LSU AgCenter
Research & Extension

COOPERATIVE EXTENSION SERVICE
Knapp Hall, LSU Campus
Baton Rouge, Louisiana 70803
Post Office Box 25100
Baton Rouge, Louisiana 70894-5100
(225)388-4141
Fax: (225)388-2478
Website: www.agctr.lsu.edu

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Are Your Children in the MIDDLE of Your Conflict or Divorce?

Separating Your Finances

Marriage is a financial partnership. Divorce means more than separating a family physically. It also means separating a family financially. Both can bring great emotional stress. At the very least, you'll be able to make better financial decisions in the future for yourself and your children if you're able to separate the emotional breakup from the financial breakup.

You should move toward eliminating the financial ties to the person you are divorcing. The ultimate goal is to create two financially separate households from one. It may not be possible to cut all connections, but your risks can be reduced. Seek the advice of an attorney, an accountant or another financial professional to clarify tax consequences and other financial issues.

Preparing for financial separation

Often, one person in a marriage has taken primary responsibility for financial management and record keeping. If you are not well informed, realize you are helping yourself if you put some work into this stage. For the parent not responsible for the family finances: take time to learn about the family's financial resources. This will help reduce the legal costs because you won't have to pay someone else to find out this information. Gathering the financial information keeps your legal bills down and educates you about your family's finances. This knowledge provides you with a more realistic view of your financial situation as decisions are made. Even if your divorce is friendly, don't count on good will to determine what you should do about joint accounts. Be aware that either person can remove all the money from a joint account or charge up a credit card. Look at your situation objectively. Apply your own common sense. Eliminate all joint money obligations you have with the other parent.

Dividing property

In general, each person is entitled to an equitable or fair distribution of the property. Property includes automobiles, home and furniture, in addition to possessions such as cash value insurance policies, pension funds, savings accounts, etc. Equitable distribution weighs each person's contributions to the marriage, including nonfinancial considerations, to determine a fair division of the property. Equitable distribution does not necessarily mean equal division. If you received an inheritance or gift during the marriage, you are normally entitled to keep that property. Also, you may be entitled to receive credit for property you brought into the marriage.

As you negotiate the division of property, think about your needs, the needs of your children and the income tax consequences of your decisions. Things that were of great value to you in the marriage may be of little use to you after the divorce. One warning is to avoid written agreements regarding property before speaking with your attorney. Documentation of any sort is often considered valid by the courts and may stand in the way of equitable distribution of property.

Find out whose name the property is in, and make sure it is changed after the divorce to reflect the decisions identified in the divorce decree. For instance, if a vehicle is in your name and your spouse gets that vehicle as part of the divorce settlement, make sure the title transfer is completed. If your spouse has an accident after the divorce and is sued, you also could be sued if the vehicle is still in your name.

Dealing with debt

When you divorce, you not only divide property but debt as well. In general, you both are responsible for paying any debts acquired during the marriage. Managing debt issues carefully during the divorce process may lead to less conflict and a more stable environment for you and your children.

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You should act promptly to close all joint credit cards or other lines of joint credit. Be sure to establish credit in your own name before doing so. Often you can open an individual account when you close a joint one. A credit card can help you through some short-term emergencies during the divorce transition. But, avoid saying "charge it" rather than making necessary cuts in spending after divorce.

Where to find information about your money

- Tax returns (state and federal) for the past five years
- Pre- and post-marital agreements
- Wills and trust documents
- Previous divorce document
- Pay stubs (for the past three years)
- Statement from banks, brokerage accounts and credit card accounts
- Insurance policies
- Employers insurance benefit statements
- Retirement plans
- Real estate records
- Legal records such as personal injury awards, inheritances, etc.

Strategies for Settling Debts

- Establish credit in your own name. Then close all joint credit card accounts.

- To protect yourself:

  Write to credit card companies asking them to close your joint account and cancel all cards.

  Request information about any outstanding bills.

  State that you refuse to be responsible for any charges to the account after the date of your letter.

  Send all correspondence by certified mail with return receipt requested. Keep a copy for your files.

- If the creditor demands that you pay off the balance and this is not possible, ask that the account be made inactive while you make payments.

- Make sure the divorce decree identifies all credit card accounts by name, type and number and that it names who is responsible for each account.

- Make a list of the outstanding balances on any credit cards or other debts. Get the address of a credit bureau from the phone book, and request a credit report to make sure you are aware of all open accounts. Once the divorce is filed, debts should be divided between you and your spouse, and each person should be responsible for payment of his or her debt.

Four basic options in allocating the debts acquired during the marriage include:

1. Sell joint property to pay off debts.
2. You agree to pay the bulk of the debts in exchange for getting a larger share of the property or an increase in alimony.
3. Your spouse agrees to pay the bulk of the debts in exchange for getting a larger share of the property or an increase in alimony.
4. Divide your property equally, and divide the debts equally.

From your perspective, the first two options are much less risky than the second two alternatives. Remaining connected to someone financially puts you at risk. Even if you have to borrow money to get through the divorce, it could prevent problems later. Be sure to discuss options with your attorney or a financial adviser. Agreements regarding assignment of debts and property should be clearly spelled out in the divorce decree.

