

# The Zacher Firm

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## Steps To Protect Yourself During Divorce

When you first learn that you're being divorced, it may be a long-expected event or it may come as a complete surprise. Either way, there are certain steps you should take to protect yourself, your children and your finances. This does not mean stripping the family home and bank accounts bare. You should, however, take reasonable steps to safeguard your interests. Here's a brief overview to help you understand the some basic steps you can take to protect yourself during divorce. Depending upon how amicable the relationship with the other spouse is and the specifics of your particular situation, you may choose not to act on some or all of the suggestions below, or you may decide that it would be more prudent to inform your spouse after the event.

### **Weigh decisions and try to be amicable**

Whenever possible, make a good faith attempt to work things out amicably, and always weigh the consequences of your actions. Moving out may *instantly* ruin any chance of custody that you may have. If you've moved out, move back in right now. Recognize that in some situations, staying will cause heightened tension between you and your spouse, and this increased tension may lead to domestic violence. Be aware of this and work to minimize friction. As an alternative, consider "time-sharing" the family home with your spouse until the custody and divorce issues are worked out.

### **Child custody and Temporary Restraining Orders**

In the Temporary Restraining Order (also known as a "TRO"), specify that the children are prohibited from being taken out of the State. This will prevent your spouse from taking the children to another state and concealing them – something she can legally do if there is no TRO in place. This is a classic tactic of a vengeful spouse, and can wreak havoc on your life and the children's lives too. Needless to say, fighting for custody across state lines is not something you want to do if you can avoid it. Your spouse has no more right to take the children from their family home than you do. Make sure that your spouse knows that if he or she wants to leave, they're free to go, but the children stay.

If you have children, do not settle for anything less than 50% time with your children. Remember, your spouse does not have any legal right to spend more time with the children than you do. If you settle for less time with the children, you may have set a precedent that will be upheld in court. Insist on the right to spend equal time with the children.

### **Secure papers and documents**

Obtain private papers. These papers should include (but not be limited to): your birth certificate, diplomas, pension papers, and all other personal documents. These papers must be stored someplace where your spouse will have no access to them, such as a trusted friend or co-worker's home. For jointly owned records (bank statements, real estate

records, titles, deeds, her tax returns and W2 statements, etc.), make two copies of everything, and give one copy your spouse. Store your copy in a safe location.

### **Credit cards and bank accounts**

Meet with your spouse and inform them that you intend to cancel the cards before you do so. It only takes five or ten minutes to cancel your credit cards, and in that same five or ten minutes, your spouse could charge \$5,000 on them. If the card is jointly owned, YOU will have to pay some (or more likely *all*) of that \$5000 credit card debt. If your spouse already has the cards and has started to go on a spending-spree, report the cards as stolen. The card will be canceled and you may only be liable for the first \$50 of whatever charges were put on the card.

A very common act by angry spouses is to “clean out” a joint account, leaving you with nothing. Remove one-half of the balance of the account, and inform your spouse in writing that you’ve done so. Make arrangements with your spouse to ensure that any outstanding bills are covered. By taking one-half of the account balance, you are claiming what is rightly yours without “playing dirty”, and without attempting to financially ruin your spouse. If you open up a new account, do it at a different bank; don’t stay with the same banking company.

### **Inventory your property**

Inventory the entire home and it’s contents. Pull items out where they can be seen, and open up drawers to make the contents visible so that you can videotape them. The best way to do this is with a camcorder. (If possible, do this together with your spouse. If that isn’t possible, make a copy of the tape for him or her.) Make sure the “date” function is turned on so the date is visible when the tape is viewed. Take the videotape and store it away from the home. If objects “disappear” from the family home, you’ll have a solid record of what is missing.

### **Utilities and personal property**

Meet with your spouse and agree to cancel unneeded utilities, such as cable TV, extra telephone lines, etc. Chances are, you’re going to need money in the very near future. Sell personal property you don’t want or need like cameras, VCR’s, extra vehicles, etc. Do this now, because as soon as you’re legally separated these items may be considered “Community Property”, in which case you may not be able to sell them even though they are yours.

### **Record keeping**

Record any significant event, including telephone calls, time spent with the children, arguments with your spouse, information you discover that may have a bearing on your divorce, etc. Keep this journal in a secure location. Be aware that this written record may be used as evidence, (and seen by opposing counsel) so stick to the facts and date all entries. One possible way to keep this journal from being subpoenaed is to start off each entry by addressing it “To My Attorney, (attorney’s name)” so that it automatically becomes “privileged communication” and is therefore not open to subpoena. You may also want to keep a second journal just for yourself, for your personal thoughts and feelings. Look here for tips on keeping documentation.

### **Don’t sign anything without consulting your attorney first!**

Many people have made the mistake of signing papers or preliminary agreements which later caused the outcome of property and custody battles to be decided against them. You may be signing something that no attorney can modify

later. Don't do it! If your spouse wants you to sign something, politely say you'll be glad to, but your attorney has "ordered you not to sign anything" before he or she has a look at it.

### **Allegations of unlawful acts against your children**

A common (and effective) tactic is for a spouse to accuse you of domestic violence, or worse yet, of molesting your children. Often, false allegations are made in an attempt to gain (or re-gain) control of custody proceedings. You should contact your attorney at once if this occurs, then follow these guidelines to protect yourself from further allegations.

Don't allow your spouse to commit *any* domestic violence against you or your children. Call the police at once, insist that an officer come to your residence and file a report. Contact your attorney's office and inform them as soon as possible. You may also want to consider filing a Restraining Order if you fear that you or your children may be subjected to further acts of domestic violence.

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