

STEPS TO PRESERVE YOUR RIGHTS DURING A DIVORCE

There are certain steps you should take to protect yourself, your children and your finances upon either deciding to get a divorce, or learning your spouse wants a divorce. It is an unfortunate fact, but all too often the more reasonable spouse is the one that gets taken advantage of.

There are ways to act reasonably while still protecting your interests. NOTE, the suggestions set forth below are intended in certain situations where separation and divorce turns adversarial.

Hopefully, you and your spouse can amicably address some, if not all issues. Whenever possible, make a good faith attempt to work things out amicably, and always weigh the consequences of your actions. However, depending upon how amicable the relationship is and the specifics of your particular situation, you may have to choose some or all of the following recommendations:

Do NOT move out of the family residence, if there are minor children of the marriage/relationship:

Moving out may INSTANTLY ruin any chance of custody you may have. If you've moved out, move back in right now. Recognize in some situations, staying will cause heightened tension between you and your spouse, and this increased tension may lead to domestic violence. Therefore, BE AWARE of this pitfall and work hard to minimize conflict. As an alternative, consider "time-sharing" the family home with your spouse until the custody and divorce issues are resolved.

When needed get a Temporary Restraining Order (TRO).

In the TRO, specify the children are prohibited from being taken out of the State of California, preventing your spouse from taking the children to another state and concealing them. 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 something you want avoid early on.

Do NOT permit your spouse to remove the children and leave.

Your spouse has no more right to take the children from their family home than you do. Make sure your spouse knows if he or she wants to leave, they're free to go, but the children stay. As an alternative, consider "time-sharing" the family home with your spouse until the custody and divorce issues are resolved.

Retain counsel immediately.

Divorce Court is no place for anyone to be without a competent Family Law Attorney. You need the experience and professional representation provided by Family Law Attorney Robert L. Gigliotti..

Insist On 50% custody and parenting plan.

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 (status quo) that may be upheld in Court. Insist on the right to spend equal time with the children.

Move all personal papers and records to a safe location.

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.

Safeguard All Jointly-Owned Bank Accounts.

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.

Cancel all jointly-owned credit cards.

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.

Make a record of all marital property.

The best way to do this is with a camcorder. (If possible, do this together with your spouse. If this isn't possible, make a copy of the tape for him or her.) Inventory the entire home and its contents. Pull items out where they can be seen, and open up drawers so the contents are visible when you tape. 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 record of what is missing.

Secure valuable property.

If you have a stamp or coin collection, firearms, or similar valuable personal items, find a safe place away from the home to store them for a while. Personal mementos and other irreplaceable items should also be stored somewhere safe. This applies only to your personal property, NOT common possessions or community property. If at all possible, meet with your spouse and discuss this with them.

Inventory and safeguard stored property.

If you have safety deposit boxes or storage units, remove whatever personal property is yours. Again, store it away from the home in a secure location. If, for example, your spouse removes items and disposes of them, it may be very hard later to prove who the items belonged to, or if they even existed at all. Video taping all stored property is also a good idea.

Start Keeping A Daily Journal.

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!

Many men & women have make 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 an opportunity to review it.

If ever there is any violence, CALL THE POLICE!

Call the police at once, insist an officer respond and files a report. Contact your attorney's office and inform him/her as soon as possible. You may also consider filing a Restraining Order if you fear you and/or your children may be subjected to further acts of violence