

- Avoid legal battles and the fees that are associated
- Turn collaboration into cooperation
- Children's best interests can be highlighted

Mediation resolves disputes of child support or property division quickly, often with more creative and satisfying results than are available in court. It allows spouses to have more of a say in the end results than they may be able to have if the case is decided by a judge. Many times, when spouses are able to come to agreements on issues together, the need for child custody modifications, child support modifications or spousal support modifications in the future is significantly less. While this is not a workable method for everyone, if you are able to communicate with one another and are willing to use mediation, it can be an effective way to get a more favorable result for you and your family's future wellbeing from your divorce.

Learn About Military Divorce

Legal Rights as a Member of the Armed Forces

A military divorce typically carries all the difficulties of an ordinary divorce, with the added stresses that may be involved with couples that are physically separated because of a military partner that is currently serving on active duty. State divorce laws will still apply, but special rules enacted by the federal government cover certain situations in military divorces. To file for divorce under the state law, one of the spouses must reside or be stationed in the state.

Military personnel who are on active duty can request that a pending divorce action be held until as long as 60 days after the end of active duty. In some cases you may not be penalized for missing court deadlines while you are away on active duty, but you will need an attorney to formally request the delay if you need one. An experienced attorney can also help if you decide it is in your best interest to delay the divorce proceeding, considering your circumstances, and will help you determine whether the Soldier & Sailors Civil Relief Act applies to your situation. A military divorce may also have more options about what state to file in, which could affect your rights concerning property division.

Protecting Military Personnel and Spouses

When children are involved, there may be creative options with regard to visitation and child custody that will allow your children to spend time with grandparents or other family members if you are on duty and cannot exercise visitation rights yourself. There are also special rules about when and how a military pension is divided in a divorce, and various laws have been enacted to protect both parties, such as the Former Spouses' Protection Act which protects the spouses of a military member.

The length of the marriage is often used as a guideline when making many decisions and a couple must have been married 10 years or more for the military member's retirement to be divided. Both those serving in the armed forces and their spouses will need a more unique form of representation to properly handle modifications to agreements, child support and child custody involved in military divorce. We provide divorce representation to men, women, military personnel, parents and couples without children.

Military Divorce Distinctions

What's different about these divorces?

According to a recent article by USA Today, the military divorce rate is the highest it's been since 1999. In 2011, 30,000 military marriages ended. While the civilian divorce rate was 3.5%, the military divorce rate reached 3.7%. The truth is that military divorce has risen 42% this decade.

Unique Laws Surrounding Military Divorce

What exactly differentiates a military divorce from a civilian divorce?

- Military divorces are governed by federal and state law.
- When a military couple is pursuing a divorce they have to keep in mind division of the military pension.
- In a divorce, military couples must also comply with all military rules and regulations.
- Under the Service members Civil Relief Act, military personnel are protected from lawsuits
- In order for a state court to have jurisdiction over a military divorce, the active duty spouse must be personally served with a summons and petition for divorce.
- Residency requirements are reduced: many states allow a person to file wherever the couple is stationed.
- The Uniformed Services Former Spouses' Protection Act (USFSPA) governs the division of military pension benefits.
- USFSPA allows state courts to treat retired pay as either the sole property of the military member or as the property of both, in accordance with state laws.
- Under USFSPA, former spouses can receive full medical, commissary and exchange privileges, if the marriage lasted at least 20 years, the serviceman performed 20 years of service and there was at least a 20 year overlap of marriage and military service.
- If the military spouse remarries, his/her ex is no longer eligible for benefits.

- Child support may not exceed 60% of a military member's pay/allowances.

If you or your spouse serves in the military and you are seeking a divorce, you should be aware that this circumstance greatly affects where your divorce will be filed, custody and visitation, how child/spousal support is calculated and pension rights and benefits. While divorce is already a complicated process, having to comply with unique laws and lots of "fine print" guidelines can make this season especially overwhelming and confusing.

Issues such as child custody and visitation can be complicated if a serviceman is consistently moving around or facing deployment. There are also unique laws surrounding enforcing support orders when a service member is deployed and modifying agreements.

Your military benefits could be subject to division after a divorce. While states can treat retirement and pension plans like any other marital asset, USFSPA allows states to classify military retired pay as property (the spouse must have been married to the service member at least 10 years to be eligible to receive retirement payments however). Once an order has been filed with the Defense Finance and Accounting Service, payments will begin 90 days after the retired military member receives their first payment. You should keep in mind that the divorce process could take longer if you or your spouse is deployed overseas.

Soldier & Sailors Civil Relief

For Military Members & Spouses Filing for Divorce

If you or your spouse is in the military, some unique issues must be taken into account when considering filing for divorce. While you may be in agreement and generally amicable and able to file an uncontested divorce, in which case there is very little difference between it and a non-military divorce, a provision in the Soldiers' and Sailors' Civil Relief Act (SSCRA) may make the process of getting a military divorce more complicated.

The SSCRA was passed in 1940 to give certain legal protections to members of the armed forces currently on active duty. For our purposes, what matters is that an on-duty member of the armed services has the right to delay civil proceedings, including divorce, if it can be shown that the service member's duties prevent him or her from attaining adequate representation in court. This Act also applies to members of the Reserves and National Guard, if they are on active duty.

