



COMMON DECISIONS

DIVORCE CLIENTS FACE

A Guide to Key Decisions for Clients Navigating Divorce

INTRODUCTION

The divorce process involves making a series of crucial decisions that can have long-lasting effects on your finances, family, and well-being moving forward. We prepared this guide to help you understand and identify the key choices you will face during your divorce journey. Whether you have both children and property to address or property only, this guide will serve as a point of reference as you navigate these major decisions. It also offers a checklist of critical topics that you can tailor to your specific situation and discuss with your divorce attorney, therapist and/or financial advisor. We hope you find it helpful.



01 Child-Related Decisions

When thinking about these decisions, consider whether these decisions will be:

- » Subject to the Joint Agreement of both parents, meaning both parties must agree?
- » Independent, meaning that each parent can make a decision without the other?
- » Exclusive to only one parent?



PRIMARY RESIDENCE:

- » Will the child(ren) live primarily with one parent? (more than 50/50)
- » If so, is that residence subject to a geographic restriction (e.g., within Dallas County, or within Dallas and contiguous counties, or within the State of Texas)?



CONSERVATORSHIP (RIGHTS & DUTIES):

How will the following significant decisions be made for the children:

Education

- ◆ Where will the children go to school? Does one parent get to decide?
- ◆ Who will enroll the child(ren) and be primary contact?
- ◆ If your child has any special needs, allergies/other health conditions, and/or learning differences, who will be the point of contact for working with the school regarding the school's supplemental obligations? (e.g. 504 plans, IEPs, IHPs)
- ◆ What kind of other educational support might your child(ren) need in the future (tutors, aides, transportation)?

Health Insurance and other Medical Expenses

- ◆ Who will provide the health insurance for the child(ren)? (usually health, vision and dental)
- ◆ How will out-of-pocket medical expenses be shared? (50/50? 60/40?)
- ◆ How will other out-of-network expenses (e.g., therapist, orthodontist) be shared?

Medical Care

- ◆ Who are your child(ren)'s current healthcare providers? Will they continue providing service?
- ◆ Does your child have any healthcare providers that are out of network? Will you continue to use these providers?
- ◆ How will decisions be made regarding any non-emergency invasive medical treatment (e.g., elective surgery)?
- ◆ Do you agree on vaccines?

Mental Health Care and Support

- ◆ Does your child currently have a therapist?
- ◆ Will your child continue to see that same therapist?
- ◆ Could your child need a therapist in the future?
- ◆ How will those mental health decisions be made?
- ◆ Do you agree on the use of medication treating mental health conditions?

Passports and Birth Documents

- ◆ Does your child currently have a valid passport?
- ◆ Who will be the keeper of the child's passport and birth documents?
- ◆ How will decisions regarding your child's international travel be made?
- ◆ What parental notifications will be required?

Child's Separate Property

- ◆ Do your children have any financial accounts? (e.g. savings account)_ If so, who is the parent who established those accounts? Are both parent's names on the account?
- ◆ Is your child a named beneficiary of a 529/Guaranteed Tuition account created by either spouse? If so, who will manage the funds in that 529 account , and how will distributions be handled?



Parenting Time ("Possession"):

Will the parents agree on a parenting schedule? Do the parents want a Standard Possession Order, or a customized parenting schedule? The parenting schedule will include provisions for the following:

- ◆ Regular Schedule during the School Year
- ◆ Summer Schedule
- ◆ Holiday Schedule – covering Thanksgiving, Christmas Break, Spring Break, Mother's Day & Father's Day

○ **Are there other Holidays you want to address?**

- ◆ Other Religious holidays (e.g., Easter, Rosh Hoshana, Yom Kippur, Eid, etc.)
- ◆ Secular holidays (Memorial Day, July 4th , Halloween)
- ◆ Additional school holidays (Fall Break, Winter Break)



Child Support:

○ **What will the agreement be on who is paying child support, and the amount of the child support payments?**

- **Consult your attorney about mandatory child support guidelines set up by the state of Texas and how that factors into your situation.**



Provisions for Additional Child Support:

○ **Will there be any agreements to cover additional child expenses that may be incurred, such as:**

- ◆ Private School Tuition and Fees
- ◆ Educational Support Expenses (e.g., Aides, AP Tests, Tutoring, Test Prep)
- ◆ Extracurricular Activities (e.g. sports, band, cheer, dance)
- ◆ Summer Camps, whether Day Camps or Sleep-Away Camps
- ◆ Childcare/Daycare/After-School Care

○ **How will these expenses be paid/split?**



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Property and Financial Decisions



Disposition of the Marital Home:

- **Honestly evaluate whether it is your own best interest, based on your future financial goals, to keep or sell the home.**
- **Then jointly decide whether the primary residence will be sold, or if one spouse will keep it, or if other arrangements will be made.**
 - ◆ If one spouse is keeping the Marital Home, do you both agree on a value?
 - ◆ Are there enough other assets in the marital estate to offset the value of the home being awarded to one spouse, or will the party retaining the home need to do a “cash out” loan to pay off that debt?
 - ◆ Is there a mortgage on the home? Is the mortgage loan in both names? Will the debt need to be refinanced in one person’s name?



Division of Other Community Property and Assets.

