FREE EBOOK

10 key questions to consider when getting divorced

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Do you have minor aged children?

Having minor-aged children in a marriage increases the complexity and intensity of any divorce. In fact, all three aspects of the divorce process change when kids are involved.

While the emotional aspects are obvious, couples often don't realize the legal and financial issues that must be addressed. Unfortunately, the result is often a longer and more difficult divorce process with post-decree problems that destroy family relationships and finances.

Even though children increase the complexity of divorce, they are also the single biggest motivation for parents to work together. Therefore, having children is both a risk factor you need to manage as well as an opportunity to find common ground with your spouse. You can reduce conflict and achieve a better outcome for your children if you both prioritize their interests.

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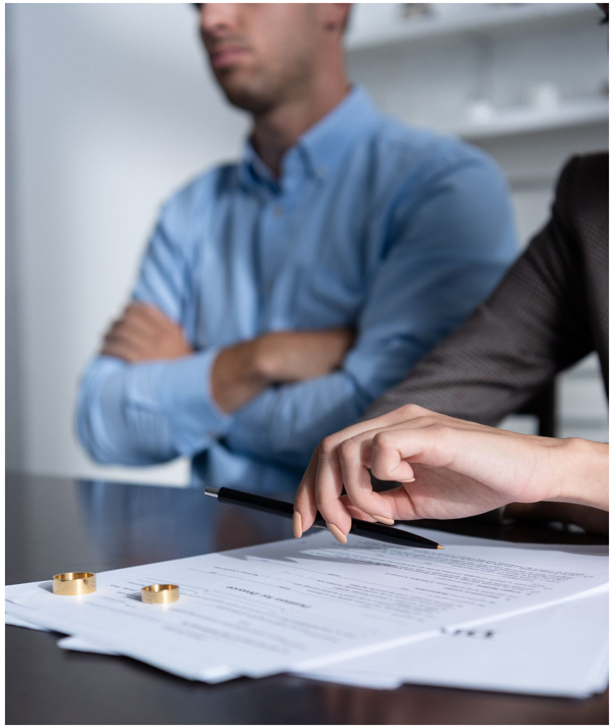
Have you been married 10 or more years?

The longer the marriage, the more complex and emotional the divorce. You are simply more likely to have children and own real estate, retirement plans, joint debt and have other attachments in a long-term relationship. You are also more likely to have higher emotions. Both factors create additional risk of complexity and conflict that can increase the time and cost required to complete your divorce.

The greater the complexity and emotion, the greater the legal and financial risks. Identifying, understanding, and complying with state laws that change based on the length of the marriage creates legal risk. Navigating different pension requirements, social security rules, and tax implications that can also change based on the length of the marriage creates financial risk. These risk factors lead to costly mistakes for couples who try to navigate this process alone.



Did one of you leave a career to raise your family?

The divorce process is far more challenging when one spouse prioritizes raising a family over their career. The resulting income disparity between spouses makes managing child support and spousal maintenance very difficult. Additionally, the transition is harder for the entire family when the "homemaker parent" and the "working parent" shift roles and responsibilities with the kids.

Decisions about parenting time, careers, and maintenance are some of the toughest decisions couples must make. You must balance your child's current and future needs with your current and future income. It will require tradeoffs between what is best and what is financially possible. To get the right outcome for your family, you need a process that breaks down your exact situation into manageable pieces, so the two of you can agree on a plan and move forward with confidence.

Do you own your home?