Experienced Austin Divorce Attorney

If you are attempting to secure a military divorce, it would be in your best interest to consult your lawyer for more information on this subject ahead of time. If your spouse is already claiming that the SSCRA provision applies to him or her, ask your attorney if he or she actually has the right to do so. If they cannot prove that their situation meets the condition of the provision, that they are serving on active duty and consequently

prevented from adequate legal representation, then proceedings actually cannot be delayed as it would not apply.

Splitting a Survivor Benefits Plan (SBP)

The Defense Finance and Accounting Service (DFAS) is a government agency through the Department of Defense that provides financial services for military and former military members. This department offers many different services, just like any normal financial institution would. The only difference is that this institution specifically focuses on military members and families of military members. The Survivor Benefits Plan (SBP) is an annuity, which is a monthly payment that is made for a lifetime. This sum will then go back to the beneficiary or beneficiaries elected. There are many advantages and disadvantages to this type of financial plan, which is why the DFAS suggests that military members carefully consider all of their options before enrolling.

Upon death, there is a guaranteed income for whoever is selected as a beneficiary. Unlike some forms of annuity, this type of coverage and the amount paid do not ebb and flow with illness and age. For active service members, there is no cost for SBP. Upon retirement though, a monthly deduction will be taken in order to pay for the coverage. This amount cannot exceed 6.5 percent of your retirement pay total.

Who is eligible for SBP benefits?

An SBP plan can greatly benefit those elected as beneficiaries. One type of plan you can elect for is a "spouse only" plan, and this is actually one of the most common. You can have both your spouse and your children covered if the children are your legal children, under the age of 18 (can be older if enrolled in college) or unmarried. These benefits can even go toward a former spouse. This is where an attorney who knows not just divorce, but military divorce, will be helpful.

If at the point when you retire you have a former spouse, you can have them covered. If you are married at the time but you also wish to provide benefits to a former spouse, then you have the right to do so even without your current spouse's signature of approval. If you have already retired but you want to change your election to cover a former spouse then you must make a former spouse election at least one year before you obtain the divorce. If there is any major event that takes place such as a divorce or remarriage, this will change your beneficiary status. In order for your change to be valid, you will have to notify your beneficiary. It may also be difficult to get refunded for overpaid premiums, therefore causing you to suffer financially.

What is the USFSPA?

Protection for Former Military Spouses

The Uniformed Services Former Spouses Protection Act (USFSPA) is a part of United States code (§ 1408) that details the benefits that qualifying former spouses of military members can obtain. Congress enacted it in 1982 for the purpose of protecting ex-spouses of military and former military members. Upon divorce, this provision will allow for things like alimony and child support to be taken out of the service member's

retirement pay. This may include retirement pay, medical care and eligibility for the Survivor Benefit Plan. The USFSPA doesn't mean that every single former spouse can receive these benefits, only those who qualify and petition for it. In the state of Texas, property is divided by the community property principle. This means that military retirement benefits can be considered divisible property in military divorce. This is up to the court's decision. This amount is also subject to change, as it can be split evenly or unevenly.

What is the DFAS?

The "DFAS" stands for the Defense Finance and Accounting Service which is a branch of the U. S. Department of Defense. This department provides financial and accounting services to those who are members of the military, former members of the military as well as spouses and former spouses of military members. A former spouse of a military member may be able to receive benefits through the DFAS if the court awarded a portion of the retirement pay to go to that individual, the military member served for at least ten years and the marriage lasted for at least ten years. Those who wish to petition for this type of benefit must complete an application and send it to the DFAS. Payments can then be received within 90 days. The survivor benefits plan (SBP) differs in principle from DFAS benefits. This is a type of annuity plan that is provided so that retired service members can offer an income to their spouse if the former military member dies. A spouse can no longer be covered under SBP upon divorce.

Military Benefits After Remarriage

Many people wonder if they are entitled to their military benefits if they remarry. The answer is yes and no. When a former spouse of a military member remarries, they should still be able to receive retirement pay unless the court makes an order or the court has previously made an order to revoke this particular entitlement post-marriage. If a spouse remarries after divorcing a service member who served for at least 20 years and was married to for at least 20 years, then the free medical care service as well as commissary and post-exchange service will cease. There is one exception to this rule. If a divorcee of a military member remarries, but then terminates that marriage, they may be able to get some of their benefits back.

These benefits, however, will not include medical benefits. SBP coverage can actually be changed from former spouse coverage to new spouse or child coverage. These benefits change hands, so to speak, and may be able to cover not only a former spouse, but that former spouse's children and spouse that they remarried. One exception to this is if the former spouse remarries before the age of 55. If you are concerned because you know that you do not meet these requirements, do not worry. You may still be entitled to benefits under a different Department of Defense plan. It is called the Continued Health Care Benefit Program, and it is a type of premium program that can last up to 36 months.

Modification of Court Orders

Does your existing court order need to be modified?

