorce might evoke a range of emotions, including relief, fear, disappointment, excitement and dread. After years of frustration, you're finally ready to divest yourself of some only and uncomfortable life choices for a world of new possibilities, and you hope, lower levels of conflict and pain.

1. Hire a Lawyer

Unless you have been married for only a short time, or you have no property or children, hire a lawyer. Even if you and your spouse have “worked everything out” or have chosen a mediator, your personal lawyer might tell you about rights you didn't even know you had. You don't need Marvin Mitchelson or an F. Lee Bailey, but you should find someone who has handled divorces before, someone you can afford and someone with whom you feel comfortable. Word of mouth is usually a good way to locate attorneys, but don't go by recommendations alone. Meet a few lawyers before making up your mind. You might have to pay for these consultations, but at least you'll learn a little more about the differences in legal style and home in on the qualities you prefer.

2. Know Your Spouse's Annual Income

If he or she has a salaried position or is paid by the hour, the information should be on a recent pay stub. If you can't get your hands on one, last year's tax return should do. Do a little detective work. Does your spouse have a partner? Are you friendly with the partner's spouse? He or she might know about the business and be willing to share what he or she knows over a friendly lunch. Is someone else in the partnership divorced? Make an ally of that partner's former spouse, who will probably be full of information learned from his or her divorce and only too eager to share it.

Finally, don't forget that the best source of financial information might be your spouse. If you haven't discussed your plans to divorce with your partner yet, put it off until after you obtain as much financial information as possible. One wife we know happened to be enrolled in a course on money management when she decided to move ahead with her divorce. Before she informed her husband, she asked him to fill out and income-disclosure form— ostensibly her “homework.” When she began her divorce

proceedings, she had the information she needed— her husband’s hand writing, no less. Even if you are not enrolled in a class, requesting such information should be fairly straightforward. Why do you want the details? In this day and age, our financial status is something we must all be on top of. Just tell your partner you feel foolish without a handle on the economic underpinnings of your life.

3. *Realistically Assess What You Can Earn*

Have you been out of the job market for a while? Perhaps you need some time to get your skills up to speed before taking the plunge. Has business been off lately? Keep a record of that now so no one later accuses you of deliberately reducing your income to negotiate a more favorable deal.

4. *Learn About Your Family’s Financial Holdings*

Remember, as you wind your way through the divorce maze, you will only be able to share in assets you know about, so you must find out exactly what the two of you have. For most that’s probably easy. There’s a house (owned by the bank), a car (still owned by the dealer), a pension (not yet vested), and a little bit of savings. But for some, property ownership is more complicated. In some states, a business created during the marriage is an asset to be valued, and a judge can distribute its value. The same may go for an academic degree or even part of the value of a summer house— one you inherited during the marriage.

5. *Realistically Assess Your Family’s Debt*

Often, the allocation of debt is harder to prove or negotiate than the division of assets. What debts do you have? Credit card, personal loans, bank loans, car loans? How much does it cost to pay these debts each month?

A good source for this information is your family’s tax return. Specifically, search under Schedule B for sources of interest income and jot down the information. If possible, locate the 1099 forms— the forms that banks use to report interest income each year. That form will have the name of the bank and the account number. If you don’t have the tax return and are afraid of raising suspicions by asking for it, write the Internal Revenue Service. The IRS will provide you with a copy of the return (provided it was a joint return), but it takes several weeks to receive it. If you have a family accountant, you can also ask him or her to send you copies of returns and 1099 statements.

You can also check the mail each month to see who is billing you and for what. Open the bills and photocopy them. If your spouse asks why the envelope is open, say you wanted to see what the bill was for. Hey, you’re entitled!

6. *Make Photocopies of All Family Financial Records*

Canceled checks, bank statements, tax returns, life insurance policies— if it's there, copy it. You might not need this information, but if you do, it's good to have it.

7. *Take Stock of Your Family's Valuables*

Inventory your safety deposit box or family safe, and take photographs of the contents. Do the same with jewelry or any furniture, paintings, or other items of value. You needn't list every worn out piece of furniture, but anything of a value of more than \$300.00 should be included.

8. *Learn How Much It Costs to Run Your Household Now*

Whether you plan to stay in the house or leave, unless you know the monthly costs, you won't know how much money you need. If you pay the monthly bills, your job is easy. If you don't, look through the checkbook— how much is the monthly rent or mortgage; utilities, including electricity, heat, and phone; and sundry costs from snow plowing in the winter to gardening in the spring.

9. *Determine Where You Will Live Following Separation*

If you're the spouse who plans to move out, decide where you're going to live and figure out how much it will cost, month-by-month, beforehand. Maybe you plan to move in with your romantic interest. Although that might be tempting— it might be the reason you want to divorce— it might also be a case of going from the frying pan into the fire. How is your spouse going to react when you want to bring the children there? Will this make your case a thousand times more difficult to settle? Will your spouse have an adultery claim that can hurt you later? If you answered any of these questions with a "yes" or an "I don't know" move somewhere else. Look through the real-estate advertisements to learn about rents. Consider what it will cost to move, and calculate start-up expenses, including telephone installation and turning on electricity and cable.

