

## Divorce Preparation Checklist

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While I love being a divorce lawyer, believe it or not, I hate divorce (believe it or not). I am truly sorry you are getting divorced.

Even if your divorce will result in a better life for you overall, the divorce will take a painful toll. If you still have even a glimmer of hope for saving your marriage, please try ([click here for help, if you don't know where to start](#)). Beyond that, I will not bore or patronize you with the details you already know about how divorce makes you feel.

To act out of ignorance, fear, pain, anger, and stress is to act foolishly and wastefully. There are legal processes and consequences of divorce that you cannot imagine (just ask anyone who's already gone through it). You will have crazy thoughts, and if you act on them, you will suffer. You need to proceed wisely to ensure your divorce is not more trouble for you than it needs to be.

To proceed wisely into the uncharted territory of divorce, follow a checklist. Even though there is no ironclad "right way" to prepare for divorce, checklists<sup>1</sup> can help people avoid blind spots in complex environments, like divorce.

My checklist will educate and guide you and as you prepare for divorce. With good information and a trusty map, worry will turn to confidence, indecision will give way to a plan, and procrastination will give way to progress.

1. **If you are the victim of serious or escalating domestic violence, get help and get to safety first.** You cannot think clearly or focus on getting a divorce if you are preoccupied with fear for the life or safety of yourself or your children. If you and/or your children are being threatened or injured, call law enforcement, make a report, and get a copy. Photograph the injuries, obtain medical records associated with them, and keep a journal of your experiences. Once you're safe and have an attorney, your attorney may be able to get the court to issue you protective order for you and/or for the children.

a. You may have heard that making a false claim of domestic violence or child abuse is a quick and dirty (and a very effective) way to get temporary child custody and child and/or spousal support early on in the divorce process. And you'd be right, but it's wrong.

b. Do not make a false claim of domestic violence or child abuse in an attempt to obtain an unfair advantage. First, it's morally wrong to accuse someone falsely. "Therefore all things whatsoever ye would that men should do to you, do ye even so to them[.]" (Matthew 7: 12).

c. Besides, if you do make a false report of abuse, you risk being criminally prosecuted for making the false report and risk being investigated for abuse yourself. A false report can fatally damage your credibility with the divorce court, and if your false report lands your spouse in prison, you lose that person as a source of support for you and the children and the children will be stigmatized and likely psychologically scarred, needlessly.

My checklist is no substitute for an attorney's advice; no two divorces are the same, which is why the second item on the checklist is:

2. **As you prepare for divorce, hire and consult with an attorney at the same time.** Even a good map is no substitute for a good guide. Divorce laws are counterintuitive and complicated. An attorney steers you clear of hazards and on the safe path; he gets you where you need to go. Your attorney looks out for you and gives you a shoulder to cry on, frankly, which allows you to go on with your life without having to carry the burdens of your divorce alone.

a. Familiarize yourself with the divorce process. Talk to and hire an attorney who is willing to help you understand the time, the money, and the procedures involved in a divorce, so that you are not constantly surprised, anxious, or frustrated by ignorance of the process. Gain a basic understanding of the laws that govern divorce.

