

## 14 Smart Ways to Protect Yourself Before You File for Divorce

A divorce is a major undertaking. Just as with any major undertaking, you should prepare beforehand. Here are 14 steps you should take before filing for a divorce.

**Smart Way #1: Save up liquid funds.** There are many reasons why you could need cash leading up to and during your divorce. You will need to save money in order to hire a lawyer and pay litigation expenses. Also, you may have living expenses that you need to pay in the event that you and your spouse end up needing to separate. The more cash to which you have ready access, the better.

**Smart Way #2: Retain a good divorce lawyer.** Maybe it sounds self serving, but it is still true. There is a lot at stake in a divorce case. If you're considering divorce, hire a good divorce lawyer. A skilled divorce lawyer is a professional trained to understand the process, know the obstacles and guide you as smoothly as possible through the divorce process.

**Smart Way #3: Evaluate joint bank accounts.** Be aware of the fact that if all of your money is in a joint account, your spouse might simply take it all, leaving you with no cash. This can be a real problem because even if you have lots of assets, they will not be in liquid form.

You have three options when dealing with a joint bank account. The first option is simply to do nothing. The second option is to take half the money in the bank account and put it in a separate bank account for yourself. The third option is to take all the money in the joint bank account and to put that in a separate bank account for yourself.

Which option you should choose depends on your personal situation and on the personality of your spouse. For instance, if you are a stay-at-home mother, with no other sources of income, it may make a lot of sense for you to take all the money in the account to provide you with a reserve fund of cash. However, normally taking all the money in the bank account will not be to your advantage, as it immediately escalates the conflict and stress of divorce. It also will not likely be well received by the divorce judge. Regardless of which you choose to do, the main point is to consider the issue carefully and to consult with your lawyer about it.

**Smart Way #4: Evaluate joint credit cards, lines of credit and other liabilities.** If a divorce is imminent you do not want to be liable on any accounts on which your spouse has charging privileges. It is not unheard of for an angry spouse, upon learning of a divorce, to go on a shopping spree. Likewise, some lawyers may advise their clients to take out cash advances on joint cards to provide a cushion while the divorce is pending or to charge a large amount in lawyer's fees on to joint cards.

You will want to consider canceling such joint accounts or at least reducing the spending limits. If they are an authorized user on charge cards in your name, see what steps the credit card companies require to remove them as an authorized user.

Also consider home equity lines of credit. You may need to consider whether you should close it or restrict access pending the resolution of the divorce.

Whatever you do, do not neglect thinking seriously about how to handle this issue, and discuss it with your lawyer before making a final decision.

**Smart Way #5: Gather and organize financial records and put them in a safe place.** Make sure you know what you own financially, including cash, assets and real estate. This includes making an inventory of valuables such as safety deposit box contents, jewelry, artwork and silverware. If you suspect that your spouse may be hiding assets, review all mail coming into your house and make a list of the sender and return addresses, especially if the mail is from a financial institution.

**Smart Way #6: Keep a journal.** Having evidence to support your case is critical. It is important to keep a journal of the important events relating to your divorce. These include interactions with your spouse and children. When making decisions about children, the court's guiding principle is the child's best interests. Thus, when writing about your children, it is important to do so from the child's point of view. For instance, if your spouse is late in returning the children from an access visit, instead of writing about how terrible your spouse is to do that, write about what effect the lateness had on the children. Did it mean that they got to bed late and could not concentrate the next day at school because they were tired? Be sure to include the date and the names of any witnesses to the events that you record.

**Smart Way #7: Anticipate your post-divorce financial condition.** If necessary, consider whether it would benefit you to go back to school or seek employment. But, don't do either without first talking to a lawyer. It could have a negative effect on your case.

**Smart Way #8: Take good care of yourself.** A divorce is one of the most stressful situations that you will ever go through. You must make sure that you are in as good shape as possible -- both emotionally and physically and spiritually -- before you start the divorce process.

**Smart Way #9 Establish a good support system.** Having the help of friends, family or a counselor, can better equip you to get through this difficult process.

**Smart Way #10: Learn the basics of divorce law.** Knowledge is power. The better you understand the legal process and the divorce laws, the more reasonable your expectations will be and the less anxiety you will experience about the process.

**Smart Way #11: Set up a bank account that is in your name only.** If an account is held solely in your name, only you will have access to the funds in that account. If, however, you fund the account with marital funds, you might later be ordered to repay some of it or provide an accounting of your expenditures. Even so, this is a very good move towards separation and your financial independence and security.

**Smart Way #12: Make sure you have at least one separate credit card.** Divorce cases can be unpredictable. Because you could find yourself with nowhere else to turn if you need quick access to funds, a credit card can be a useful safety net.

**Smart Way #13: Think very carefully before moving out of the house.** One of the most common questions I am asked by my clients is whether they can move out of the house. In most cases my answer to them is to stay put. It is not the answer most of my clients want.

I know that things are stressful. I know that they will likely get worse before they get better. Unfortunately, there are several reasons to avoid leaving. The most important ones are the following:

It could jeopardize your custody claim. If you end up in a custody dispute, then if you leave the house

and the children remain there with your spouse you will almost guarantee that you will not receive primary custody. If the case becomes contested, it could drag out for many months (even a year or two). If your spouse has had primary physical custody that entire time and you've had alternate weekend visitation, then unless your spouse has made major mistakes in the interim, they will likely maintain primary custody.

It could affect your property interests. You've moved out. Your spouse pays the mortgage the entire time the case is pending. Some judges may factor that when making the property division.

Moving out of the house can have dramatic effects on the case. Do not do it without discussing it with your lawyer and giving it a great deal of thought. You should know, also, that some judges will consider a motion for temporary possession of the residence pending the trial. This varies dramatically from county to county (and sometimes even from judge to judge) so you will want to discuss it with your lawyer.

It goes without saying that if domestic violence is an issue, then all of this is moot. You will need to take whatever steps you must to protect yourself. Just make sure you let your lawyer know what is going on. In the case of domestic violence, your lawyer may actually be able to have your spouse removed from the house.

**Smart Way #14: Consider a private investigator.** Virginia law does consider "fault" when deciding how to divide property in a divorce. Additionally, depending on the facts, adultery can affect custody determinations.

If your spouse is committing adultery, then you are better off having proof of it than not. This is the case even where you fully intend to settle your case. In fact, often having proof of an affair is what gets the case settled at terms that are fair to you.

It is not fun to find out your spouse has cheated, and you may be like many of my clients who have said they would rather not know. But, you should think carefully before making that decision. Talk to your lawyer. Assuming you've chosen a good one, listen to their advice. If you are going to get proof of it, now is the time. Your lawyer should be able to talk to you about the costs involved (it is not cheap) and how to improve your chances of making the surveillance effective, should you choose to go that route.