

SETTLEMENT POINTS FOR DISSOLUTION OF MARRIAGE

There are many issues to resolve in order to finalize a divorce. This letter will provide you with an initial checklist of items for planning purposes. Please remember that every situation is different, and you will want to talk with the attorney in detail as to how your particular case should be handled. The main purpose of this list is to help you determine whether you and your spouse can reach agreement on most issues without the need for court intervention.

The initial checklist is as follows:

1. Make sure that there has been a final decision to seek a divorce. Always consider counseling.
2. If children are involved, who will have custody? The law presumes that the parties will share joint legal custody, which involves the rights of each parent to participate in major decisions involving the child, such as religion, schooling, and medical issues. Joint legal custody is frequently granted by the Court, and in fact is presumed by the Minnesota Statutes. You should also think about physical custody, which pertains to where the child resides. Physical custody is what most people understand as "custody" of the child or children.
3. Again, if there are children, you should think about how time is to be divided among the parents. In the past, we used to refer to this as establishing a visitation schedule. Now, the courts refer to the scheduling detail as a "parenting plan" and often the plan will be very detailed to include regular visitation, holiday time, vacations, special days like birthdays, etc.
4. Child support, if applicable, should be determined. Effective January 2007, Minnesota adopted an Income Shares approach to setting child support. If you can estimate the gross income of each parent, and approximately how much time each parent will have with the child or children, you can insert a few additional details and determine likely child support using the online Child Support Calculator on the Minnesota Department of Human Services website.
 - 4A. You should allocate the right to claim tax exemptions for the children during future years.
 - 4B. If the children are young, there may be an expense for ongoing daycare. Generally, responsibility for daycare is based upon the proportionate gross income of each party, adjusted by a few other factors such as the ability of one party to receive tax credits associated with the daycare cost. This can also be run on the online Calculator.
5. You must make provisions for health insurance for any minor child, including which party is responsible for the insurance and how the parties will divide

uninsured/unreimbursed medical and dental costs. Normally, the parties will share these unreimbursed expenses on a 50-50 basis, or in proportion to their income. Again, the online Child Support Calculator can help run these numbers.

6. Generally, you should think about a life insurance policy to be paid in the event of the death of the parent who owes child support. This is basically insurance against the loss of the child support due to death.

7. Make sure there are provisions for each spouse to have their own health insurance following the divorce. Usually, each spouse has continuation benefits under any group health carrier providing insurance prior to the divorce. However, once the divorce is final, a monthly charge may apply.

8. You should determine whether either spouse will receive spousal maintenance (also known as alimony). Many times the spouses will waive the spousal maintenance claim from the other.

9. If you own real estate, you should plan for the disposition of the real estate, meaning sale or determining who will receive ownership. Generally speaking, the Court will not allow the parties to maintain joint ownership of the real estate following the divorce, and such joint ownership is not recommended. You will also want to make some provision for responsibility for mortgage, taxes, insurance, second mortgages or home improvement loans, and the possibility of one spouse having a lien on the home as collateral for future payments of equity.

10. You will need to make some provisions regarding division of pensions, 401K plans, or other employment benefits of the parties. Generally, if those benefits are accrued during the marriage, those benefits are to be split as part of the divorce.

11. You should divide any investment assets or savings, including IRA's, CD's, stocks, and bonds.

12. You should figure out a division of personal property, including household goods and furnishings, and automobiles. Normally, you should consider the debt relating to any item, such as a debt still owed on a vehicle. For example, if a car is worth \$10,000.00 and is subject to a loan of \$4,000.00, then the net value of the car is \$6,000.00.

13. Sometimes the parties will have non-marital property, which includes items a party owned prior to the marriage, and items or funds received through inheritance to one spouse but not to the other. You should try to deal with these items, and they are normally awarded solely to the person who has the non-marital claim.

14. You will need to dispose of all debts, by determining who is responsible for the payment of each debt.

15. You should determine who will be responsible for attorney's fees incurred in the divorce. Unless otherwise stated, each party will be responsible to pay fees for their own attorney.

16. If either party requests a name change, we will want to include that in the divorce paperwork.

Information provided courtesy of
Douglas P. Radunz, Attorney at Law
2410 Centre Village . 431 South Seventh Street . Minneapolis, Minnesota 55415
612.337.5353 . fax 612.337.5472 . www.radunzlaw.com. radunzlaw@gmail.com

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