- b. For a one-page summary of the divorce process, go to <http://www.divorceutah.com/divorce-in-utah/divorce-timeline-court-process/>.
3. **Plan on your divorce taking a lot longer and costing you a lot more than you expected**, then put that time and money to good use by following your checklist and being actively engaged.
4. **Consider getting counseling or therapy (or both) for you and/or for the children**. A counselor, therapist, or group can provide support, help you deal with the loss, uncertainty, and pain, and remind you you're not alone. Support and counseling help you cope, so that you don't make foolish and costly mistakes. The sooner you start, the sooner you can get back to normal. And seeking counseling has the added benefit of showing the court you are humble and wise enough to seek help for you (and for your children, if you have them) in difficult times, which can earn you the sympathy and respect of the court.
- a. Sure, you may worry that seeking support or counseling is an admission of weakness or being flawed. Nonsense.
- b. Not everyone needs support or counseling in a divorce, but if you're in a tailspin, getting help is plain smart. If you get a deep cut (and divorce cuts deep), nobody would fault you for seeing the doctor for stitches. You *could* just go it alone and hope the deep cut won't get infected and worsen and then hope it will get better on its own, but that wouldn't make you strong or admired, that just makes you stubborn, stupid, and pitied, if you're lucky.
5. **When you have young children, and custody is at issue**. Utah law gives great weight to who the children's "primary caregiver" is. Utah law also favors maintaining the familiar routine and environment children know when determining to whom to award custody of children. Changing their circumstances by moving out of the house will hurt your efforts to maintain the relationship with your kids and the rights you enjoy currently as a parent.
- a. Keep a detailed, honest account of your time spent caring for the children and interacting with them. This will become important when a child custody award is made. Keep ticket stubs, copies of homework you helped with. Take some candid photographs. If your account doesn't make you look like a very good parent, then work on being a better parent, immediately. Don't fake good parenting, but don't be afraid to improve as a parent now. It can't hurt.
- b. Do not move out of the house if you can avoid it. Moving out of the marital home is ill-advised, unless you have overriding interests, such as avoiding domestic violence. In that case, protect yourself first. You're no good to your children if you are dead or hospitalized due to domestic violence. As you can imagine, if you are not living with your children on a daily basis, but your spouse is (and in the family home to boot), your claim to being a primary caregiver or the primary caregiver is substantially, if not fatally weakened. If you have already moved out of the house, move back in if you can do so without causing trouble for your spouse or the children.
- c. Moving away from the house and the children weakens your arguments for child custody awarded to you on a sole custody basis, and even on a joint custody basis. If you do intend to move out, you generally must find a new residence that is within a short walking distance of the marital home, with rooms for the children (do not mix girls and boys in the same room—it opens you up to sensational cheap shots that the kids are molesting each other. I'm not kidding) to maintain hope of a joint custody award.
- d. If you must move out of the marital home, then do what you reasonably can (without risking your own life or safety) to spend time with the children every day (if you don't spend time with them personally, give them a call, send them an e-mail—anything to stay in touch), to maintain contact with them. Feed them. Do homework with them. Visit grandparents with them (on both sides of the family). Stay actively and beneficially involved with the children as a parent.
- e. By the same token, however, do not move out of the house with the children and then conceal the children from your spouse (unless you are protecting them from domestic violence—and even if you are protecting the children from domestic violence, don't just

hide out, go to your attorney and get a protective order from the court, so that it's clear to the court that you are only trying to protect your kids, not just jerking your spouse around). That only makes you look bad, as though you place your self-interest above the best interest of the children. If you have moved out of the house with the children with your spouse's knowledge and consent, make sure you document this fact, so that your spouse does not try to claim later that you abandoned him/her or sneaked away with the children.

f. Knowing what you now know about moving out and child custody, if you want sole or joint custody of your children, do not agree to let your spouse move out with the children. That only makes it look as though you agree to custody of the children being awarded to your spouse. Make it clear to your spouse (without getting hysterical) that you do not consent to your spouse moving out with the children. Do so by sending your spouse an e-mail or a text message to this effect, so that you have a record. If your spouse wants to move out without the children, that is his/her prerogative. Don't let your spouse treat the children as his/her property—you're both parents, and unless a parent is neglecting or abusing the children, the kids deserve to have both parents remain actively involved in their lives.

6. **Save up some money for your divorce battle.** Even a simple divorce is shockingly expensive, and unexpected expenses are, well, to be expected. Don't run out and hire a divorce lawyer unless you can afford to go the distance. If that means sticking around in the marriage a while to save money, complete your education, and get a good job, so be it. Of course, if you are in an abusive marriage where staying put risks your life or safety, that's a different matter; if comes down to your money or your life, spare your life and worry about money later.

7. **Get a post office box, so that your spouse cannot intercept, read, and destroy your mail.** Use your new mailing address for everything related to your divorce. [Click here for information on setting up your own post office box.](#)

8. **Set up a new email account to communicate with your lawyer, with a username and password your spouse does not know and will not guess.**

a. Get an inexpensive portable computer that NOBODY uses but you, ever. When you communicate with your attorney, do not use a computer that your spouse uses. Your spouse could install keystroke logging software on a computer you both use and thus get a copy of every e-mail you send, every website you visit, every password you use, etc. [Click here to visit Amazon.com](#) (no, I don't get paid to post this link) to look for and buy a good, inexpensive, portable computer, or go to [Best Buy](#) to look for one (no, Best Buy does not pay me for any endorsement, but they're easy to find and their salespeople are friendly and helpful). Make sure your portable computer has the ability to connect wirelessly to the Internet (it's almost impossible to buy one that doesn't these days, but make sure).

9. **Get your own, separate cell phone and cell phone plan.** Cell phones can be used like GPS devices to track where you are, so get a cell phone that you purchased yourself and on your own plan, not your spouse's or your employer's plan. Use your new mailing address on the cell phone account, so that your cell phone bills can't be intercepted and read by your spouse.

