

Is There a Good Time to Divorce?

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“Enough is enough”

Many of us would like to believe that at some juncture in a marriage, there is a defining moment when you say to yourself, “Enough is enough,” and it is clear the next step in your relationship is to proceed with a divorce. But this is rarely the case. Many factors complicate the decision, including children, property issues and the emotional ties you have formed with your spouse, their family and friends...all of which lead to the question “Is there a good time to divorce?”

Delaying the Inevitable



Divorce can be an emotional and complicated process. Tempers flare and feelings get hurt. If you find yourself feeling as if you are delaying the inevitable by holding onto the relationship for a reason other than the love of your spouse, it is likely you should consider divorce. The longer you hold out and wait to see “if things get better,” the more resentment can build between you and your spouse and the more complicated separating becomes. Clients are often shocked at how time consuming a divorce can be, how combative spouses can be, and how emotionally draining the process can become.

What's best for our children?



If you have children with your spouse, it is likely finding an agreeable situation concerning possession of and access to the children is of utmost importance to you. For some, financial support of the children is more important. The Texas Family Code grants a court a great deal of discretion in deciding possession and access schedules for children, thus you are essentially unlimited in the arrangement you can reach, barring family violence or other child-related issues, so long as you are able to say, "this schedule is really what's best for our children." The Texas Family Code also sets the amount of support a parent should pay to the other based upon a percentage of "net resources," a term defined by the Family Code. This support figure can be adjusted according to any special needs of the children and possession schedule you arrange. Many courts also require the parties to commit to stay in close proximity to each other, at least until the children graduate from high school.

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But the first question you ask yourself when considering divorce may not involve your children. While no one likes to think of a marriage as a business deal, a divorce is very much like dissolving a business partnership. Take inventory of all property owned by you and your spouse, create a balance sheet and begin strategizing for life after a divorce. Consider the cost of maintaining separate households, both of your incomes, taxes, retirement, savings, investments, mineral and business interests, and your debts and liabilities, to name a few. In Texas, the Court will have a great deal of discretion to decide how your community property (the property acquired during the marriage which was not inherited or received as a gift) should be divided. The Court will generally divide property in a manner that is "just, right, fair and equitable under the circumstances," which usually means starting with an equal division and then making adjustments for the particular circumstances of each of the parties and children.

In sum, if you believe your marriage is at this crossroad, considering all of your options, including a divorce, can be the impetus for reconciliation. Or it may help you realize the relationship just won't survive. Ultimately, weigh your options and choices to see which is best for you and your children. Procrastination of this decision could prove to be more expensive than you might expect.