

10 Ways To An Effective Divorce

by
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Part One: Plan Ahead

Before getting involved in a divorce, there are several steps you can take, as a client, to make the road as smooth as possible. One of the most important things to keep in mind is that divorce, like all legal proceedings, requires careful planning. Luckily, there are some items you can keep in mind while going through the process that can make your dealings with both the court and your lawyer less burdensome.

Divorce can cost significantly more if the process is drawn out, as every item can become an issue of contention. Litigation is the sport of kings. When it comes to the welfare of your children, there is obviously no price tag. But, when it comes to retirement, the marital home, or other assets, it is best to think of the division as a business transaction.

Simple Ways To Minimize The Cost Of Your Divorce

1. Don't spend a dollar chasing (or protecting) a dime. A simple cost vs. benefit analysis, with the emotion removed, can truly set the stage for a reasonable outcome.

2. Be sure to be honest and forthright up front.

Trying to hide assets, or deplete them before your spouse figures it out is a guaranteed way to expend more time and money when the truth of your deceit comes out. Once you are caught, the judge will likely order you to pay the other side's fees as well.

3. Have a clear goal. By working with your attorney, you can get an educated guess as to what the judge is likely to do in a given situation, resulting in a "reality check" on the law and the facts. This should help you to make a logical decision on that information, rather than simply an argument of "I want it".



Part Two: Your Lawyer Is Your Ally

To continue the discussion on increasing your chance of a better outcome in a divorce, our focus will shift to the importance of understanding your lawyer's role in your divorce case. Like any other professional, lawyers can be sued also. Sometimes these cases are justified, as the lawyer did commit an error. Other times individual clients are simply dissatisfied with the outcome of their particular case.

As a client, it is essential to maintain an open and honest relationship with your lawyer. This is the only way your lawyer can attempt to accurately assess the probable outcome of your divorce. Your lawyer is never the final decision maker in your case. Remember, when you chose to take a settlement, you have agreed to a definitive outcome to the divorce process.

If you go to trial, the judge or jury has the final say. Regardless of the experience and skill of your family law attorney, there may be certain outcomes of your divorce proceedings that will not result to your liking. Hiring a talented attorney is the best way to proceed intelligently in your divorce. By retaining counsel to handle the proceedings, you can significantly diminish the chance that you will be surprised by the outcome.



Part Three: Assess Your Financial Holdings

In the 3rd part of our series, we will discuss the intricacies that may arise from a financial perspective when going through a divorce. Typically, finances finish a close second behind child custody issues when it comes to items that are harshly disputed between the parties going through divorce proceedings. It is imperative that you conduct the proper research and arm yourself accordingly. In doing so, you can take steps towards preventing a potential shortfall resulting from your financial settlement.

Be Sure To Assess Your Investments And Financial Holdings

It is absolutely vital that you create an extremely thorough list of assets that may come into play during the divorce proceedings. These assets may include, but are not limited to, items such as:

- savings accounts
- investments
- retirement assets (401k, 403b, ira accounts)
- real estate holdings
- life insurance
- individual checking accounts
- collectibles and art
- vehicles
- ownership in business entities

Make Sure You List All Of The Liabilities As Well

Secondly, please do not forget the monies owed by both parties in the marriage. You certainly do not want to be unnecessarily burdened with debt if at all possible. A few examples of debt that you need to assess include:

- student loans
- credit card debt

- mortgages
- vehicles
- back taxes owed

With the individual creditors, you will need to take detailed notes that list the name of the creditor, the total amount owed, the monthly payment, and most importantly, who was responsible for incurring the debt. The more documentation provided the better. Obtaining copies of all three of your credit reports will ensure nothing is left out of the final agreement or judgment.

Consult An Expert When Dealing With Financial Aspects Of Divorce

Finally, please understand that while your attorney is well versed in the intricacies of financial divorce proceedings, they may not have expertise when it comes to the individual laws that pertain to each asset and liability class. It is usually a good idea to hire an expert to access your investments and other assets, as these items can be complex on an individual basis. These experts can also review your liabilities to ensure that you aren't burdened with additional financial ramifications coming out of your divorce proceedings. If possible, a financial advisor and tax professional should be on your short list of people with whom you should connect.