Has there been a change in circumstances from the last Order issued by the Court? Countless individuals face in the change in their situation that causes an original court order to no longer fit the situation and needs. Modifications of an existing Court order may be appropriate in the following situations:

- The Court has ordered you to pay child support but you have lost your job.
- The court has ordered your spouse or ex to pay child support, and they are making significantly more money a month.
- Your spouse or ex is the primary residential conservator of the child, but you both have agreed to switch roles

Petitioning the Court

The above situations are only a few examples of when modifications may be appropriate. When circumstances change, the rules governing your family may need to reflect those changes. A petition can be made to the court, stating the changes you would like to be made and the reasons for doing so. The court will not completely reopen the case but will review the past trial and events of the case, along with the present day situation to decide if they find it reasonable and beneficial to make the change. Modifications can be sought for child custody, child support, spousal support and more.

Parental Alienation Cases

Parental alienation is the term used to refer to a phenomenon that may occur during a divorce or afterwards. It can happen as the result of one parent using the child as a tool in order to cause the other parent harm, "get revenge" or otherwise cause the parent to suffer through the manipulation of the child's feelings. When facing a divorce, a number of difficult and delicate matters may surface. It is important to have an attorney at your side that you can trust and that pursues your best interests at all times.

How Children are Affected

It is not only dangerous to use a child against another parent, it is wrong. It can be done speaking in a condescending manner about one parent while the child is present or similar conditions. It is not always done on purpose but usually involves one parent allowing the child to be exposed to ill-will towards the other parent which causes the child to feel confused. His or her loyalty may cause problems between the other parent and the child. Children can be easily impressed by anything a parent does. In addition, they may want to protect their parent from harm by fighting back at the source of what they believe the problem is.

Signs of Parent Alienation

When looking to determine if a child is being influenced by the other parent, there are a number of signs that can be noted. These include some of the following:

- Disrespectful behavior from a child
- A parent controlling communication between the other parent and the child
- The child's mood or demeanor changes noticeably
- The child accuses the parent of lying
- A spouse that speaks about negatively about the other parent around the child

If you are a parent that believes your child's feelings are being manipulated, you are not alone. We understand the hardship you are going through and have helped many other parents through similar circumstances successfully. If you and your child are the victim of parental alienation, there are many solutions available to you. Sadly, some people will prey upon a child's tendency to want to make others proud, and to want to be liked by his or her parents. If your child has begun to treat you disparagingly or has stopped speaking to you, parental alienation may be behind it.

Paternity Testing

A paternity investigation is intended to verify whether or not a particular man is a child's father. It usually occurs when someone, usually the child's mother, requests a DNA test for proof that the supposed father of the child is the actual father. This has significant bearing on the father's rights.

Reasons for Requesting a Paternity Test

A woman may choose to request a paternity test if she is in need of monetary assistance in raising a child. Proving the paternity of the father may ensure that the mother receives financial assistance in raising the child. These needs could be anything, from medical bills to daily life needs. Proving paternity could also result in joint custody of the child, in which case the parents have equal authority and participation in the legal and physical upbringing of the child.

A father may also request a paternity test to settle issues regarding child custody and visitation rights. If a father's paternity is questionable, the court may not give him custody or visitation rights. Once the father's paternity has been confirmed (if it was in question), the court can move forward in cementing a parenting plan. A father who requests a paternity test should also realize that once his paternity is confirmed, he will be responsible to financially assist the child's mother with the child's expenses.

What Establishing Paternity Will Change

If you would like to file for a paternity test, you should be aware of the options available to you, as well as the responsibilities which will ensue from the test. For divorce situations, the husband is the assumed father of the child. However, if this is questionable, either party may request a paternity test. If the father's paternity is proven, it is possible that he and the mother may receive equal child custody entitlements, even if the parents were never married. Establishing parenting plans can be a stressful situation, and adding paternity testing to the mix may help solve some pertinent issues.

Prenuptial Agreements

About Prenuptial and Postnuptial Agreements

Prenuptial and postnuptial agreements allow couples to decide on how their property and valuables will be divided if they decide to end their marriage at a later date. Prenuptial agreements are decided before a couple is married and postnuptial agreements can be drafted after the couple has already married. In order to ensure that prenuptial and postnuptial agreements are enforceable it is important that they be drafted by an experienced divorce attorney.

What an Agreement Can Include

Under Texas Family Code § 4.003 an agreement can pertain to issues such as:

- Division of property
- Modification of spousal support
- Life insurance policies
- Using a will or trust to carry out the arraignment
- Choice of law regulating the formation of the agreement
- The right to control property
- The obligations of each party in regards to property
- Other issues that do not violate the law

Many times a poorly drafted prenuptial or postnuptial agreement can make a divorce more difficult than if one had not been drafted at all.

Once you have formally retained an attorney, they will draft a prenuptial or postnuptial agreement on your behalf and give you specialized advice on your postnuptial or prenuptial agreement. Discussing your agreements with an attorney can help you to avoid problems and costly legal processes later on in the divorce process.

Property Division

The financial security of both parties depends on the proper distribution of both debts and assets, causing the division of property can be a matter of extreme contention between those getting divorced. Much depends on the proper designation and distribution of shared property, so hiring a knowledgeable divorce attorney with a firm grasp of the laws surrounding property division can be the most essential of decisions. If you are going through the process of a divorce, speaking with an attorney should be one of your biggest priorities. Texas Family Code § 7.001- 7.009 covers the grounds of dividing separate and community property when a marriage is ending.

