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Preparing for Divorce: To Do or Not to Do – That is the Question

Whether you've experienced divorce in the past or if you are looking ahead and anticipating your first divorce in the future, it is never easy to prepare for the trials and tribulations inherent in a marriage dissolution.

The end of a marriage is the end of the life you probably always expected to live. It means dramatic changes are on their way and difficult decisions will have to be made. Fortunately, this can also mean a fresh start and an opportunity to pursue new goals and dreams. Nonetheless, getting to that point is not an easy road, and such upheaval is oftentimes incredibly emotional. As a result, things can also become exceedingly contentious.

When faced with the emotional toll of drastic change or severe tension in their lives, many people make irrational decisions or even push forward blindly in hopes of simply "getting it over with". When these tendencies are combined with a lack of knowledge about what to expect from the divorce process, it can be a recipe for disaster.

There is far too much at stake when it comes to your divorce to risk making a costly mistake that could be detrimental to your case or the overall integrity of the divorce proceedings. Taking action based on what your friend's attorney told them to do or because you saw it on TV or in an attempt to make things "fair" can be harmful to not only your chances of achieving a favorable outcome, but also to the wellbeing of your children. Equally problematic is the failure to take the steps you should take and burying your head in the sand.

Thus, in order to help you react logically and to avoid letting your emotions control your actions, we have developed this guide detailing what you should and should not do as you prepare for a divorce. *Please keep in mind that the following information is not intended for legal advice for your specific situation and is simply a general guide. It is imperative that you consult with an experienced family law attorney before taking any actions with regard to a divorce.*

TO DO:

DO put your minor children first. Whether they are children of the marriage or your children from a previous relationship, the wellbeing of your children should always be your absolute highest priority in preparing for and walking through a divorce. They are in the midst of the most formative and vulnerable years of their lives, and now they will face an emotional trauma which they will likely struggle to understand and adapt to. Particularly in contentious divorces, it can be

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easy to get caught up in battling your soon-to-be ex-spouse over certain issues simply because you are angry or upset with them, but you must always consider the impact this will have on your children.

In putting your children first, never forget that **they are not property** and you should not approach them as something to be divided. Children do the best in situations where they are allowed and encouraged to have a healthy and respectful relationship with both parents. So if you are bound and determined that your soon-to-be ex-spouse should have minimal access to your children, remember that you should always be asking the opposite question: is best for the children to have minimal access to their other parent? (And you not liking their other parent is not grounds to answer that question affirmatively!)

Your needs and goals are important, but every divorcing parent should strive to put the needs and best interests of their children above their own. **You must love your children more than you dislike their other parent.**

DO hire an attorney. Except in rare circumstances, a party to a divorce should not try to handle the legal complexities of the divorce on their own. A skilled family law attorney will work to thoroughly understand the unique details of your case and guide you towards your best courses of action for fulfilling your goals and achieving a favorable outcome. Divorces are full of nuances and potential pitfalls for which those without training will be completely unprepared. Understanding the difference between community property and separate property, for example, can prevent you from leaving money on the table in a negotiation. Additionally, an attorney will guide you in looking at the circumstances of your case objectively and will help you take appropriate action each step of the way.

DO get organized. If you've never bothered yourself with the details of your financial situation, now is the time to get familiar with it. As soon as you know a divorce is coming – whether because you are starting to think of it, your spouse has mentioned it, or you are served with papers – begin the process of getting organized. This is critically important for your financial documents. Familiarize yourself with your family budget, and make copies of your tax statements, bank statements, and investment account statements. Know account numbers, locations of accounts, and approximate balances. Make a list of all 401(k) and other retirement accounts, bank accounts, mortgage balances, vehicle debt balances, credit card debt, and the like. Make copies of deeds for property, titles of vehicles, and income tax returns. The more organized you are, the better equipped you will be to efficiently, effectively, and accurately handle the financial aspects of your divorce.