The attorneys at Stearns Montgomery & Proctor have extensive experience when it comes to issues of finances and divorce. They can point you in the right direction to make sure that this aspect of your divorce goes as smoothly as possible, helping you to come out the other side ready to start anew.

Part Four: The Benefit Of An Experienced Family Law Attorney

Hiring a competent attorney with whom you can entrust your case is one of the most critical parts of planning your divorce. Since it is common for divorce cases to settle, many attorneys who are general practitioners will accept divorce cases. Divorce cases can be complex, and it is beneficial to have an attorney who is well-versed in that particular field of law. In addition, it is usually in your best interest to find out how many divorce cases the attorney has handled before retaining counsel. Even if you believe your case will be uncontested, unpredictable events may unfold. In such cases, a professional who is practiced in handling the twists and turns of family law may prove invaluable to your case. An attorney who specializes in family law may be a little bit more expensive. However, you are investing in his or her experience, along with the comfort of knowing that your best interest is paramount.

Make Sure Your Attorney Specializes In Family Law

Please keep in mind that, regardless of their experience, no lawyer can make promises as to the final outcome of your case. The best guidance that is typically provided is a well-educated guess based on experience. The final outcome is dictated by the intricacies of the divorce filing. Therefore, it stands to reason that an attorney who specializes in the practice of family law would be the best individual to evaluate the merits of your case. No matter how compelling that case may be, be wary of any guarantees made by an attorney, and understand that experienced lawyers will avoid such definitive language. Finally, listen carefully to all of the information that is provided by your attorney, and be sure to make no assumptions regarding the outcome of your divorce case.



Part Five: Alimony And Child Support

Alimony and child support typically tend to make up some of the more combative issues in divorce cases. Many people wonder how the income(s) that once supported a single household will stretch to support two. Issues of finances vary from case to case, which makes it all the more important that you are honest with your lawyer about your financial situation. The court will take such issues into consideration when deciding amounts for child support and alimony.

Determining Child Support In The State Of Georgia

In determining the amount of child support owed, Georgia law takes into account the combined income of both parents along with the number of children being supported. A child support obligation “table” is used to determine the amount of child support to be paid or received. Because the proper amount is carefully calculated, it is essential that the courts have accurate information regarding each spouse’s income and earning potential. For additional information about the topic please refer to our library of Child Support Resources.

Alimony Requirements In The State Of Georgia

Unlike child support, Georgia has no state requirements for alimony. In general, it is intended to take into account the contributions of a spouse who has cared for the children or supported the careers of their working spouse. Alimony is not a right, but in certain situations it can be awarded, either over time or in a lump sum after the divorce. In order to determine the eligibility of a spouse to receive alimony, the court will consider the needs, income, and assets of each spouse. Typically, alimony is not awarded in situations where both spouses worked during the marriage and can support themselves. For more about alimony in the state of Georgia please visit our section on Alimony and Spousal Support.

Whether you feel as you are deserving of such support payments, or think that your ex-spouse is unduly asking for them, it is always a benefit to have an experienced Family Law Attorney on your side.



Part Six: Understanding The Divorce Process In Georgia

Filing for a divorce in the state of Georgia has a relatively routine set of actions. However, many clients who are seeking a Georgia divorce do not have a firm grasp on what to expect with the proceedings. As a result, it is extremely important that a potential divorcee understands the routine steps to complete the process.

Divorce In Georgia: The Petition & Objectives

First and foremost, keep in mind that you must have been a resident of Georgia for six months before you can file a “Petition for Divorce.”

Filing a Petition for Divorce at the appropriate county court is usually the first step of the divorce process in Georgia. The petition displays the reason, or grounds, for the divorce filing, and also discusses how the person filing would like to handle issues such as child custody, alimony, and division of assets.