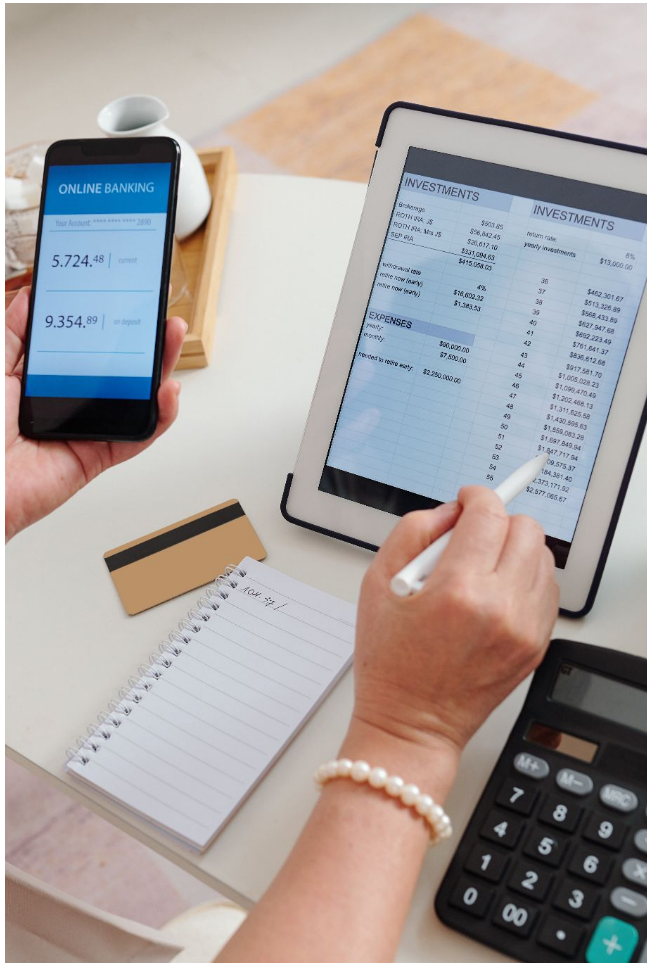
Your home is likely your largest asset and your largest debt making it your largest financial risk during a divorce. Structuring your mortgage improperly can cost you thousands. Not accurately valuing your home can cost you tens of thousands. Trading home equity for other assets unwisely can cost you several hundred thousand. Post-decree issues can cost you thousands more and haunt you forever as some things cannot be undone.

We've gone from negotiating who got stuck with the house to trying to find a way for one spouse to keep the house. The key is creating a housing plan for both spouses that causes the least disruption for the children, has the lowest costs, and retains the greatest shared wealth without trading away one of your financial futures by swapping too much home equity for other assets.

Do you own any other real estate?

Separating non-residential real estate during a divorce creates a lot of problems. Vacant lots, undeveloped land, farms, multi-family, commercial, time-share, fractional interests, and portfolios of residential rentals create. Compared to residential homes, these types of property are much more difficult to value, finance, and sell. Additionally, tax impacts from capital gains and depreciation recapture can greatly reduce the real value of the property.

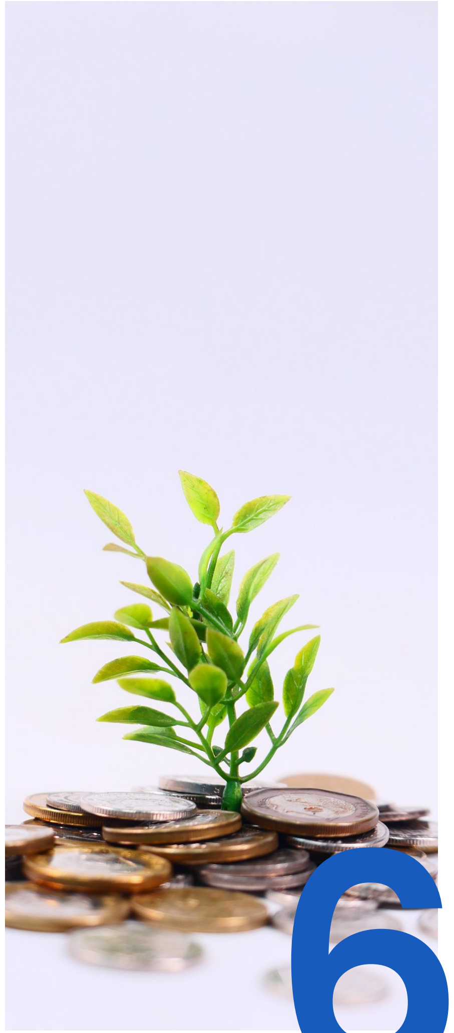
The complexity can severely limit your ability to fairly split the value of these assets. Properties that are difficult to value, finance, and sell with complex tax issues that are often tied to family businesses require lengthy divorce agreements. Crafting these agreements to protect your equity and eliminate any liabilities is difficult, prone to errors, and requires a combination of business and divorce legal, tax, and financial expertise.



