

DIVORCE... NOW WHAT?

Your head is probably spinning with so many questions. Take a deep breath and a moment. Settle your thoughts. No decisions should be made immediately. You need to take time to process this and to make informed and empowered decisions.

USE THE TIPS BELOW AS A STARTING POINT:

TIP 1: Write down all of your questions. Getting them out of your head will allow you to break things down one at a time. Everything at once can be overwhelming.

TIP 4: Gather financial data. Account numbers, balances, log-in information. Put together a list of all items of value that you and your spouse own and a list of all of your outstanding debt.

TIP 2: The Family Court System is NOT a justice system, it is a legal system. Your spouse will NOT be held responsible for the wrong doings he/she has done and you will not be compensated for emotional pain. *(This is the harsh reality. Florida is a no-fault state. If you are seeking emotional justice, you will not get it in the Family Court System.)*

TIP 5: If you need an attorney, interview at least three. Ask A LOT of questions. Get to know their style and how they would handle the specifics of your case. An attorney can heighten the conflict, so take time and hire the right person. This is your divorce - be an active participant and remember that the attorney works for you. You should always feel in control of your divorce.

TIP 3: Know the options available.

- File for divorce on your own. (Yes, this can be done!)
- Mediation
- Collaborative Divorce
- Cooperative Divorce
- Litigation

TIP 6: Divorce is a process. Be kind, gentle and patient with yourself. Don't make any decisions based on emotion. Give yourself time to process. Respond to your spouse but do not react. You will experience unfamiliar emotions. It's normal, okay and temporary.

F.A.Q.

1. Can we legally separate first?

Florida does not recognize legal separation. If you file a Petition for Dissolution of Marriage with the court, then after the date of filing you will each be responsible for debt and/or assets incurred as of that date.

2. How much is a divorce going to cost?

The average cost of a divorce with minor children is \$15,000 per person. This cost can easily go up depending on how the litigation process goes. The more motions filed, hearings set and mediations, the more the expense. If a divorce goes to a trial, the trial alone can cost each person \$5,000 to \$15,000 per day in addition to the above costs. There are other, less expensive ways to get divorced. You can go through the divorce process yourself, you can use a mediator and you can have an attorney review your final paperwork. This will save you tens of thousands of dollars.

3. Where do I start?

Start by making a list of all of your marital assets and debts. If there were any assets or debts that you had prior to marriage (of significant value) then list those separately. The State of FL is equitable distribution, which means that the assets and debts should be distributed equally between the spouses. This does not mean that you have to sell everything and split the proceeds. Make a list of everything and then decide what is important to you. Put those in your column and see if you can give other assets to your spouse that are important to them, (For example, you want the home and he/she wants to keep their retirement account.)

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4. How do we tell the kids?

The best thing to do is to not tell the kids when emotions and tensions are high. You may be angry at your spouse, you may feel that your spouse made choices that broke your family but please walk away and do not project those feelings onto the children. Regardless of what your spouse did, he/she is still the parent of your children.

If you are able to communicate with your spouse and come up with an age appropriate plan to tell the kids together, that is best. Consider meeting with a licensed therapist to discuss how you will tell the kids and he/she can help you come up with a plan. However you tell them, please realize your kids already know something, even if they are young.

Do not lie to them. (Don't tell them that you are trying to work things out, when you both know that you are definitely getting a divorce.) They need to know the truth. Do not cast blame on the other parent and reassure the children that they are loved, safe and that everyone will be okay.

5. What are family and friends going to think?

This is such a hard part of divorce because it usually creates a divide between family and friends and people feel like they have to choose a side. Be selective of who you tell and come up with a standard response of what you will say. For example, "I just wanted to let you know that things with us aren't good right now and we are trying to figure them out.

We are likely going to be getting a divorce but please know that we didn't come to this decision lightly. We are still processing things and our main focus is the children. We know this may come as a shock to you and understand that you may have questions, but I hope that you can respect that right now, I'm not ready to have a deep discussion about it.

Thank you for supporting us as we navigate this very difficult situation." This way you don't have to get caught in answering a lot of questions.

F.A.Q.