- **Inventory all other marital assets (vacation home, vehicles, boat, bank accounts, investments, retirement accounts, oil & gas liens, and personal property such as jewelry, art, antiques, firearms).**
 - ◆ Do you have access to all of the information and documents for each of these ? (log in/passwords, appraisals, statements, deeds) If so, preserve a copy.
 - ◆ If not, is your spouse be willing to share this information by agreement?
 - ◆ Are there third parties you use (e.g., financial planners) who can assist in providing access and/or gathering the relevant information?
- **Determine the current value of each asset. Is any asset secured by debt (such as a mortgage or car note) or are all owned free and clear?**
- **Determine who keeps what property, and at what value. Evaluate the importance to you of each asset in the overall division of assets. Be willing to be flexible and compromise in order to reach your primary goals.**



Division of Debts and Liabilities:

- **Identify all debts and liabilities (mortgages, loans, credit cards, taxes owed)**
 - ◆ Determine who is identified as contractually liable on the debt or liability.
 - ◆ Is this debt in your name only, in your spouse’s name, or in both of your names as a joint debt?
- **Determine who will be responsible for the repayment of each debt.**



Spousal Support (Alimony):

- Decide if one spouse will pay spousal support to the other, how much, and for how long.
- Note: Spousal support in Texas is not the norm, but may be agreed to between the parties or awarded by the court in some circumstances on either a temporary or more permanent basis.



Business Interests:

- Do you or your spouse currently own a business?
- Do you own it jointly? If so, will the business interest be sold entirely, or will it be awarded to just one party?
- Do you both agree on a value for the business?
- Is it a professional association that has restriction or caveats on ownership?



Separate Property:

- Do you or your spouse have any kind of property that was owned prior to the date of the marriage, or was received as a gift or inheritance by one of you during the marriage?
 - ◆ Will you be able to agree on the classification of each other's separate property?
 - ◆ Can you agree on the value of either party's separate property?
 - ◆ If not, do you have access to all of the necessary records establishing the identify of it as separate property (e.g., financial account statements going back prior to the date of marriage, will)?



Retirement Accounts and Pensions:

- Determine how these will be divided
- Determine if any additional orders are necessary (QDROs) to transfer funds
- Don't forget delayed compensation and stock options



Other Insurance Policies:

- Identify all other insurance policies (life, long-term care, disability)
- Decide on the continuation or division of the policies, who will pay for them, who are the beneficiaries.



Tax Considerations:

- Consider how divorce will impact your taxes, including the timing of the divorce, your filing status, exemptions, deductions, tax liens
- Consult with your own tax professional regarding potential tax implications of your divorce



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General Action Items for Anyone Considering Divorce



Learn about the Divorce Process

- Attend a Divorce Preparation Webinar (we offer a complimentary one monthly)
- Review state-specific materials (the laws vary state to state)
- Consult with a divorce attorney to explore your options
- Choose the right divorce attorney who is aligned with your goals and interests and who you feel will be your advocate throughout the process



Documentation:

- **Begin gathering financial documents needed for negotiations and court filings, including:**
 - ◆ Tax Returns for at least the past 2 years
 - ◆ Account Statements for all financial accounts that are jointly held by you and your spouse and/or held separately by you – this includes:

- ◆ Bank Statements (regional and online banks, credit unions)
- ◆ Retirement Account Statements (401(k), IRA, Roth, Pension)
- ◆ Insurance Statements (whole, term, health, life, disability)
- ◆ Brokerage/Investment/Stock Account Statements
- ◆ Credit/Debit Card Statements
- ◆ Secured Debt Statements – Mortgage(s), Car Note, Furniture Loan
- ◆ Student Loan documents
- ◆ Statements for any Children's Accounts (savings, 529/Tuition Plan)
- ◆ Current Credit Report
- ◆ Pay Stubs for at least the past 2 years
- ◆ Employer Benefits Information

- ◆ Titles, deeds, appraisals and records relating to physical property such as homes, boats, jewelry, art



Communication

This is a crucial issue to keep top of mind. Assume everything you say, text, post, write, etc. is being recorded, saved, screenshot, and can be used against you.

- Keep all Communication **BRIEF, INFORMATIVE, FRIENDLY and FIRM** (research the BIFF Method by Bill Eddy)
- **Avoid:** Arguing with, admonishing and/or advising your spouse
- **Accept:** You cannot change your spouse, so quit trying – this is probably why you are thinking about divorce
- Keep all social media posts and shares to a minimum and not related to your divorce or relationship with your spouse - you never know who is reading your posts and sharing, even when you think you have your settings set to make your account “private”



Emotional Support:

- Seek support from friends, mental health professionals, family, support groups, and your faith community to help manage the emotional impact and strain of divorce
- **Avoid using your children for emotional support, even your adult children – it is not their burden**
- Work with a qualified therapist who can help you turn this period of transition into a period of transformation, allowing you to continue to focus on the future you want to create



CONCLUSION



Divorce is a complex process with many significant decisions affecting every area of your life. Early preparation, helpful resources, and a clear understanding of the choices that will be required can help you prepare and make informed decisions as you plan your future. Use this guide as a starting point, and consult with a skilled legal professional to ensure your interests are protected, one who can be an advocate and empower you as you walk through this journey. If you'd like to explore your options, reach out to us, we're here to help.

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