10. **Consult a financial advisor.** A good financial advisor or accountant will help you identify and plan for the tax and credit consequences of divorce as you refinance or sell your house, divide retirement, investments, and business assets. Your advisor(s) can help you understand how divorce affects Social Security health, and life insurance benefits. A good financial advisor or accountant can also help you prepare a financial plan and a budget during the divorce action and for life as a newly single person again.

11. **Open your own bank account and obtain a credit card in your own name.** You need a safe place for the money you will need to take care of yourself once you and your spouse separate. You don't want your spouse draining joint accounts and leaving you with nothing. Open an account at a bank that

your spouse does not use, and in a part of town your spouse won't see you go. Use your new mailing address on your accounts. If your bank has a good deal on a credit card, open a credit card account when you open your new bank account. Use your new mailing address for your credit card account.

- a. Transfer some money from joint accounts into your new account, but don't drain joint cash accounts and leave your spouse with nothing. It's only fair that you get your share of marital funds (half is usually fair), but withdrawing all the money for yourself only makes you look greedy and untrustworthy in the eyes of the court. After you make the transfer, have your attorney notify your spouse or your spouse's attorney of the transfer immediately.
- b. Consider closing or placing limits on joint credit accounts. If you have joint credit cards or credit lines with your husband, ask your lawyer if you can close the accounts or put a freeze or spending limit on them.
- c. Consider closing or freezing joint cash accounts. If you have joint cash accounts with your husband, ask your lawyer if you can close them, or withdraw a portion of the funds on account and/or freeze the accounts. Notify your bank or credit union that you are going through a divorce and that no withdrawals can be made from the accounts without your written authorization.
- d. Make sure your home equity line (if you have one) is not being abused. Make sure your spouse can't go to your home equity line lender and borrow a bunch of money that you'll be joint liable for paying back.
- e. Get a safe deposit box at your bank to store and secure important documents.

12. **Keep all your receipts for EVERYTHING you purchase.** You need to prove to the divorce court what your needs and expenses are. Keep the register tape when you buy groceries. Keep receipts for gasoline. Keep copies of your utility bills. Use your credit card to help track purchases. If you purchase something from a merchant who does not normally give you a receipt, ask for one. If you cannot get a receipt, write down the expense in a notebook you keep with you at all times for this purpose.

13. **Gather in one place the information needed to prepare your divorce case.** This helps ensure that you do not overlook the facts, assets, debts, and issues involved in the divorce case. Once you get all of this information down on paper, your attorney will be much better prepared to answer your questions and advise you on how to proceed in your specific divorce case.

- a. Gather and keep current identifying, asset, debt, and other financial information on yourself;
- b. Gather and keep current identifying, asset, debt, and other financial information on your spouse. This may be even more important than gathering the information on yourself, because once the divorce process starts, your spouse may start to hide or destroy this information to prevent you from having complete and accurate information.
- c. Gather and keep current important information about you and your spouse's business or employment. Know the name, supervisors, address, and contact information for you and your spouse's employer. If you or your spouse has/have his/her own business, find out what assets, liabilities, and accounts the business has. Gather the information necessary to value your spouse's business rule and get your own business appraised. Report all business earnings, expenses, and losses properly; don't "cook the books" or engage in any illegal or even suspicious business activities. Don't pay personal expenses or your lawyer's fees from your business. Mixing personal and business expenses can risk your business being penalized by the government and considered a marital asset.
- d. To make sure you are gathering a complete list of important documents, keep track of the mail when it arrives at your house, so that you know what bills you have, what financial, investment, retirement accounts, and insurance policies there are. Record account numbers, balances, addresses, names, and contact information. If mail is also addressed to you or to you and your spouse, make copies of these documents for future reference and to review with your attorney.

- e. If you want to see how Eric K. Johnson gathers information for a divorce case, [click here to see Eric Johnson's divorce client intake questionnaire](#).

**14. Get a copy of your credit report, and monitor your credit report, and monitor your credit report.** Make sure your spouse is not running up debt in your name, and use your credit report to determine the amount of debt you and your spouse have incurred. If you worry your spouse might run up debts or try to damage your credit, enroll in a credit monitoring service to notify you of any suspicious activity. You might also call the credit reporting agencies report fraud on your credit report. ***(No, I do not profit from these links in any way.)***

a. To obtain a copy of your credit report, click on the following link:

- [Annual Credit Report](#)

b. To report fraud on your credit report, click any of these links:

- [Equifax Fraud Alerts](#)
- [Experian Fraud Center](#)
- [Transunion Fraud Alerts](#)

c. To enroll in credit monitoring, click any of these links:  
(no, I do not profit from this link in any way).