Separate and Community Property

The process of going through a legal separation can be exasperating and exceedingly complicated, especially when with regard to dividing property. The first step in dividing property is to determine whether a given property is a separate (belonging to a single individual) or community (belonging to both) property. Once designated, dividing up community property and any debts accumulated during the marriage becomes the most important objective of the divorce process. State law designates that most property acquired during the marriage is considered community, or marital, property. Texas law also states that this community/marital property must be divided on a fair and equitable, though not necessarily equal basis.

When property is divided in this manner, both spouses may come out with different awards. The court will consider each parties contribution to the marriage, their financial standing, their part in acquiring property and more when making their decision. Typically the items that a person owned prior to marriage will be considered theirs in the event of divorce. Property that was gained before the marriage or during through means such as inheritance, a gift or through a personal injury settlement will often be used as separate property that is kept by the individual spouse it belongs to.

Complex Property Division

If you are involved in a divorce in which you believe your spouse is withholding undisclosed assets, hire an attorney without delay. An experienced divorce attorney will expertly assist you in the division of complex properties by tracing hidden assets and discovering any money your spouse may be trying to keep from you. Under Texas law you are rightfully entitled to a fair and equitable amount of your spouse's full financial holdings. Do not take chances that could adversely affect your financial independence.

How is property divided?

In dividing property in the event of a divorce, the first step of the process is to differentiate between property that is separate, as in owned exclusively by one individual, and community property, or property owned jointly by both individuals. Separate property includes any property given to an individual as a gift, inherited, or obtained before the marriage. Community property pertains to anything obtained during the marriage. In some instances, untangling separate property from community

property can be exceedingly difficult, especially if one party does not fully disclose the full extent of their assets. It can also be challenging to determine separate property when it was used to pay for community property, such as a home and became further entwined.

When assets and debts get divided as a result of a divorce, this division does not always translate into a 50/50 split. Many factors are considered by the court when looking to divide property in a fair manner. Therefore it is of the utmost importance that you receive your fair share of any property accumulated during your marriage. The division of property in most divorces can be hotly contentious. One party in the divorce may decide to hide assets and property from the other party, such as undisclosed property such as stock options, bonds, business holdings, and even pensions, retirement plans, and 401ks.

What is Community Property?

Community property, as specified in Texas Family Code §3.002 are those assets or property you and your spouse obtained or accumulated throughout the course of your marriage together. Given this definition, community property is often and extensively referred to as marital property. Land holdings, houses, jointly held monetary savings, and vehicles are all examples of assets that may be considered community property. Even if you purchased the property with money you earned individually or if your spouse was the primary money earner in the marriage, under the tenants of marriage, both spouses contribute equally to the marriage; therefore any property acquired during the marriage is considered community property.

Separate Property

Just as community property belongs to both spouses and must be divided equitably, separate property belongs to only one spouse individually and must be separated from the community property. The commingling of funds in marriage can make the process complex in determining the division of assets in a divorce. Separate property entails any property given specifically to a single spouse in the form of a gift, an inheritance, or if the property was obtained before the marriage. It can also be gained through an injury case, excluding any compensation that was given to cover lost wages.

Information on Relocation

More and more families have to deal with the delicate issue of parental relocation. The parent with primary residential custody may choose to move to another state or country for a job or other reason, and when he or she does, it may be difficult to get both parents to agree to circumstances. Whether you are a parent that wishes to relocate, or a parent that would like to stop relocation, speak with an attorney immediately. Due to the fact that the parents involved are rarely able to come to a clear-cut decision on the relocation, it is often decided by a judge in a family law court.

Relocating a Child

In the state of Texas, child custody and visitation regulations are almost always tied to a particular geographic area. The parent of the child wishing to relocate is restricted from doing so due to these regulations. A parent considering relocation must file a motion in order to modify the geographic restriction on the order. In the case of parental relocation, a judge is often left with the decision of whether or not the relocation is in the child's best interests.

- The factors that a Texas family law judge will consider before granting the relocation include:
- The parent's motivation for moving
- The age of the children
- How the move will affect the child
- The needs of the child and whether or not they can be met in the new geographic area
- Whether or not the child has special needs

If your family is being affected by relocation issues, we may be able to help. Speaking with an attorney can help you to improve your chances of receiving the case outcome you desire. We will provide clients with a thorough consultation and inform them of their best course of action immediately.

Spousal Support Cases

When a couple has been together for a long time and decides to divorce, there are always issues to address. The two major areas of consideration are providing for both the children and the divorcing spouses. In most instances, the spouse who is the higher income earner is responsible for support of the other spouse. The amount of spousal support or alimony becomes part of the marital settlement agreement. The settlement agreement, upon approval by the courts, becomes legal and binding. If for some reason a spouse falls behind in payments the terms of the agreement are enforceable by law.

Spousal Support Information

Each family is different with their own unique circumstances and needs. A spouse who spent a marriage unemployed and devoted to child rearing may require and depend on spousal support because of lack of workplace experience and skill. A couple where both spouses are high-income earners may require smaller amounts of spousal support.

The courts consider different factors when deciding the amount of spousal support and that may include the following:

- Length of the marriage
- Physical health and mental stability of each spouse
- Income and assets of each spouse
- Earning potential of each spouse
- The contribution of each spouse to the marriage

It is important to spend the time necessary to come to workable spousal support arrangements that become part of a sound marital settlement agreement. If the times have changed and an adjustment needs to be made to the terms of support, a modification can be sought.

