

Five Classic Pop Songs that Contain Advice for Getting Separated

BY BRIAN C. VERTZ

Making the decision to split up is the start of a transition that may cause fear at first, but it can lead to greater independence, freedom, security, and emotional well-being. Marital separation can provide the space and opportunity you may need for personal growth. Having an optimistic outlook can help.

When you are adjusting to a change in your life, your favorite music can provide comfort, inspiration, and maybe little nuggets of wisdom. These classic pop songs are not worthy substitutes for the advice of a good friend or your family lawyer. Still, they may contain some helpful thoughts to consider when you're planning for marital separation.

Fleetwood Mac said, "You can go your own way."

One of the first choices you might make is whether or not to physically separate. In most states you can become separated in the eyes of the law without actually moving out. There may be advantages in living together during the legal process while pooling your financial resources and sharing time with the kids. On the other hand, living together may be stressful—or risky if spousal conflict escalates to domestic violence. Think twice about staying together just for the children's sake, as high levels of conflict between parents can be damaging to children.

If you decide to get physically separated, you could move out or ask your spouse to leave. In cases of domestic violence, the court can evict the abuser and issue protective orders to prevent contact at home, work, and school. Even when domestic violence is absent, family courts may have the power to remove a spouse from the family residence. Ask your divorce lawyer if legal grounds exist and how long the process may take.

When getting separated, spouses must promptly face the immediate concerns: how to meet household expenses during the divorce process and how to share parenting time. Generally, the spouse who has greater income must pay spousal support or maintenance to the lesser-earning spouse, at least until the divorce process is concluded. The parent who has less parenting time must pay child support to the parent who has more time. (If the parenting time is equal, then the parent who has greater income may have to pay child support to the lesser-earning parent.) Support obligations might create a temporary cash flow problem for the payor. Trying to predict how child support and spousal support interact with each other may be complicated, depending upon the factual circumstances and laws of the state where you reside. A trusted family lawyer can perform calculations and present options to you when you are making decisions about whether to move out or stay in the family residence. Knowledge is power: when you know how much income you will have during the divorce process, you can better manage your expenses.

The spouse who stays in the family residence is generally responsible for paying



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its expenses during the separation period. These expenses will include the mortgage, real estate taxes, insurance, utilities, and maintenance. If you decide to move out, you'll have more flexibility to rent or purchase a home that fits your budget. It is natural to feel emotional about the family home, but try to make a logical choice. Continuity might be beneficial for the children, but other factors come into play. Can you afford to run a separate household with the financial contribution or support obligation you will have? Does your intended residence lend itself to commuting to work and getting kids to their schools and activities? Is it close to extended family and friends who might help? Will home maintenance distract you from spending quality time with the children or upset the budget? Perhaps keeping the family home is not the best option—or maybe it's worth fighting for.

If you have children, consider how you will share parenting time. If you want a shared custody arrangement, then both parents should reside in the same school district. Living in the same neighborhood will make it easier to exchange custody and participate in the children's daily lives. If you are planning to move away, you might need permission from the family court to take the children with you.

Speak with a licensed therapist about how to break the news to the kids. The ABA Family Law Section publishes some informative materials to help divorcing parents, including *Working with Your Lawyer: A Client Manual* (Family Advocate, Vol. 40, No. 1); *A Handbook for Clients: Visitation/Parenting Time* (Family Advocate, Vol. 38, No. 1); and *Your Blended Family: A Guide for Parents and Stepparents* (Family Advocate, Vol. 36, No. 1). Also, the American Academy of Matrimonial Lawyers publishes *What Should We Tell the Children?* and other handbooks, as well as videos.

The Steve Miller Band said, "Go on, take the money and run."

Getting separated may be the right opportunity to establish your financial independence. You might begin by opening a separate bank account where you can deposit your earnings—after consulting your family lawyer. Since separation is the dividing line between "what's ours" and "what's mine," you might want to keep your own earnings apart from the property that may be divided in a divorce. Review automated bill payments and decide who should be responsible for them after separation.