- [Experian](#)
- [Equifax](#)
- [Transunion](#)

d. To enroll in identity theft protection, click on the following link:

- [Zander Insurance](#)

***(No, I do not profit from these links in any way.)***

**15. Keep track of your outstanding and ongoing bills and obligations.** If your spouse has historically been the one who kept track of and paid the household bills, that may change once a divorce is filed. Don't assume that the bills will still get paid on time or in full. Money gets tight, and your spouse may stop paying the bills, bills for which you are jointly liable. Even if a temporary court order requires your spouse to pay some or all of the bills, that does not prevent your creditors from pursuing collection actions against you. Partial payment or non-payment of bills can damage your credit rating, making life after divorce difficult if you apply for a new credit card, a car loan, or a home loan.

a. If your home or other real estate is mortgaged, make sure the payments get made in full and on time for the sake of protecting your credit. Tell the lender that you need a statement sent to your new address. Monitor the monthly payments online, and if payments fall behind, tell your lawyer immediately.

b. If your car is financed, make sure the payments get made in full and on time for the sake of protecting your credit. Tell the lender that you need a statement sent to your new address. Monitor the monthly payments online, and if payments fall behind, tell your lawyer immediately. If your car is title or lease in your spouse's name, prepare yourself for the possibility of borrowing a car, purchasing, or leasing a car of your own, to ensure you can still get to work and have transportation to meet your personal needs.

**16. Inspect, inventory, and document your personal property.** It is common for spouses to remove stuff from the home and then to hide it, give it away, sell it, or even destroy it just to be spiteful. To get a complete, detailed inventory of the personal property in your house and in any shed or outbuilding on your property, go through your house room by room with a video camera and a friend. Make sure the camera records the time and date of the inventory. Identify the furniture in every room. Film each wall to show the artwork on the walls and the crystal chandelier on the ceiling. Open closets, pull out the contents and get a good shot of each item in it. As you go, take a regular camera and get still shots of everything too (Make sure the camera records the time and date of the inventory). Should your spouse later claim that things have mysteriously gone missing, you will have rock-solid proof to the contrary.

- a. Secure big ticket items and property that has sentimental value. If you fear that cars, boats, motorcycles, watercraft, paintings, coin or gun collections and other big ticket items may be taken, sold, given away, or otherwise disposed of during your divorce, take them some place safe and secure them. You will eventually have to disclose where they are, but you won't get in trouble for keeping them safe from your spouse selling or stealing them out from under you.
- b. If you transfer any property, then after you transfer the property, have your attorney notify your spouse or your spouse's attorney of the transfer immediately.

17. **Play it cool and play it smart.** The fight or flight instinct is pushed to its limits in divorce. The tendency to overreact is strong; you alternate between feelings of utter helplessness and the desire to "take no prisoners" as your case drags on. Your goal (and best course of action) is to stay in control. It's hard, but well worth it, and far better than spiraling out of control. Don't fall prey to conduct that can be used against you in court. Conduct yourself with dignity, grace, and class (and the fringe benefit is that nothing will drive your spouse crazier than you staying cool, no matter what he/she throws at you).

- a. Stay away from drugs, alcohol, pornography, gambling, and any other addictive behavior. Divorce can drive almost anyone to drink, smoke, snort, snack—anything to ease or dull the pain. Don't start. So call your mom or your best friend instead (every day, if you have to until you're back in control). Take a brisk walk. Read your scriptures. Pray. Volunteer at a school or hospital. Focus on picking the best lawyer you can afford. Take the focus off yourself—it works (and don't tell me it doesn't until you try it). It keeps you out of trouble, it helps you get your perspective back, and it lets the sun peek through the clouds of doom just a little bit more.
- b. If you abuse alcohol or drugs, if you have a gambling, overeating, or pornography problem, etc., change course immediately. Being branded a drunk, an addict or a reckless, irresponsible libertine is the last thing you need in a divorce. Get professional treatment, if needed. You'll not only be improving your own well-being, but also showing the divorce court that you deal with trials and adversity in a mature, productive manner.
- c. If you can't say anything good about your spouse, don't say anything. Tearing your spouse down does not build you up in the eyes of the judge. Disparaging, defamatory remarks about your spouse—even if based in fact—usually boomerang and draw negative attention you. When you sling mud, it not only ends up dirtying your own hands, but you lose ground too.