House Bill 901

How it Affects You

In 2001, House Bill 901 amended Texas' laws regarding spousal support. The law provides more relief to spouses who are disabled, victims of domestic violence or who have been out of the work force.

Spousal support has been increased to 20% of the payer's gross income; the amount that can be awarded was raised from \$2,500 to \$5,000 per month. The duration in which spousal support can be supplied also increased from 3 years to anywhere from 5, 7 or 10 years, depending on the length of the marriage.

In order to receive support, however, you must prove that you lack sufficient property to pay for your "minimum reasonable needs" and that you are unable to earn sufficient income, your marriage lasted for at least 10 years, you are the custodian of a child who needs substantial care due to disability, or that your ex-spouse was responsible for domestic violence against you.

What Gross Income Includes

While "gross income" excludes benefit programs (veteran's benefits, some welfare payments and workers compensation), it covers all wages and salary income, interest and dividends, net rental income and unemployment benefits, gifts and prizes, retirement benefits, pensions, trust income, and so forth.

The spouse receiving support should keep in mind, however, that if they choose to move in with another person they will be ineligible for spousal support. The only thing that can free up someone from paying spousal support is:

- Termination of an order by the court
- Death
- Remarriage

Modifications of Spousal Support

However, if a significant change or circumstances occurs, an order can be modified. In order for the court to modify the order, however, they must use the 11 factors that originally determined that spousal support should be awarded in the first place:

- The financial resources of the spouse seeking support
- The education and job skills of the spouses
- The length of the marriage
- The age, employment history, earning ability and health condition of the spouse seeking support
- The spouse's ability to provide spousal support
- The dissipation of marital assets
- The financial resources of the spouses
- The contribution of one spouse to the education/earning capacity of the other
- Pre-marital property
- The contribution of a spouse as homemaker
- Any marital misconduct of the spouse seeking support

Before House Bill 901 was enacted, Texas was known to have some of the most restrictive spousal support laws in the nation. While Texas' laws now allow more spousal support to be given, these court decisions still largely depend on case by case circumstances.

Since House Bill 901 passed, employment counseling is no longer required, but if a spouse is seeking support, he/she must be unable to earn sufficient income, rather than possess sufficient property. Spousal support is one of the most important issues in the event of a divorce, but also one of the most complicated subjects.

Because there is now a "rebuttable presumption" that spousal support is not needed, you will need the aid of an experienced divorce attorney on your side to determine that you receive the financial support you need, in the aftermath of a divorce.

Keep in mind that if any cheating can be alleged, you could lose your chance of obtaining spousal support. Also, remember that it's not what you earn but what you could earn that determines the support you will receive. Finally, if you move in with another person or begin a romantic relationship, you could also be ineligible for spousal support.

There are many "fine print" guidelines and confusing aspects concerning spousal support- in order to understand House Bill 901 and how it affects your divorce proceeding.

Spousal Support Enforcement

Spousal support or spousal maintenance may be ordered in a divorce when one party is deemed dependent. There can be various terms made for how much and how long payment continues on for. A spouse can fall behind and have difficulty in keeping up with spousal support and alimony payments following a divorce. If the parties cannot reach new agreements then the proper actions through the family courts can enforce the payments of spousal support.

A spouse may have changing circumstances in life that affect the ability to make timely spousal support payments per the terms of a marital settlement agreement. Financial difficulties can result from lost employment or a decrease in income. An illness or medical emergency can affect the income producing ability of a spouse responsible for support payments. A spouse may remarry and take on new obligations making it hard to keep prior financial agreements to pay spousal support.

Enforcement of Payments

In some instances, a spouse may refuse to make spousal support payments making that individual in contempt of court and in violation of the law. Governmental agencies have the ability to track the location of a spouse in arrears on spousal support payments. A garnishment of wages of the spouse responsible for support payments may be the required action to enforce payments.

It is best to have legal representation in a delicate or possibly explosive situation between divorced spouses. We represent the best interests of our clients and protect their rights to receive spousal support payments per the court approved marital settlement agreements. Make an appointment today for a consultation with one of our qualified spousal support enforcement attorneys

Uncontested Divorce

When couples decide to marry, generally they would like to believe that their marriage will truly last "until death do us part", but the unfortunate truth is that a large percentage of marriages will end in divorce. While divorce is one of the most emotionally trying experiences in one's life, that's not to say that the process cannot be amicable, if the terms of it have been agreed upon by both parties involved.

In an uncontested divorce, the process requires that both parties have already agreed upon most items such as:

- Property division and asset division
- Child custody
- Visitation

- Child support
- Spousal support

A final Decree of Divorce can be drafted by an attorney that will outline all of the decisions that both parties have come to an agreement on in advance. If there are children involved in the divorce, a child custody and visitation agreement will need to be completed, as well as an outline for child support, if an amicable decision is reached regarding these issues. If you have been married long enough, and spousal support may be an option, those amounts, as well as the length of the payments, must be included as well in the final decree.