The petition is then “served” upon the other spouse, and he or she must respond to the document within 30 days. The individual receiving the divorce request can either accept the terms of the divorce, object to the reasoning behind the filing, or can agree to the divorce, but object to the grounds. At this time, depending on the initial outcome, the court can impose “Temporary Divorce Orders” which outlines rules during the impending divorce procedures.

The Divorce Discovery Process & Mediation

If an amicable solution is not agreed upon, the parties involved will go through the discovery process. This step is when the opposing parties gather information about each other, and lay the evidence to show the foundation for what they are seeking by way of the division of assets, child custody, and support agreements.

At this time, the parties involved have the opportunity to undergo the “mediation” process. This process is where they will examine all of the evidence that has been gathered, and come to an amicable solution that is satisfactory to both parties. If no agreement is reached, the case will then go to divorce court.

Divorce Court In Georgia

During the divorce trial, all of the evidence will be presented by the parties, and examined by an appointed judge or jury. After hearing the opposing arguments, the judge or jury will decide on a proper divorce settlement, and mandate that both parties adhere to this decision.

If you feel that the court was not fair in its decision, you do have the option and right to file a motion to ask the court to reconsider or for a new trial. This motion is filed with the same presiding judge that heard the original arguments, and he or she will either grant or deny your motion. You also have the right to file an appeal to another court.

Part Seven: Property Division In Georgia

The division of household property is one of the most important items that are addressed during divorce proceedings in the state of Georgia. Often, the contested property and assets have been accumulated over a long period of time, and may contain complexities that don't make them easily divisible. Let's discuss the two major guidelines regarding property division during a divorce in Georgia, and how you could be affected as a result.

Georgia Divorce And Equitable Division

Equitable division is the most common method that is used in Georgia when determining how household assets will be divided during a divorce. When the couple's assets are split, there will need to be an inventory of all the assets that were acquired during the marriage, and the courts will then divide it on an equitable basis, which means whatever the Court thinks is fair. It is a very broad standard and there really are no clear cut guidelines. However, most cases, not all, will easily settle if the parties agree to split the assets 50/50.

The bottom line is that if property or assets are acquired during the marriage, they will likely be considered marital property. Examples of marital property that are typically considered for equitable division include:

- salary earned
- retirement plan assets
- joint or separate checking or savings
- automobiles

- homes
- pets
- credit card debts
- gifts to and from the spouses

Alimony In Georgia

Another way that a spouse can be made whole as part of the divorce decree is when alimony comes into play. Alimony is a payment that is stipulated by the courts to a spouse as the result of a divorce decree. Typically, this method of making the spouse whole comes from a situation where the other person is the breadwinner and has the responsibility of supporting the family during the marriage. As a result, the payee receives the income in order to maintain a certain standard of living after the divorce.

In this situation, the spouse receiving alimony receives the income, and it is generally considered to be taxable as if they were receiving wages. In turn, the alimony payment may be deductible to the payor as an expense.

Part Eight: Understanding The Benefits Of Mediation In Georgia

It goes without saying that a divorce can be an extremely messy, and emotionally draining process. Besides the parties directly involved, it can leave a lasting impact on children, friends, and additional family members who may feel as if they are forced to take sides when dealing with the issue.

However, did you know that there are alternatives for going through the lengthy and often arduous process of litigation? Let's discuss the concept of mediation in Georgia, what it entails, and how this may provide a much better solution for all parties involved when moving towards a permanent separation.

How Does Divorce Mediation In The State Of Georgia Work?

Divorce mediation in the state of Georgia is a process where the parties involved get together to try to find common ground about the details of the divorce before going before a judge. The couple will discuss potential solutions to common subjects pertaining to divorce such as annulment, child custody, paternity rights, and child or spousal support. Mediation can be extremely beneficial to the divorcees, as it can provide solutions that are mutually agreed upon before relying on a judge to issue a ruling on the case.