Gather your financial records and make copies of your tax returns, pay stubs, and monthly statements from retirement accounts, bank accounts, investments, and credit cards. Keep your copies in a secure place. Review your statements closely to ensure that no unexpected withdrawals or charges have been made. If you discover unauthorized transactions, you might want to get an injunction or freeze order from the family court to restore the funds that were misappropriated or stop your spouse from running up debt.

If you can access your spouse's records legally, make copies of them too. You can obtain information from your spouse through a legal process known as "discovery," but it is faster and cheaper to make the copies yourself if you can. Run a free credit report to learn what you need to know about joint and individual debts. If you keep your records complete and organized, you will have an advantage in the divorce process and save legal fees.

If you are running a business or professional practice, you may have to share the records with your spouse or a forensic accountant. Ask for a confidentiality order to prevent the business records from being shared with strangers. Do not alter or destroy electronic or paper records that might be used as evidence in court; doing so may destroy your credibility in court, and it may be a crime.

Sheryl Crow said, "A change would do you good."

Making your own choices feels good. When you get separated, you can make your own decisions with the advice of your divorce lawyer and true friends. If you want to keep your discussions confidential, you must update the passwords for your email accounts, electronic devices, and social media. Today, most family lawyers reach their clients through email. Sharing a laptop or mobile phone plan with your estranged spouse could create a risk that confidential information might leak out. Get your own devices and protect them with strong passwords.

In the Internet age, the security of your personal and financial information is more important than ever. Trust may be a casualty of divorce, so protect your privacy. Do not post information on social media that might be used against you in court. You cannot delete your Facebook or Match.com accounts (which might be viewed as destroying evidence), but you can set your social media profiles to private or hidden mode.

If you were hospitalized, you might not want your spouse making your medical and financial decisions. Visit an estate planning lawyer to update your will, power of attorney, and guardianship papers. After consulting your lawyer, you might be able to change the beneficiaries of life insurance and retirement plans.

The Beatles said, "'Cause I'm the tax man."

Sweeping changes to the federal tax code have made this a hot topic for divorcing spouses. Consult your tax preparer to learn the pros and cons of filing joint tax returns with your spouse. When filing jointly, each spouse is responsible for the truth of the joint return and may be held individually liable for the entire tax due. On the other hand, couples who file jointly are in lower tax brackets than those who file separately, except for heads of households. Still, filing separately may be necessary if your spouse is hiding income from the IRS or inflating tax deductions. In some cases, you might qualify for innocent spouse relief, which provides a way to insulate yourself from your spouse's misdeeds.

If you have children, you must decide which parent will get the tax benefits. Under the new tax law, the child tax credit has been doubled, and qualifying for head of household status has become more important than ever, as dependency exemptions have been reduced to zero. A parent who is separated may file as a head of household, but only if the parents are divorced or physically separated before July 1, the child lives under the parent's roof for more than half the time, the parent furnishes at least half the cost of running the household, and the child is a qualifying dependent.

Tax strategy is more than an afterthought for people facing a marital separation and divorce. Money and property can be wasted when tax issues are not given attention from the start.

The Beatles also said, "I get by with a little help from my friends."

While working through the divorce process, you must take care of yourself. Negative thoughts may lead to destructive behaviors if you don't cope with them. To get by, you need reliable allies who can listen patiently, without judgment, when you need to vent. It might be a close friend, family member, clergyman, or counselor who will provide comfort and advice when you're feeling down.

Think about how you will react when family members and friends ask about your domestic life. There are graceful ways of deflecting questions until you are ready to go public. You don't have to tell everyone at work until you are comfortable. You don't have to drown yourself in work or child-rearing; try to maintain a well-balanced

lifestyle. Consider productive outlets for your energy, like exercise, sports, music, and the creative arts. Dream about how you would like to make positive changes in your life.

Marital separation is a stepping stone on the path to divorce, so take the step when you are emotionally and financially ready. Separation marks the line between separate property and marital or community property that may be divided in a divorce. It may be the start of a waiting period to finalize a divorce, and it might be a milestone for assigning values to marital property. Consult a divorce lawyer to find out how separation is defined in your state. Your divorce lawyer can develop a legal strategy that is right for you. **FA**

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