6. Does it matter who wants the divorce?

No. Florida is a no-fault state so it doesn't matter who did what. Your spouse might have had an affair, mismanaged finances, lied about who they are, but when it comes to divorce, none of that really matters. (I fully understand this is frustrating and not right at all but understanding this and accepting it early on, will save you a lot of emotional suffering and money throughout the divorce process.) The Family Court System is not a justice system, it is a legal system. The court will not enforce financial punishment for the behavior of your spouse (no matter how appalling it may be.)

7. What if my spouse controls the finances?

First, know that you are not alone and that this is not a time to panic. This is a time to educate and empower yourself. Get into detective mode. Start gathering a list of accounts. Look through the mail, files, old statements, emails, the history of websites on computers (passwords may be saved). If there are joint bank accounts, you can go into the bank and request balances, account numbers and statements. If there is a lot of distrust between you and your spouse and he/she will not give you the information, then it is best to do this and gather as much information as possible.

You want to be able to show balances at the time of filing to ensure that they do not suddenly decrease drastically with no explanation. You can also speak to a financial expert and ask their advice. (The law in FL when you file for divorce is that each person is required to give the other full financial disclosure but I will give you the honest truth about this. The full financial disclosure is only as truthful as the person disclosing the information. If someone wants to hide accounts, they can. The only time that they will get caught is when a forensic accountant is involved and they can cost \$50,000. Hence they are usually involved in very high profile divorces.)

F.A.Q.

8. I don't work, do I have to get a job?

The truthful answer is that yes, you might have to get a job but do not panic. You do not have to get a job right now. I fully understand the anger this can cause, especially if your spouse has financially supported your family for years, while you worked your ass off raising the children and managing a household (a job that is harder than most and gets no direct income). Attorneys or other people that have been through divorce may tell you that you will get alimony or support so you won't have to work. The truth is, that you might get alimony or support that will allow you to not work, but if you are of capable mind and body, you have a skill, degree or training of some sort, then the truth is that if you go to court, the Judge will likely "strongly encourage" you to start exploring job opportunities. This could end up being a wonderful opportunity for you so try and think of the positives.

9. How does child support work?

Child support is calculated using a formula created by the State of FL. All attorneys, mediators and courts use the same calculator or formula (if you prefer to do it by hand). The information that is required is the net (not gross) monthly income of each spouse. What you bring home each month (I always remember it because I think of it like scooping the income you take home into a net!) You need to know the monthly health insurance expense for the children only. No one else, only the children.

The monthly expense for child care, if applicable. Monthly expenses for any noncovered medical (therapy, dental, prescriptions, vision, etc.). This noncovered medical does not include extra curricular activities, college savings accounts, electronic devices, cars and insurance (if children are of driving age). Those expenses are not covered under child support and will have to be listed in the Parenting Plan. The purpose of child support is to make sure the children have a roof over their head, clothes to wear and food to eat. Everything else is considered nonessential.

The calculator needs to know what parent pays for the children's health insurance, childcare and non covered medical. The last piece of information the calculator needs is the number of overnights the children spend with each parent.

F.A.Q.

10. How do we figure out time-sharing with the kids?

A schedule will depend on a few things, the age of your kids, the work schedules of you and/or your spouse and how willing you and your spouse are to work together. It is best to try a temporary schedule to see how it works and then you can adjust if need be. Very important note- If you do a temporary schedule and it is put in writing, make sure that it is listed as temporary and that there is a specific time frame given. If you don't have these details in the document then you can be held to this schedule permanently.

Look at the calendar and make a list of all the holidays that your family celebrates. If there are certain holidays that are more important to you or your spouse then note that. (Example- you always want the kids on 4th of July and he/she always wants them on Memorial Day.) The most important thing in making a time-sharing schedule is to really think about the kids. It is heart wrenching to think about not seeing your kids on a holiday or for a length of time but a lot of times this leads parents to splitting the actual day and there is a lot of back and forth for the kids. They never have time to really enjoy the holiday because they are being shuffled back and forth.

A divorced family needs to reinforce to the kids that holidays are just dates on a calendar and that what makes it special is when you get to celebrate together. If you don't have a certain day with your kids, then you celebrate and make it special when you do have them. Create new traditions and have them involved so that they get excited about it.

11. Will I get or have to pay alimony?

There is no formula or calculator that the State of FL uses to determine alimony. They look at a few factors; length of marriage, the need of the person claiming alimony and the ability of the other person to pay alimony. 0-7 years of marriage is short term and no alimony is granted. (In rare cases if there is a health issue preventing someone from working, the Judge can grant it, but it is not typical.)

