

On the Move

A Planning Guide for a Healthy Marriage Separation



Greetings,

Thank you for downloading our planning guide, *On the Move*. This planning guide is designed to help you begin sorting things out for your separation. It provides guidance for not only the legal, financial, and emotional aspects, but it also gets you talking with your partner to move forward. What can you resolve together? Where might you need professional help?

Inside you'll find a decision-making worksheet, tips for negotiation, as well as a document checklist to help you get organized for your meetings. I also highly recommend that you and your spouse work out a separation agreement to protect yourself and your assets from the date of separation.

Best of luck in moving on.



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The statements included in this guide are not intended to be legal advice and do not form an attorney-client relationship. Thus, we advise you to seek legal advice from a competent attorney to address any of your legal questions



STEP 1: WHERE TO BEGIN?

Start by jotting down your answers to the questions below. Don't worry about the possible outcomes. Just begin with the best intentions for you and your family. Try to remove anger and resentment from the equation. Then figure out your 'why' for wanting things to be this way. This is your first step toward a separation agreement that you can accept.

What would make you feel most secure? What would be most fair to all? What would it take to know your kids are protected?

You may find that you end up with more questions than answers at this point, and that's normal. Doing this exercise will help you begin to make some sense of a complex situation.

LIVING ARRANGMENTS

Who would stay in the marital home?

Who keeps the boat, sofa, mini-van, etc.? How will you split other major family purchases?

THE BILLS

Who would pay the mortgage (and other regular expenses such as gas, electricity, and home repairs) while you're separated?

Will one of you help pay the bills for the other while living in two separate households?
How much spousal support will you/your spouse need? For how long?

How would you manage and share the money in your joint bank accounts?

DEBTS

How would you handle your current debts? Who will be responsible for the debts either of you incur while you're separated?

What about the joint credit cards? Will you cancel them? When? If not, who is responsible for paying the debts and fees?

RETIREMENT

How would you share assets such as stocks and bonds? Pension(s) & 401(K)'s?

STEP 1- WHERE TO BEGIN?

TAX CONSIDERATIONS

Will you continue to file joint or separate income tax returns during the separation?

LEGAL FEES

Who would pay the legal fees? (Note: Mediation is often the best way to work things out to avoid expensive legal fees -not to mention time and emotional headaches and heartaches -as opposed to each retaining and paying a lawyer.)

THE KIDS

How will you share responsibility for the care and raising of your children? When will the children be staying with each of you? How will you ensure the best of each of you is there for them?

Who would pay child support to the other? How much is needed and when would the payments occur? When will they end?

Will one or both of you be contributing to a college fund for your kids? How will the contributions be made?

YOU

Will you need to go back to work or change jobs? How will you maintain a healthy, active lifestyle and also manage your stress levels?

Do you feel your marriage is over, or is this a cooling off period? What do you hope will happen as a result of your marital separation?

Will you seek out or continue marriage counseling? Or would a divorce coach be needed in helping you make a specific decision, plan your divorce transition, or set goals for your future?



STEP 2: GET IN “THE KNOW”

The 5 Basic Legal Guidelines for Your Separation Agreement*

Spousal Support

Generally, a spouse may be eligible for spousal support upon a separation. Eligibility is based on an-income driven formula as set forth in the [PA Support Guidelines](#) and on a number of other relevant factors.

Marital Property

All property acquired during the marriage up until the date of separation is presumed to be marital property, subject to exceptions that are set forth in [Section 3501 of the PA Divorce Code](#). PA is a title-blind state so it is irrelevant as to whose name the property is in, provided that it can be defined as marital property.

Child Support

Generally, a spouse may be entitled to child support upon a separation. Eligibility is based on an-income driven formula as set forth in the PA Support Guidelines and on a number of other relevant factors.

Custody

Upon separation, you may also make custody arrangements on behalf of your children and can execute a legally-binding parenting plan addressing all children's issues. If custody cannot be resolved, you may file a custody complaint in the county court. You can request the court to review your matter and issue a decision that is consonant with the best interests of your children.

Tax Considerations

When spouses separate, there are a number of tax issues that arise that require a different analysis than if you were divorcing. For example, will you continue to file jointly or separately, and the tax ramifications of each. How you will split any tax liability or refunds and the dependency deduction for the children (if any), if filing separately? Also, what, if any, tax terms do you want to include in your agreement in the event of divorce?

STEP 3: GATHER YOUR RECORDS

Document Gathering Checklist

Assets (Current)

- Current bank account statements
- All children's accounts
- Stock and bond investment statements.
- Make, model and year of all vehicles owned and a statement of the private party value for each.
- Pending civil lawsuit claims
- All retirement account statements owned by each spouse.
- Employment benefits statements (i.e. stock options, incentive, cash balance or golden parachute plans.
- Market value appraisals for all real estate owned (unless spouses agree that the property is being placed for sale.)
- Personal property--approximate value of (i.e. jewelry, art, antiques)
- Business appraisals
- Loan statements



Liabilities (current balance statements)

- Mortgage(s)
- Home equity loans or lines of credit
- All loans (vehicle, student, private)
- Credit card accounts
- Pending civil lawsuits

Income

- Copies of pay stubs/income statements of each spouse for the previous six months.

Taxes

- Copies of state and federal tax returns for the previous three (3) years
 - Copies of corporate tax returns for the previous three (3) years if one or both spouses have a business.

Insurance

- Declaration sheet for all life insurance policies held by either or both spouses, and a statement of the cash surrender value of any whole or universal life insurance plans.
- Declaration sheet for all disability policies

Other Related Marital Documents

- Copies of any trust documents
- Copies of all pre-marital, and/or marital agreements
- Name and date of birth of each child you have together (whether minor or of majority age)
- Copies of any **wills** executed during the marriage.

STEP 4: NEGOTIATE THE TERMS

Top 5 Strategies from Cris Pastore, Esq., Expert Divorce Mediator

1) Start With Your Spouse's Pain Point

During the course of your negotiations with your spouse, find out what his/her biggest pain point is. It's likely that this is the major roadblock to a fair settlement. Then, validate that point by saying something like, "I know how important the shore house is to you." If you can, find a way to give it to them in exchange for something else in the settlement that they are less tied to or concerned about.

2) The Old "Lump Sum" Option

Alimony payments are taxable income. So, if you receive alimony payments, this may result in putting you in a much higher tax bracket, unless otherwise agreed.

Here's what you could do: if there are enough other liquid assets in the estate, you could negotiate a payment in a lump sum amount up front, instead of a monthly alimony payment over time. This way, you will not be taxed on it, provided that the payment is made incident to a divorce.

3) Pay the Bills, Not Alimony

In lieu of an alimony payment to your ex-spouse, you may be able to negotiate the payment of the mortgage and tax bills for a defined period of time. Usually this is possible if (1) you are paying alimony to keep your ex-spouse and the children in the marital home after the divorce, and (2) the amount of these bills would be greater than the alimony payment under discussion. This option gives you a greater deduction on your individual taxes while securing your family.

4) Ask for More, Then Bend a Little Bit

As with any other negotiation, always ask for a bit more than you are willing to accept. This strategy will help to ensure that the settlement you end up with will adequately address your financial needs going forward.

5) **Keep it Together.** Above all, stay calm and cool in your negotiations with the intention of fairness to all. Respect and validate your spouse's position, even if you do not agree with it. Your spouse will be more likely to compromise on their points if they know you have validated them.