

Steps To Protect Yourself During Divorce

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This does not mean stripping the family home and bank accounts bare. You should, however, take reasonable steps to safeguard your interests. It is an unfortunate fact that sometimes the more reasonable spouse is the one that gets taken advantage of. To put it bluntly, many divorcing men get royally screwed because they were too reasonable and too trusting. If you think we're trying to scare you, look here.

There are ways to act reasonably while still protecting your interests. Please note that these suggestions are intended for situations where the separation and divorce may turn adversarial- if you and your spouse are divorcing amicably these kinds of issues can probably be worked out satisfactorily between you.

Some of these suggestions were re-written with advice from Susan Cameron, an attorney, mediator and divorce settlement negotiating coach. Susan pointed out that what one spouse may consider a "defensive" action may (understandably) be perceived as an "offensive" action by the other spouse. If the other spouse responds in an "offensive" way, the end result of acting to protect your interests may turn out to be a new set of different problems. (It's also quite possible these kinds of problems will arise later, regardless of what you do now.)

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. Whenever possible, make a good faith attempt to work things out amicably, and always weigh the consequences of your actions.

If You Have Children, Do NOT Move Out Of The House.

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.

If You Have Children, Get A Temporary Restraining Order (TRO).

In the 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.

Do NOT Allow Your Spouse To Take The Children And Leave.

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. Again, as an alternative, consider "time-sharing" the family home with your spouse until the custody and divorce issues are settled. If you suspect your spouse may flee with the children or conceal them from you, read this and this.

Get An Attorney Immediately.

Divorce Court is no place for a father to be without competent counsel. Even with a good attorney, as a man the odds are initially stacked against you. You need an experienced Family Law attorney. For more information on evaluating and hiring an attorney, look here and here. Also check out the SPARC Professional Directory and the Attorneys Page for attorneys that may be near you.

Insist On 50% Custody And Parenting Time.

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.

Move Your Personal Papers And Records To A Safe Location, AWAY From The Family Home.

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.

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.

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.

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 that isn't possible, make a copy of the tape for him or her.) Inventory the entire home and it's 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 solid record of what is missing.

Secure Your More Valuable Personal 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 Any 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.

Reduce Unnecessary Expenses Immediately.

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're yours.

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 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.

Prepare Yourself For False Allegations.

If you're a man, a common (and effective) tactic is to accuse you of molesting your children. 99.9% of the time this accusation is made by the mother 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.

Stop Contributing To Any IRA's, 401(K) Accounts Or Pension Plans.

Usually this is done by simply signing a form at your place of work. There's a good chance that (assuming you don't spend it) some or all of the money in your pension plan or retirement account will be given to your spouse as part of the property settlement, so don't put

any more in there. Stopping contributions to pension plans and the like will also put a little more money in your paycheck each week, and chances are, you're going to need it.

If ANY Domestic Violence Occurs, Call The Police.

Don't allow your wife 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.

If You Have Questions, we strongly suggest that you go to the [SPARC Message Boards](#) or [Chat Room](#) and ask them there. Many of the people on the Message Boards and Chat Room have dealt with the same issues you're experiencing and can give you some excellent ideas and advice.