8-16 years of marriage is moderate length, so if alimony is given then it is usually for half the length of the marriage.

17+ years of marriage is long term marriage. This used to mean lifetime (or permanent) alimony but the courts have moved away from that and the laws will be changing. It is extremely rare for permanent alimony to be granted. There can be different types of alimony granted (bridge-the-gap, durational, rehabilitative, permanent).

Alimony is confusing and causes a lot of tension in a divorce. The best thing to do is to realize that your lifestyle is going to change so you will likely not get the amount you want and that you deserve. Create a budget for what your single life will cost and factor in your income (if applicable) and see how much you need. That is a starting point. Also realize that alimony is a negotiation so it is always best to ask for more than what you are willing to settle for.

F.A.Q.

12. My spouse won't leave the house and I don't want to leave either. What should we do?

This issue is usually based on a false belief that if one spouse leaves the marital home they will never get back into the home and they will lose that asset. This is false. The marital home is an asset and each spouse is entitled to half of the equity in the home. If one spouse ends up staying in the home, then the other spouse will have to be given credit for their portion of the equity in the Marital Settlement Agreement.

It is best if you and your spouse can work together to determine what is best for the children. If you agree that one of you will be having more time-sharing with the children then it is probably best that person stay in the home for the time being.

Sometimes, people will agree to temporarily keep the kids in the marital home and the spouses will go in and out depending on the time-sharing schedule. This does not work for all situations. It can be very beneficial and give you time to figure out long term living arrangements, but it can also be a bad situation if your divorce is already high-tension.

I encourage everyone going through a divorce to think about and explore new living arrangements. A lot of people are determined to keep the marital home for the sake of the children but in reality, that is not always the best thing for the kids. A divorce brings a life change for you, your spouse and your children and by keeping a home that is filled with family memories, it can be hard and detrimental to children's mental health. Having children involved in creating two new healthy, safe and happy homes can be very good for them. Letting them help make choices about where the new home will be, what their room will look like and having them involved in the moving and organizing helps them take ownership and feel like they are a part of this new life, rather than just a pawn in the divorce between you and your spouse. (All of this depends on the age of your children.)

F.A.Q.

13. Everyone is telling me to hire a shark attorney and take my spouse for all he/he is worth. Should I?

A divorce brings about a lot of advice, input and comments from family and friends. You will talk with others that went through a divorce and hear what they got as far as assets and support and think that may happen to you. You may get the names of a few attorneys that were total sharks in cases of family and friends, but please understand that an attorney should be there to guide you through the law and to help you equitably settle your divorce. He/she should not be there to instigate conflict and create more issues.

Unfortunately, a lot of attorneys promise certain things to clients and they don't happen. The truth is that attorneys can't give you an exact answer of what will happen in your case. No divorce is the same. The attorneys and the Judge have everything to do with a case but even the same Judge can rule differently in two similar cases. There is no real way of knowing exactly what will happen in your case.

The best thing you can do is to try and work with your spouse to keep conflict low and to work together toward a resolution that you can both live with. No one ever walks away happy, it's about walking away and feeling empowered to start a new life.

If you do need to hire an attorney, then research and interview at least three different attorneys. Remember that you are hiring him/her and that they work for you. Ask a lot of questions and check the public record to see what the average length of time that their cases are open. If an attorney tells you that your case should take about six months but the public records shows that most of their cases go over two years, that is a red flag. An attorney should be a true partner for you and should not heighten the conflict between you and your spouse.

SAMPLE BREAKDOWN OF MARITAL ASSETS AND DEBTS

(LIST WILL CHANGE DEPENDING ON YOUR SITUATION)



Marital Assets:		Spouse 1:	Spouse 2:
Marital Home			
Rental Property			
Vehicle 1			
Vehicle 2			
Boat			
Savings Account			
Investment Account			
Spouse 1- 401K			
Spouse 2- 401k			
Jewelry			
Tools			
Business Interest			
TOTAL =			
Marital Debt:			
Mortgage			
Equity Loan			
Student Loan			
Credit Card 1			
Credit Card 2			
Vehicle Loan			
Vehicle Loan			