Uncontested Divorce & Mediation

It is highly recommended, even in the case of an uncontested divorce, that both parties retain their own legal counsel. This ensures that each person is fully aware of what terms they are agreeing to in the documents being drafted and also provides both parties with legal advice regarding documents created by the opposite party's representation. Even in amicable situations where the terms of the divorce have been agreed upon in advance, proper legal counsel and representation is vital to ensuring that both parties are being treated fairly and receive the opportunity to fully discuss any entitlements that may have been overlooked.

Visitation Rights

Divorce can be a tedious and painful process, and when children are involved, it is an even more serious matter. Establishing child custody and visitation rights is required. These decisions are always based on the best interests of the child. Those interests, while not clearly defined, usually follow a general list of guidelines. Some of the factors affecting custody and visitation decisions are which parent the child is closer to, the child's education, the parent's stability and health and which environment is better for the child. The age of the child also may factor into custody and visitation decisions. It is important to note that the parents' lifestyles affect the final parenting plan. However, the ruling of the court is never in the parents' best interest; on the contrary, it is always in favor of the child's best interests.

Custody and Visitation Rights

The two subdivisions of custody are legal custody and physical custody. A parent who is given legal custody has the authority to make all the major decisions of the child's life, including medical and educational choices. A parent who is given physical custody lives with the child and is the child's caregiver from day to day. Sometimes, one parent is given sole custody; total rights of both legal and physical custody. When parents share custody, a practice called joint custody, they are equally involved in both the major decisions and the daily life of the child.

This is important because the parent that does not have physical custody of the child generally receives visitation rights. This means that the parent has set times when the child can come and visit the parent, or vice versa. A child may even be permitted to

spend the night or weekends with a parent. However, the guidelines for the visits must be clearly spelled out, and the child may not under any circumstances move in with the parent unless the visitation laws are modified. While visitation laws may be changed, it is generally a long and time-consuming process. The court is not hasty in making changes and must see an objective reason for why the change is desired. In some situations, such as if a parent moves a considerable distance away or is harming the child, the court may not be as reluctant to alter the rights.

Coming up With a Parenting Plan

The parents may come up with their own parenting plan if they are willing and able to work together to accomplish the goal. If not, they may need to hire a mediator to assist them. Professional mediators are not allowed to show any bias toward one of the parents; instead, they help the parents talk through the situation and decide which parent (or both, in some cases) should have custody of the child and which should have visitation rights. Coming up with a parenting plan during a divorce adds another level of stress to the already tense situation. It is important to be thoughtful and careful when developing a parenting plan because its effects are far-reaching and significant. In addition, should the parents ever seek to modify the orders, it generally takes a long time to finalize those changes.

How Much Does a Divorce Cost?

For many people, the most pressing question they will face when seeking a divorce is the cost. Just how much will it cost to split from a spouse? In all honesty, there are several different factors that will play into the cost of a divorce, but the number one factor will be you. The price will fluctuate on several different things, but you can keep this under control by ensuring that you expedite the process as much as possible. For example, it is much costlier to litigate and contest a divorce. If you are able to come to an amiable agreement with your ex-spouse regarding issues such as custody and alimony, you will find that the process will move much quicker than should you dig in your heels and fight over every detail. This will spill over into the attorney fees.

The more time that your divorce lawyer works on the case, the more that it is going to cost. The more paperwork and hours that they invest, the higher the bill will be you. You, however, can control this by working with your ex-spouse as much as possible. By mediating the divorce or seeking an uncontested divorce, you can move through it quicker, requiring less time and hours of your attorney and therefore lightening the bill considerably. The same goes with how much property you are going to need divide. The more property, assets and debts that need to be dealt with, the more experts will need to be involved, the more hours of your attorney will be needed and the more it will cost you in the end.

Seeking an Affordable Divorce

Statistics show that divorces typically cost around \$15,000 throughout the United States. That, however, does not need to be your final price tag. There are several steps that you can take to lower this number considerably.

- Below we have created a list of five tips for a cheaper divorce:
- Seek mediation, if possible, to avoid costly litigation.
- If not, consider the possibility of a divorce using collaborative law.
- Do everything you can to avoid arguments.
- Work with your lawyer to keep the process moving forward.
- Start discussing cancelling joint accounts and opening separate ones.

By focusing on what you can do to help the divorce process, you will be able to have a more affordable process. Remember, this may not slash the price entirely, but it will help keep the financial aspect under control and can help to make sure that you are as protected as possible. There are steps that you can take, such as seeking mediation or a collaborative divorce, which can help financially, as well as emotionally and should be a viable solution.

Preparing a Child for Divorce

Divorce can be frightening. As family law attorneys, we understand the stress and uncertainty of facing a marital crisis. If you have children, you face an even more complex issue: how to navigate a divorce with children. Some parents are afraid that their kids will get "caught in the middle" of the divorce; others are concerned that their child may become angry or depressed when his/her parents separate. These are legitimate fears, but with the right information and a gentle strategy, you can effectively prepare your child for the reality of divorce.

First, remember that **you are not alone. Thousands of families face divorce every year.** Your child's reaction will depend on their age, personality, and the specific circumstances surround you and your spouse's separation. Every divorce is different, but in most cases children are surprised when their parents part ways. They may become angry, frustrated, worried and sad - this is normal. The key is to help your children cope with divorce in a way that will benefit them in the future. Facing a divorce now can help you child learn to deal with stress, become more flexible and become more tolerant as adults.

