

Tile 1- INTRODUCTION

Hello! So your reading this because you are thinking about getting a Divorce or separating from a significant other and you are looking for options...answers....what to do next...am I right?

After practicing family law for almost a decade now and I have seen everything from amicable divorces where I think WOW..they get along so well I can't believe they are getting divorced all the way to divorces that are years in the making and everything all the way down to the forks and knives are hotly debated.

My main goal is to help you navigate the bumpy and sometimes confusing waters of the legal system. I put together this ebook to help answer some questions that are running through your head in the middle of the night! If you have more questions, check out my podcast *Lawful Insight* on the website at Moralespadialaw.com or watch it on YouTube at *Lawful Insight*.

Tile 2 - What is the end goal? To know where we end we have to know where to start.

- a. Whether you are considering a divorce or separating from a loved one IT WILL BE DIFFICULT! Especially if there are children involved. Even if there are not this may be a person that you spent years if not decades with. It will be hard to split everything down to the furniture, but if you can maintain a good working relationship with your spouse you can accomplish a lot with out the need for an attorney. I can't reiterate enough- IF YOU CAN AGREE TO THE SPECIFIC TERMS OF YOUR DIVORCE YOU CAN DO ALMOST ANYTHING!
- b. **Contested or Uncontested-** You may think you know the answer to this, and it could change over the time it takes for the divorce to be final, but its always good to have a starting point and any attorney you call will likely ask "Is it going to be contested or uncontested?" This means are you agreeing on how everything will be divided? Who gets what? If there are kids, are you agreeing to who is taking the kids and who is paying child support? If not, it's likely contested.
- c. While a spouse who doesn't want a divorce cant make it NOT happen it can slow down the process. You and your spouse will need to decide if the divorce is uncontested- meaning you agree to all terms of the divorce. If its contested that means you don't agree to the terms either regarding the children or how to split the assets or the debt.
- d. **Hire attorney or do it myself?** This is the question of the hour...it depends on a couple things: 1. How comfortable you feel about doing it your self and doing it correctly and 2. Are you allowed to represent yourself pro se given the nature of the divorce and assets. The reason I say that with regards to number 2 is that sometimes depending on the county the staff attorney or legal office that handles the pro se application only allows such if its minimal assets and uncontested. Make sure you check your specific county.

Tile 3- The Basics

What is community property?

- a. Texas is a community property state! This means ANYTHING that has been acquired during the marriage (assets and debt) is generally split 50/50 regardless of whose name is on it.

Children

- b. In Texas we don't use the word "custody" it's called "conservatorship" but encompasses the same stuff. All things being equal both parents are presumed to be in the best interest of the child and will be "Joint managing conservators." Which is a fancy term for saying you get to be in on the decision making for the child. However, one parent will be "primary." The only benefit to being primary is that parent designates the child's residence and most of the time that means what school they attend.
- c. Visitation- again in Texas we call it "possession and access." Texas likes to use its own lingo! Again, I'll reiterate, as long as you agree, you can do whatever you want with visitation. If you cannot agree, then the non-primary parent will generally get a standard possession order.

Assets

How will our assets and debts be divided? Texas is a community property state. That means that everything that was acquired during the marriage, assets or debts, regardless of who name is on it is community property and subject to being split 50/50. This includes credit cards, loans, real and personal property, stocks, bonds, retirement...

Tile 4- How long will a divorce take?

While there is no set timeline- once the Petition for Divorce is filed with the Court Texas mandates a 60 day waiting period. So anytime after the 61st day legally you can get a divorce. However, every case is different. I have seen divorce cases finalize on day 61 or take over a year and a half. Talking to an attorney about your specific situation can give some guidance.

Tile 5 - THINGS TO REMEMBER

Consult an attorney- most attorneys offer free consultations to discuss the specifics of your case. It might be worth it to chat with an attorney and get an idea of the issues and the costs associated with your case to help you make an informed decision.

Ending Checklist:

name change

transferring deeds and or titles

update beneficiaries

update wills

dividing the retirement benefits

child support wage withholding order