

DIVORCE PLANNING FOR THE PRIMARY BREAD WINNER

1. Custody

- a. Get involved with your children's day to day routines. Take them to their doctor appointments, attend school functions, help them with homework. Become the "primary caretaker."**
- b. If you want to maximize your parenting time with your children after you separate or divorce, you need to maximize your time with your children BEFORE you separate or divorce.**
- c. Stay in the home. Get your spouse to move out. Courts are partial to allowing the kids to maintain the status quo by living in the same house and attending the same school.**

2. Maintenance (formerly alimony)

- a. Get your spouse back to work. If you historically have supported your spouse and he/she hasn't worked or has no education, you will most likely be required to continue to support your spouse UNLESS they start to become self supporting.**
- b. If you are separated, don't give your spouse carte blanche to the joint bank account if you are the primary or only bread winner. You will be setting a precedent for the amount of money that he /she will ask for in maintenance and the court may likely award.**
- c. If you have a child under 30 months, and your spouse stays at home, your spouse will NOT be expected to return to work, nor will he/she be imputed any income. You will find yourself in the position of having to pay maintenance and child support. Once the youngest child attains the age of 30 months, the stay at home spouse is generally expected to return to work.**

3. Joint accounts

- a. Close all joint bank accounts if you are concerned that your spouse will use or abuse them.**
- b. Open a separate bank account. You can write a check to your spouse for maintenance or support.**

- c. **Close all joint credit card accounts. If your spouse runs up enormous credit card debt on a joint account, you will still be legally responsible to the creditor upon default even if the court orders your spouse to pay.**

4. Marital property

- a. **If you owned property prior to getting married, do not put your spouse's name on the title. You can protect your pre-marital interest ONLY if you do not convey title and gift it to the marital estate.**
- b. **Anything acquired after you got married is considered joint property regardless of how titled. If you are considering buying a significant asset, i.e. vacation home, car etc. WAIT until AFTER you are legally separated or divorced. Physically separating does not protect your assets.**

5. Tax Liability

- a. **If you and your spouse are going to owe income taxes as a result of your spouse's income, do NOT file a joint return. Otherwise, you will be held jointly liable with your spouse regardless of who actually owes the tax.**

6. Insurance

- a. **Once you file for divorce, you CANNOT remove your spouse from any insurance coverage, nor can you remove his/her name as the beneficiary on any insurance policy, retirement plan, etc. Depending on the timing, you MAY be able to remove his/her name BEFORE filing.**

7. Child Support

- a. **Child support is established based upon the joint incomes of the parties, extraordinary expenses, health insurance costs and number of overnights.**
- b. **If you have a child under 30 months, and your spouse stays at home, your spouse will NOT be imputed any income no matter what he/she is capable of earning. Thus, you will be solely responsible for child support. If possible, wait until your youngest child is at least 30 months old before you file.**

- c. If you separate, make sure that you maximize the number of overnights that you have with your children. Anything under 93 overnights per year, results in a higher child support award.**

8. Liquid Assets

- a. If you are concerned about having access to funds, or are concerned that your spouse will deplete the joint accounts, take 1/2 of the liquid assets BEFORE you file. Put them in a separate bank account, and make sure you can account for the proceeds. You must maintain complete transparency and be able to account for the funds if you spend them. Once you file, an automatic injunction goes into effect restraining you from accessing significant amounts of cash absent a court order or consent from your spouse.**

9. Maximize your Debt

- a. If you are planning on separating or filing for divorce, now is NOT the time to pay off your credit cards and other debts. The more disposable income that you have available, the more your spouse can get if he/she is seeking maintenance.**
- b. Don't try to be a financial hero and pay for everything in cash. The more debt that you have at the time that a decree of dissolution is entered, and the worse your financial picture looks, the better it will be for you as the court must consider your debt load before awarding maintenance.**

10. Retirement Accounts

- a. If you are planning on separating or filing for divorce, now is not the time to increase your contributions to your retirement accounts. The value of your retirement accounts up to the time that a decree of divorce or legal separation is issued, is considered marital property and will be divided with your spouse.**