Things to Avoid

When you and your spouse are in the middle of a divorce, there are specific discussions, arguments and events that should be conducted away from your children:

- Heated discussions
- Visible Conflict
- Legal Discussions

Avoid arguing in front of your children. When your children see you and your spouse arguing about the separation, they will begin to attach extremely negative feelings and emotions to the divorce. Also, disrupting children's' daily routines will upset them unnecessarily - keep their lives feeling as normal as possible.

Telling Your Children About the Divorce

Do not discuss divorce with your children until you are absolutely certain about your plans. Once you and your spouse have decided to part ways as a married couple, you can begin talking to your kids about it. There is no formula or easy way to tell your children that you are getting divorced; come up with a plan to tell your children and practice it, carefully eliminating feelings of anger, bitterness, and blame from the conversation.

Everyone is different; your child's reaction will depend on his/her general temperament and personality. Find a way to talk to your child that best suits their demeanor. The most important thing is that your children understand that the divorce is not their fault. Provide reassurance that anything happening between you and your spouse is not their fault; many children blame themselves even after their parents tell them they are not at fault.

Once your child knows that you are getting a divorce, prepare them for any significant changes in their lives. Answer their questions honestly and simply. The younger your child is, the simpler your explanation of the divorce should be. Young children are more concerned with their daily routines; be sure that the child understands what will change and reassure them of the things that will remain the same.

Older children may be able to understand your divorce more easily. They have probably overheard conversations or noticed that you and your spouse are struggling in your marriage. Older children will probably ask more questions than young children, such as:

- Where will I live after the divorce?
- Do I have to change schools?
- Where will you live?
- Will I still see my friends?
- Can I still participate in my favorite sports/activities?
- Do I have to move, too?

These questions, as well as others, will likely come up when you tell your children you and your spouse are getting a divorce. Be honest and plain when you answer these questions. If your child asks you a question that you don't have the answer to, that's okay, too. Let them know and tell them in the future.

Preparing Financially for Divorce

If you are considering divorce, you probably have a lot of questions about the future. Where will I live? How will I tell my children? What about my finances? In many divorces, one spouse takes on most of the financial responsibility during the divorce. Traditionally, the other spouse is responsible for maintaining the household. This may leave each spouse painfully unaware of what the other is doing with income, expenses, credit cards, loans, etc. If you are facing a divorce, take the first step towards securing your financial future by collecting all of your financial documents and making copies of them for yourself and your spouse. This includes:

- Credit card statements
- Investment account statements
- Retirement account statements
- Loan applications
- Tax returns
- W2 forms
- Property tax bills

Divorce can be expensive. Between attorney's fees and other costs, you may end up spending a sizable amount of money during the divorce process. Once you are sure that you will get a divorce, begin accumulating liquid funds.

What type of divorce will you have?

On average, about 5% of divorces go to court. Some divorces are executed without any form of legal representation. Before you begin the divorce process, determine what type of divorce you will be going through and prepare for it mentally. Sometimes, people need more help with legally in regards to their finances than with mediation, but this is not always the case. The more assistance you hire, the more expensive your divorce will become. If you have children, you may need to hire a children specialist to decide where your children will live, etc. There are several types of divorce; your financial plan for the future depends on the type of divorce you and your spouse choose.

Legal Separation does not actually meet the legal definition of "divorce." While each spouse has certain legal responsibilities and will live apart, their marriage remains technically intact. Some couples choose to remain legally separated instead of divorced for legal reasons, health insurance benefits, or because of child support. Legal separation may be financially beneficial.

Pro-Se refers to couples who do not seek legal assistance when filing for divorce - each spouse represents themselves. Pro-Se divorces are most acceptable when the couple has few disputes to settle, no children, and very few assets.

Mediation is helpful when couples have disputes to settle but no real reason to go to court. A legal mediator can help you and your spouse settle financial issues, child custody issues, child placement issues, etc.

Traditional divorce refers to couples with extremely volatile relationships - financially and emotionally. If spouses are arguing about finances, children, assets, etc., they should probably seek legal representation and a traditional divorce. Traditional divorces can be very expensive.

Know Your Assets, Income and Debt

Once you know what type of divorce you face, you can begin to practically assess your financial situation. Have a clear understanding of your assets, income, and outstanding debts before meeting with legal representation or a financial assistant. If you decide to hire a divorce financial analyst, you can save money by having a firm grasp on your current financial situation before actually meeting with a professional. Make sure you know your spouse's income, assets, and debts as well. Because numbers are concrete and specific, documentation of your bank accounts, credit card statements, etc., are extremely important.

Things To Do Before Divorce

Thinking about filing? Make sure you're prepared!

Below, we have created a checklist of some of the most important things for you to do before filing for a divorce to ensure that you are set up for success and to avoid some of the most common pitfalls.

- Make sure that you hire a good lawyer. This should be your number one priority when looking to file for a divorce. Sure, you could use a form online or another DIY alternative, but when it is your family, finances and future on the line, do you really want to do a hack job? Make sure that you are legally covered and work with an experienced attorney to help settle all issues.
- Take a look at your finances and be prepared. Don't walk into a divorce blind. Get a copy of your credit report, determine what you own and what is owned by your spouse. Know about all debts, and who owns what. You will then have a solid foundation to stand on as you enter into all divorce negotiations. However, be careful. You don't want to overstep legal boundaries. For example, it is against federal law to request your spouse's credit report without their consent.