DO be honest about your finances. Do not try to start moving money, giving “gifts” of money to friends or family, or otherwise be dishonest about your income. Do not start supporting your boy/girlfriend or buy them gifts. Be open and honest about your finances (even if you believe your spouse is not). Dishonesty has a way of catching up with you, and you want to be able to take the legal high ground when discrepancies in your spouse's finances are discovered. Also, be certain that an ethical attorney will not remain on your case if you are dishonest with them about your financial situation.

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DO prepare a list of documents which will require an update of beneficiaries. If you have assets which require beneficiary designations – such as life insurance policies or retirement accounts – you should begin preparing a list of these documents. Chances are your spouse was previously listed as the beneficiary, and you will likely want to change that to your children or another loved one. Do not update them during the pending divorce without first discussing it with your lawyer as you may be subject to a temporary restraining order or injunction which prevents you from doing so.

DO seek emotional support. No man, or woman, is an island. Now is not the time to shut people out and try to handle the burden of divorce alone. You will need a strong support system to rely on for both practical and emotional purposes, whether that means reaching out to friends and family or seeking professional help from a counselor. Your mental health will be strained by your divorce, and you owe it to yourself and your children to get the help and support you need to weather the storm.

NOT TO DO:

DO NOT use your children as weapons against your spouse. This cannot be overemphasized. When you are in a combative divorce situation and emotions are high, it can be tempting and so very easy to use your children as a means of getting revenge or hurting your soon-to-be ex-spouse. Perhaps that means trying to prevent your spouse from having possession of or access to the children, perhaps that means talking unkindly (in word or tone) about your spouse to your children so that you turn the children against them, or perhaps it means refusing to include your spouse in relevant information about the children. This type of manipulation is easily recognized by the Court and will almost certainly backfire against you. Alienating your child from their parent will only lead to more damage and trauma for your children. **Never forget that your children are one-half you and one-half your spouse, and every time you disparage their other parent, your child hears that a part of themselves is damaged, not valuable, or is unlovable.**

DO NOT air your frustrations on social media. We live in an increasingly digitally connected society, and you may be in the habit of sharing all of your feelings and frustrations on social media platforms like Facebook or Twitter. You must not do this during your divorce. Statements and posts you share on any social media platform are not protected, even if you have a private profile, and they can be used against you in divorce proceedings. This doesn't even address the harm you could cause to your children by taking private, sensitive matters and making them public. Think to yourself: how would this look blown up on a huge screen and shown to a courtroom full of nosy people? If you don't like the answer, don't do it!

DO NOT empty out financial accounts. Leave joint accounts with your spouse untouched. There are bills and debits/withdrawals that are pending, and causing the account to go negative is not a good way to start the divorce process. You could land yourself in serious hot water with the Court by trying to remove funds. Do not take "your share" of the accounts without first formulating a plan with your attorney.

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DO NOT violate temporary court orders. The Court may issue certain orders during the pendency of your divorce, such as temporary spousal maintenance or orders regarding the children. You cannot violate these orders without risking serious damage to your case. As one local judge likes to remind parties: "I make court orders not court suggestions." Remember this is a marathon, not a sprint – do what is required of you under the temporary orders.

DO NOT date. It may seem unfair and you may be ready to move on romantically, but you should avoid dating other people during the pendency of your divorce. Becoming involved with another person before your divorce is finalized can damage your chances of receiving a favorable court ruling with regard to custody, financial support, and other aspects of the divorce.

DO NOT hide assets. Not only is it unethical to try to hide assets from your spouse in order to prevent them from receiving a share of the assets in the divorce, it could be illegal. This includes "gifting" assets to family or friends with the intention of getting them back after the divorce. Be honest and do not attempt to conceal assets or take advantage of the system.

DO NOT make major changes in your life. Until your divorce is finalized, you should not try to make any major changes in your life, such as moving out of state for a new job or purchasing a new home. These kinds of changes can have a major impact on your divorce and severely prolong the proceedings.

We hope you've found the tips above to be informative and useful. We encourage you to share this information with any friends or loved ones who could benefit from the knowledge herein. If you are facing a potential divorce, we want to help ensure you take the proper steps to prepare, while also avoiding making any damaging mistakes.

Christina Hollwarth

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