18. **Hope for the best, but prepare for the worst.**

- a. Avoid the very appearance of evil. Your spouse may be the type who will cast everything you do in a bad light. If you exercise, you're a narcissist. If you work hard, you're ignoring your family. Are you frugal? No, you're a miser! Are you generous? No, you're a spendthrift! Stay the night at a friend's house and you're gay. 'Love spending time with your kids? Well, that's just creepy . . . The point is this: keep your nose clean and don't do anything—even if it's totally innocent—that can raise suspicion. Act as if your every move is being watched and recorded to play back for the court. Yes, it's unfair, but it's smart and a heck of a lot cheaper than having to defend yourself against cheap accusations and innuendo.
- b. So keep a regular, detailed record of your day-to-day activities.
  - i. Make sure you can account for where you went, who was with you, what you did (what it cost), and for how long. If you have children, keep track of when you see or call them, what you do with them when you're together, and what you talk about (do not coach them or disparage your spouse to them, but do keep notes on how they're feeling, what makes them happy or sad, how they're doing in school, what they're thoughts of the future are).
  - ii. Note each potentially negative rumor or fact, then consult candidly with your attorney as to what steps you can take to mitigate any possible damage.

- iii. If child custody is an issue, document the good you do and the bad your spouse does. Be honest and don't exaggerate the good or the bad, just keep a record that reflects who takes care of the kids and in what ways.
- c. Become a model citizen. Just as staying away from drugs, alcohol, pornography, gambling, and any other addictive behavior keeps you out of trouble, it also makes you look good to the court. Even if it sounds cynical to you, go to your church, synagogue, or mosque. Take time to help the less fortunate by donating your time and money (within reason). Coach your kids' team. Volunteer at school and with the Boy or Girl Scouts. Make friends with those in your religious organization and in the good causes you support, so they can be character witnesses for you. Feel good because you are doing good and being good. And document your good works.
- d. If you have some skeletons in your closet, clean them out. For those indiscretions and faults you cannot dispose of or fix up, don't draw unnecessary attention to them. If you are confronted with them, do not lie to cover them, just don't start singing like a canary about them either. Good P.R. is a useful tool in divorce.
- e. Keep a low profile in other areas. Don't antagonize your spouse, and don't rise to his/her bait. In a divorce setting, your spouse is not happy with you, and discussion between you will likely not be pleasant or on pleasant subjects. So limit contact with your spouse. Don't give him/her the silent treatment, just avoid confrontations. Stay calm. Be courteous to your spouse no matter how hard that may be. It keeps you from being branded the bad guy, and helps build good will for settlement. Let your lawyer be the bad cop where necessary. And while few things can match the pleasure of a good zinger, rubbing your spouse's nose in misfortune (even if it's well-deserved) will come back to bite you, oft times repeatedly. If it's you who is being insulted and smeared, don't fight fire with fire. For reasons I still do not fully understand, it always seems that the court punishes your reaction, not your spouse's bad acts that led you to react. Don't attract attention to yourself by getting into or causing trouble.
- f. Control your temper. Do not engage in violence or threats of violence. Any violent act you commit against your spouse, no matter the circumstances (self-defense included), can and likely will reflect badly on you. If your spouse is coming at you with a knife, and you have the option of standing and defending yourself or running away to safety, consider running away to safety. Justifying any physical harm to your spouse by claiming it was self-defense is a hard argument to make stick, even when true.
- g. Don't do anything illegal.

19. **Try to get a settlement, but negotiate only from a position of strength.** In most cases, it is better to compromise than to win the battles, but lose the war. Making compromise for the sake of compromise is just giving up for the sake of giving up. Many people think that they can avoid all or most of the pain, inconvenience, and expense of a divorce action by settling the case early. Well, maybe, but that's not only much easier said than done, it's extremely rare. There is no such thing as a free lunch, and you'll have to work just as hard to get a fair settlement as you would in court to get a fair outcome in negotiating or mediating a settlement out of court.

- a. Do not deal out of fear or anger. Negotiate from a position of strength. Even if you don't have a lot going for your case, don't cave in to threats or appeals to sympathy or guilt. You won't get any martyr points for selling yourself short.
- b. To get a good result from settlement, you can't take shortcuts. You must gather all the necessary data needed to make informed decisions and to make persuasive arguments. You must understand the law, and where it benefits you and where it hurts you. You must know the strengths and weaknesses of your case, as well as those of your spouse's case. Otherwise, you risk making a hasty and bad deal. And once you've made the deal, you're stuck with it.
- c. Be fair and act with class, even if your spouse and his/her attorney do not.

<sup>1</sup>(<http://www.fastcompany.com/magazine/123/heroic-checklist.html>)