Mediation works by hiring a neutral 3rd party to act as an in-between with the individuals involved. After listening to both sides, and details about the case, the mediator will offer independent advice and solutions that adequately address the concerns and needs of both parties. They are encouraged to work together to find a common solution, as opposed to vehemently fighting each other in the court system. This tends to set the groundwork for agreement on a mutually satisfactory divorce decree, as there is usually quite a bit of overlap in their needs.

Mediation For Your Divorce May Be Worth Exploring

Mediations tend to provide divorcing couples with a cleaner solution, so it is something that should be considered. Generally speaking, statistics have shown that mediation results in better relationships after the process for the parties involved. Most importantly, this tends to hold especially true for the children, since it circumvents a potentially ugly fight in court.

The attorneys at Stearns-Montgomery and Proctor have extensive experience in the mediation process in the state of Georgia. To explore your options for mediation, please contact one of our attorneys today.

Part Nine: Who Pays Taxes In A Divorce?

If you're currently going through a divorce or separation, the outcome of the process can drastically change your financial and tax status. Each spouse's situation changes, depending on the structure of the divorce settlement. Also, the parties need to be aware their potential filing status will be affected by the pending divorce. Planning ahead for these potential land mines is critical.

Common Questions About Taxes And Divorce

The couple's filing status for tax purposes is determined as of the last day of the tax year. If the divorce is still pending, be aware the IRS does not require that the parties file a joint tax return. Along the same lines, a state court judge has no authority to order the parties to file a joint tax return. One party or the other may unilaterally make the decision not to file a joint tax return. This can substantially impact the other party's tax liability.

Couples must file as single if the couple is legally divorced and living apart before New Year's Eve. If either spouse maintains a home for the minor children and can't file a joint return for the year, you can file as "Head of Household" and get the benefit of a bigger standard deduction. To qualify as Head of Household status, there are several conditions and requirements which must be met.

The IRS governs when it comes to tax liability for property of the parties and payments including alimony and child support. With regards to alimony, the IRS won't consider the payments as deductible unless certain stipulations and conditions are met within the property settlement agreement or court order.



Part Ten: What Happens At The End Of A Divorce?

In our series, “10 Ways to an Effective Divorce,” we explained the divorce process in the state of Georgia and answered tough questions about paying for the divorce, hiring an experienced family law attorney, important factors to consider when filing, assessing alimony and child support, using mediation effectively, determining equitable property division, and protecting important parental rights. We conclude our series with a brief discussion of what happens at the end of a divorce.

In most cases, the divorce process concludes when a judge signs a Decree of Divorce. Before doing so, all the terms of the divorce must be decided and incorporated into a settlement agreement or a court order if an agreement cannot be reached. Georgia law requires a parenting plan and child support arrangement for all cases involving children under the age of 18. The parenting plan must include, among other things, the allocation of physical custody and identify how parents will make important decisions regarding their children.

In addition to issues of custody and child support, there must be a plan for division of assets and liabilities. Georgia is an equitable division state, meaning property is divided fairly but not necessarily equally. Spouses have the opportunity to divide property according to a private agreement and the court will adhere to and

incorporate that agreement. If no decision is made before the scheduled trial date, the court will determine an equitable property division, whether related to real estate, automobiles, financial accounts, family photos, pots and pans, or credit card debts.

If all of the required agreements are properly drafted, executed and submitted to and approved by the court, it may not be necessary to have a trial. If the divorce goes to trial, any unresolved issues will be heard and then decided by the judge, or in some cases, even a jury. Both spouses will testify and be cross-examined. Each side may also call witnesses and present documentary evidence to be considered by the judge or jury in rendering their judgment or verdict.

Our family law attorneys and divorce lawyers at Stearns-Montgomery & Proctor recognize the stress that divorce can cause and we are skillfully trained to guide you through the complex divorce and child custody process. Let our family law attorneys and divorce lawyers help you understand your options and rights.

Please contact us today at (678) 905-8492 or complete our simple contact form on www.stearns-law.com to schedule a consultation and receive additional information.