10. *Start Saving Money*

One unemployed wife of a physician wanted a divorce immediately. Her divorce lawyer, however, convinced her to change her mind. Instead, the attorney advised her, it would be best to wait a solid year before starting the divorce action. During that time, she was instructed to save money— enough, hopefully, to move out and go it alone. It wasn't easy, but the wife saved enough to move out a year later. After she was settled in her own apartment, her lawyer then went to court and got the judge to order the husband to pay her monthly rent until the divorce was final. If the wife had not moved out, the judge could not have directed the husband to pay her rent; she wouldn't have had any rent to pay. Instead, she would have been stuck in the house, with her husband, until the divorce was final; that could have taken far more than a year. (Although most jurisdictions will award a non working spouse temporary support, you cannot count on it.)

11. *Build Your Own Credit*

If you don't have credit cards in your own name, apply for them now. You might be able to get them based on your spouse's income, and you will probably need credit later. Use the cards instead of cash and pay the entire balance by the due date every month. Don't charge more than you can pay; you'll be creating even more problems for yourself!

12. *Stay Involved with Your Children*

First of all, this is important for your children— especially because they will need all the support and reassurance they can get during the turbulent times ahead. In addition, because courts consider the depth and quality of your relationship when making custody and visitation decisions, such involvement now could translate to continued involvement, at a higher level, after the divorce.

Do self check: Have you been so busy earning a living that you've let your spouse bear the brunt of child rearing? If so, now is the time to reallocate your priorities. If you have school-age children, help them get off to school in the morning, help them with homework at night, and help them to bed. Learn who their teachers are, who their pediatrician is, who their friends are. If your children are not yet in school, spend as much time with them as you can before and after work. Even if you don't have much likelihood of getting custody, you'll become a better parent.

13. *Withdraw Your Money from the Bank*

If you fear your request for divorce will send your spouse straight to the bank, withdraw half of the money in all your savings accounts first. Place the money in a new account, and keep it there until you and your spouse can work out the distribution of property. Do not spend the money if at all possible. If the money is in a checking account and you know the account is nearly emptied every month to pay bills, do not withdraw any of that money; you'll create financial havoc if checks bounce.

14. *Consider Canceling Charge Cards*

If you pay the credit card bills, consider canceling your accounts— or at least reducing the spending limit. In one case, the husband's announcement that he wanted a divorce sent the wife on a \$12,000.00 shopping spree— and he had to pay for the fur coat; the VCR, the Jacuzzi (installed, incidentally, in a house he stood to lose). If you cancel or reduce lines of credit, of course, you must inform your spouse to save embarrassment and later, anger. You can say the family needs to cut back, which is probably going to be true.

15. *Decide How to Tell Your Spouse*

Here, you might need professional advice or advice from a battle-worn friend. Would your partner accept the news more easily in a public place, such as a restaurant, or in the privacy of your home? One husband we know delayed telling his wife he wanted a divorce because she threatened suicide each time he mentioned separating. The wife was an unsuccessful actress with a flair for the dramatic who dropped her suicide threats once the husband agreed she could take over their apartment. Still, some threats must be dealt with seriously. If you are afraid your announcement will send your spouse off the deep end, be sure that you have consulted a professional counselor beforehand. Although there is often no way to lessen the hurt and rejection, a professional therapist might be able to supply you with strategies for leaving your spouse with as much of your self-esteem as possible intact.

16. *Decide How to Tell the Children*

You might want to consult with a professional. Would the news be best coming from the two of you together or from one of you alone? One husband we know planned to tell the children that he was moving out on Christmas. He thought that would be a good time because the whole family would be together. His lawyer tactfully suggested he choose a different day.

17. *Take Property That Belongs to You and Safeguard It*

High school yearbooks, jewelry, computer disks, your collection of Beatles albums, your grandmother's family heirlooms, whatever—if it indisputably belongs to you and you fear your spouse might take it for spite or leverage, move it out of the house. If you have several such items, move them out slowly, over time, before you announce your plans. Depending on the size of the objects, you might store them in a safe deposit box, a storage facility, or the home of a trusted friend.

18. *Don't make Any Unnecessary Major Purchases*

Once there are suddenly two households to maintain, your might find your financial freedom drastically curtailed. The number of men who buy brand new cars while they're starting divorce proceedings is staggering. The payments financially devastate them, and their wives use the existence of the "car" as proof of ability to pay for all sorts of other expenses. Sorry guys: Resist.

19. *Make Sure That Your Spouse Is the First to Know Your Plans*

Although you might consult with friends before you take the plunge, be sure that they know loose lips sink ships.

20. *Stay in the Marital Residence If Possible*

You will weaken your position on custody and possibly your personal or *marital property* if you move.