Do you have a pension or retirement accounts?

Most divorcing couples make the most mistakes that cost the most money when valuing and dividing retirement and pension accounts. These errors are very common and expensive because of the amount of money at stake and the fact that most couples have multiple accounts each with their own rules and tax implications. Additionally, dividing or changing benefits requires custom documents drafted to match every detail of the plan.

The cost of most mistakes far exceeds the costs of getting help. Because of the significant values involved, small mistakes can cost thousands of dollars. Bigger mistakes can cost hundreds of thousands and even millions of dollars. With their high value, complexity, and need for detailed documents, pension and retirement accounts are an area where couples really need to engage experts and cannot do it on their own.



Are either of you self-employed?

Self-employment greatly increases the complexity and risks from divorce. Small business owners are usually skilled at something other than accounting and do not always complete their financial statements and taxes correctly. This makes accurately calculating self-employed income and valuing a small business difficult and time-consuming. There is also far more opportunity to hide income and assets through a business they control.

Recovering financially from mistakes valuing and separating a business may never be possible. If you are self-employed, a professional business valuation will counter any claims of higher-income by your spouse. If your spouse is self-employed, an audit will identify accounting errors as well as hidden assets and income. These reports also ensure accurate child support, asset division, and spousal maintenance calculations.

Have either of you received an inheritance or large gift?

Several factors determine if your spouse has any legal right to a gift or inheritance. Generally, any asset given specifically to you through gift or inheritance is legally your separate property before, during, and after a marriage. However, state laws, written agreements, when and how you receive a gift or inheritance, as well as what you do with it after you receive it will determine if your spouse has any legal right to the asset or a greater share of other marital assets.

Separate property can become marital property divisible to your spouse in a number of ways. The most common way is by commingling it in an account or taking joint title. Transmutation occurs when marital assets are used to maintain or improve separate property gradually turning them into a marital property. Even your spouse's time and expertise managing an asset can turn it into marital property.

Are there any imbalances of power between you?

Imbalances of power create risks for both spouses during the divorce process and must be addressed. An imbalance of power in divorce is any factor that gives one spouse an advantage over the other that could intentionally and unintentionally result in an unfair outcome. They include differences in education, knowledge, and information about law, finances, and negotiation as well as emotional issues surrounding guilt, fear, and levels of personal support.

Both spouses benefit from a level playing field. Obviously, you don't want to be at a disadvantage. Less obvious is the benefit to you when you are the one with a power advantage where you can avoid the worst-case scenario of an expensive and lengthy court battle because your spouse doesn’t see that as their only fair option. Out-of-court alternative dispute resolution methods like mediation and collaboration lead to far better outcomes for both of you and your children.

Do you or your spouse have a history of depression, PTSD, or any substance, physical, or emotional abuse?

The safety of your entire family comes first. Any mental health crisis or abuse is harmful to your family and detrimental to the divorce process. Contact law enforcement in any emergency to protect yourself, your children, and even your spouse. Then seek professional help for restraining orders, supervised visitation, and controlled communication as well as mental health assistance to support your family.

Mental health and abuse affect every aspect of divorce. Poor mental health, intoxication, and coercion inhibit good decision-making and lead to undesirable outcomes. Legally, agreements made under the influence or under duress are unenforceable. Financially, abuse changes child custody, child support, asset division and spousal maintenance payments. Emotionally, the entire family requires specialized support to deal with abuse.

About DDP

Denver Divorce Pros are an advisory firm that that helps clients make informed decisions during their divorce. We are not a law form, instead, we are a financial consulting firm that provides a complete divorce management solution as an alternative to the traditional litigated approach.

Our **Financial Separation Plan™** provides a proven path forward for couples working together cooperatively as well as individuals dealing with an adversarial spouse.

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