You should attempt to remove your name from those debts your spouse will keep. Write to companies and inform them of your impending divorce. Ask them to close joint accounts or remove your name from an account. Request the amount of any outstanding balance, and indicate that you refuse to be responsible for any charges made after the date of your letter. Request a response from the creditor and keep a copy of your letter for your files. While such a letter may not fully protect you, it is better than taking no action. You can request that credit card accounts be made inactive while the balance is being repaid. This prevents further charges from being made on the account.

Remember: even after the divorce is final, creditors may attempt to collect on debts from both partners. A divorce decree will be honored by the courts, but it may not matter to collectors. Their goal is to collect the money. It is not always possible to remove your name from a joint debt until the debt has been paid in full.

Less risky options (you do not depend on the other parent to follow through)

- Sell joint property to raise the cash to pay off joint debts.

- Agree to pay the bulk of debts in exchange for a larger share of the property or an increase in spousal support.

More risky options (you depend on the other parent to follow through)

- The other parent pays the bulk of the debt in exchange for a larger share of property or an increase in child support.

- Divide your property and debts equally so each parent gets half the property and half the debts.

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Dividing Assets/Property

Housing decisions

The home is probably the biggest asset you share with the other parent. There are a number of options to consider.

- Sell the house together, and split the proceeds with the other parent.
- Buy out the other parent's share and keep the house.
- Buy out the other parent and sell the house in the future.
- Sell your share of the house to the other parent.
- Own the house jointly with the other parent, and sell it in the future to a third person.
- Own the house jointly with the other parent, and buy it from or sell it to the other person in the future.
- One parent owns the house and the custodial parent occupies it until the youngest child reaches the age of 18.

Retirement benefits

Retirement plans are assets that need to be considered in the divorce process. It is best to make decisions at the time of divorce to protect your children's future. Here are some questions to ask:

- What types of retirement plans do you and the other parent have?
- Who is the plan participant or owner?
- What is the value of your retirement plan as recognized by the court?
- What is the actual value of your retirement plan after taxes, early withdrawals, surrender charges and other assessments?
- How will you and the other parent divide the plans?

Tracking Saving/ Investment Assets

Assets in divorce

- Courts generally divide assets using equitable distribution. This process takes into consideration each parent's contributions (including non-money producing) to the marriage.
- Make sure you're clear about what property is owned jointly and what is owned individually and have proof of this ownership.
- After the divorce decree is signed, make sure all properties (houses, vehicles, assets) are transferred to the proper owner.
- The investments made during your marriage need to be considered in the division of property at divorce. It is important to know the:
  - Fair market value (the price at which an investment can be sold)
  - Tax basis (the original purchase price plus improvements and minus any tax benefits)

Points to keep in mind when making decisions about financial assets

- An investment made during marriage may not make sense once you are single.
- Don't make an investment you can't live with.
- Use your divorce to cut your losses.
- No investment is risk free.
- Balance security with income and growth.
- Know the tax basis, or the tax bill may shock you.
- Beware of inflation and inflated claims.
- Look to total return, not yield.

Splitting investments

Determine:

- What investments do you and the other parent hold?
- Who owns each investment?
- What is the legal value of each investment?
- What is the after-tax/after-sale value of each investment?
- Which assets should you keep?
- How will you and the other parent divide the investments?
- How do you feel about the decision?

Protecting Children Against Future Risks

Insurance is a consideration at divorce. This is particularly important to provide for the future protection of the child.

LOUISIANA COOPERATIVE EXTENSION SERVICE
LSU AGRICULTURAL CENTER
U.S. DEPARTMENT OF AGRICULTURE
KNAPP HALL
P.O. BOX 25100
BATON ROUGE, LA 70894-5100

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Health insurance

A parent with custody can get health insurance through the noncustodial parent's health plan under federal law. If this is not an option, investigate possible state health plans that provide coverage for children.

Life insurance

At the time of divorce, consider who will be named the beneficiary for any life insurance policies.

Disability insurance

Check on what type of disability coverage is available in case you aren't able to work and support your children.

The financial separation that comes with the divorce process can be made less difficult if you learn your options and remain aware of your financial situation. Understand that this process will take time, but the payoff is a brighter financial future.

If you are interested in more information on this and other related topics, please call your local LSU AgCenter parish office. Below is the list of topics in the "Are Your Children in the Middle of Your Conflict or Divorce?" series.

A Child's View of Divorce
The Business of Co-parenting
Coping with Stress and Change
Costs of Raising Children
Custody Issues Today
Dating Issues
Disciplining Children
Friendship and Support
Help! I Feel Overwhelmed
Loss of a Relationship
Managing Income and Expenses
Not Enough Hours in the Day
Separating Your Finances
Sharing Parenting
Talking with Your Children
Talking with Your Children About Money
Talking with Your Children -- Communicating Within Your Family: Active Listening
Visitation Do's and Don'ts

References

Fletcher, C.N. & Overstreet, M. (1997) (Publication No. PM-1719). **Divorce Matters**. Iowa Cooperative Extension Service

Diane D. Sasser

This publication was originally produced by the Iowa State University Extension Service. It has been revised and made available in Louisiana by Diane D. Sasser, Ph.D., Assistant Specialist (Family Development) and Jeanette A. Tucker, Home Economist (Family Resource Management).

Louisiana State University Agricultural Center, William B. Richardson, Chancellor
Louisiana Cooperative Extension Service, Jack Bagent, Vice Chancellor and Director

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