- Get documentation to prove your income. In your divorce, you are going to need show an accurate snapshot of your income to decide financial issues - such as alimony and child support. This could be as easy as getting copies of your recent pay stubs and your income tax return. In other cases, it may be more difficult; for example, the self-employed may need bank account statements.
- Figure out what your spouse earns annually. This can be a little difficult without their cooperation, but it is important to know what your spouse's income is. Work to get copies of their W2, pay stubs and the like - as well as knowing about bonuses and other fringe benefits. Knowing what their salary is on paper is important, but so is knowing who is responsible for health insurance, 401(k) accounts and other retirement accounts. Get as much information as possible for your attorney.
- Have a clear budget for life after divorce. Sit down and map out what your life will be like after your divorce is final. Knowing what you are going to have to pay and how much you are going to need will be a serious help should you enter into a divorce. Having this will allow you to better negotiate as you won't be fighting for an unclear number, but will know exactly what you need and why.
- Start building your own credit. By closing all joint accounts and opening separate ones, you can start building your own credit. In many cases, credit was gained jointly and after the divorce, people can begin themselves starting from the bottom. Avoid this by getting a head start. Get your own credit card and making smart financial decisions with it to start building credit slowly and surely.
- Do everything you can to decrease your debt. If you and your spouse have debt, remember that this is only going to get worse as you enter into divorce. This can be a costly procedure and you do not want to do anything else that will cause financial strain. Start working on your debt. Work with your ex-spouse if possible to delegate debts and pay it off before filing.
- Make immediate changes to your will. It is not unlikely that you have named your ex-spouse in your will. Work with an attorney to ensure that the document is adapted to your current situation. Update it to reflect your present situation. You can change it at anytime, but why wait? Make sure that your estate is in order to prevent post-mortem lawsuits.

- Go through and make copies of all important documentation. Having copies of important documents can be crucial during the divorce process. This will include tax returns, bank statements, life insurance policies, mortgage documents, real estate appraisals, automobile titles, wills, investment statements, credit card statements and the like. Work with your spouse to have the clearest idea of the family finances if possible - keep records of everything.
- Always put the needs of your child(ren) first. Divorce is never simple, but remember that this is going to be much more difficult for your child(ren) than it is for you. Do everything that you can to put their needs first. Make sure you sit down with them to discuss everything that is going on. Make it clear that they are not the cause and that they are still loved. Do as much as you can to keep their routine normal and stay involved in their lives. Do not fight in front of them and drag them into the divorce. Maintain a healthy, loving environment to protect them against the worst of the divorce.

Austin Area:

Principal Office 8834
 N. Capital of Texas
 Highway
 Suite 304
 Austin, Texas 78759
 (512) 246-2224

100 Congress Avenue
 Austin, TX 78701 Suite
 2000
 (512) 246-2224

100 Heritage Center
 Circle Round Rock, TX
 78664
 (512) 246-2224

San Antonio Area:

21022 Gathering Oak
 Suite 3
 San Antonio, TX 78260
 (210) 390-0742

Corpus Christi Area:
 711 N. Carancahua Road
 Suite 700
 Corpus Christi, TX 78475
 (361) 693-5770

Bryan/College Station:

1716 Briarcrest Drive Suite
 300
 Bryan, TX 77802
 (979) 314-9696

Waco Area:

7215 Bosque Blvd. Suite
 107
 Waco, TX 76710
 (254) 870-0877

Dallas Area:

8117 Preston Rd
 Suite 300
 Dallas, TX 75225
 (972) 360-9891

201 Main Street Suite
 600
 Ft. Worth, TX 76102
 (817) 769-8442

6860 North Dallas
 Parkway
 Suite 200
 Plano TX 75024 (972)
 382-7011

3901 Arlington
 Highlands Blvd. Suite
 200
 Arlington, TX 76018
 (972) 360-9891

4125 Fairway Dr. Suite
 132 Carrollton, TX
 75010 (972) 360-9891

Houston Area: 1700
 Post Oak Boulevard 2
 BLVD Place
 Suite 600
 Houston, TX 77056
 (832) 554-9024

Tucson Area:
 2 E. Congress Suite
 900 Tucson, AZ 85701
 (520) 222-8322

About Zinda Law GroupRepresenting All Types of
Clients in Family Law Matters.

Our firm provides marital and family law representation to men, women, parents, and couples without children. Our family law practice includes legal advice and representation in a range of family law matters, including divorce, child custody, visitation, child support, equitable distribution, spousal support, modifications, enforcements and adoptions.

While negotiation can be an effective tool in resolving family law issues, there are times when going to court is the only way to achieve your goals. Zinda Law Group, PLLC is a firm that is made up of trial lawyers. We have the experience and knowledge to effectively represent your interests in court. If negotiations are proving to be fruitless, we are prepared to take your case before a judge, and will work to achieve the best possible outcome on your behalf.

If you would like more
information:

About the various aspects of divorce and family law, visit our Resources.

We can help you put your life back together. If you are considering a divorce or are facing family law issues Contact us today.

