

How Do You Know You Are Ready for Divorce?

BY KAREN M. PLATT

The divorce process can be stressful, even if you know you want to end your marriage. Meetings with your attorney, court appearances, mediation sessions, assembling and reviewing financial records, talking with your children, and meeting with court-appointed mental health professionals can be both time-consuming and emotionally draining. It's important to know that you are ready to undertake this challenging process, and there are many different factors to consider in determining if this is the right time.

This article raises some of the issues that you might want to consider in determining if the time is right for you to file for divorce—assuming that you have the ability to make that decision for yourself. Sometimes, your spouse files first (in which case, the items below will give you some things to consider to best prepare yourself for what is ahead), and other times, particularly where you or a child are enduring abuse, you don't have the ability to wait it out until the "right" time.

Psychological Readiness

Having a solid support system can make the divorce process much more manageable.

• *Identify Friends and Family*

Friends and family members who know you and know your family's situation can be a great source of support and comfort. Can you identify such supporters in your life? It might be helpful to talk to one or two close friends or family members before committing to divorce. Whether or not you have that system in place, you may want help from others going through the same process. There might be a divorce support group available in your community; a little Internet research should help you find out.

• *Find A Therapist*

One significant source of comfort and support can be a therapist. If you are not in therapy, consider whether you should start before you file for divorce so that you have someone with whom you are already comfortable sharing the emotional challenges you will be confronting. If you are in therapy, do you have a good rapport with the therapist, and do you believe that she or he is helping you? If your relationship with your therapist is not as good as you want it to be, maybe it's time to consider a move.

• *Who Might Not Be a Help?*

Just as important as identifying your support system is identifying the people who might add more stress to your life by questioning your decision to divorce or giving you unsolicited or unwelcome advice. Keep in mind that every family is different, and every divorce is different. There is no "one size fits all" outcome to the complex financial and custody issues that arise when a couple separates. Remember that a friend's situation was not exactly the same as yours, and the result in his or her divorce will not be the same result you will reach. Are you prepared to shut out the "advice" from those who mean well but who may be making the process more overwhelming for you?



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- ***New Job or Other Life Event on the Horizon?***

When considering your psychological readiness, determine if there are significant life events that you or your spouse may be encountering that may complicate the process for either or both of you. Is one of you experiencing a job change or the recent loss of a parent? These challenges can interfere with a party's ability to focus on the divorce process or may cloud one's judgment.

- ***Is Your Child Particularly Vulnerable?***

Remember that you and your spouse are not the only people impacted by the divorce. While there is no "right" time to divorce from a parenting perspective, consider whether your children are in a vulnerable place emotionally such that the divorce may be particularly disruptive for them. Maybe your child just changed schools and is having a hard time adjusting, maybe a dear friend just moved out of town. Or perhaps filing for divorce just as a child is applying to college will add unwanted stress for that child. Because there is no good time for children to manage these issues, consider whether you are prepared to manage the psychological impact of the divorce on your children and remember that just as you need a support system, so do your children.

Financial Readiness

One of the first things you will be asked about by an attorney is your family's financial situation.

- ***Know Your Financial Situation***

Attorneys want to (and need to) know what your assets and liabilities are—your bank accounts, retirement plans, real estate holdings, mortgages, credit card or other debt, and so on. Attorneys also need to know what your monthly expenses are. Before you start the process of divorce, you should determine if you have access to this information. You may not have everything, but knowing which banks you and your spouse use is important, as is having a sense of your monthly expenses. Having access to tax returns can be extremely helpful as well. If you don't have this information yet, you may want to wait until you are able to get it.

- ***Two Cannot Live as Cheaply as One***

Remember that running two separate households always costs more than running one. Once you and your spouse separate, your family income will now have to stretch further, particularly to cover your housing expenses. This is a good time to take stock of where you are financially before you move forward. Are you working? If not, would it be better if you did have a job so that you have financial independence? If you are employed, is your job secure, or is there a risk of a layoff? Looking for work and going through a divorce at the same time can be very difficult. This is especially true if you have been out of the workforce for a while, and even more so if returning to work means setting up a new childcare routine. Having that routine in place for a while before you separate may make the transition easier.

- ***Finish Your Degree First?***

Similarly, if you are in school, would it be better to finish your degree before separating? It might be at least helpful to have a sense of your job prospects and potential income before starting the divorce process, as these may impact your support going forward. If you aren't in school but your spouse is, it might be good to wait until your spouse finishes, as his or her income—or income potential—may change significantly based on earning that degree.

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- ***Big Expense on the Horizon?***

Something else to consider in terms of when to start the divorce process is the timing for payment of significant expenses. Are annual or semi-annual payments such as tuition or life insurance premiums about to come due? Does the house need a new roof or a new furnace? Is the mortgage interest rate going to reset soon, requiring a refinance? Does the family car need significant repairs—or replacement? Dealing with these issues during the conflict associated with a divorce can be particularly stressful because financial decisions that you and your spouse once made together, to the mutual benefit or detriment of the family, will impact each of you differently once you are divorcing.

- ***Is Your Housing Situation Changing?***

Consider if your housing situation is in flux. If your lease is ending soon, maybe it's a good time for you and your spouse to separate. Have you listed your home for sale? Are you and your spouse shopping for a new home? Before you make a significant financial decision like investing in a new home, you may want to talk with a lawyer about the impact of such a decision. Relatedly, some employees receive significant bonuses at certain times of the year; different states treat those bonuses differently, so you may want to talk to an attorney as to how this may influence timing.

- ***Will You Have Access to Funds?***

You may want to consider as well whether you have access to funds sufficient to pay your expenses for a few months. Although most states don't allow it, some litigants cut off a spouse's access to bank accounts and credit cards upon a divorce filing. While your attorney may file an application or motion in court for interim support, it may take a few months for a judge to decide such a motion. It is helpful to have access to some money of your own or know if there are friends or family members to whom you can turn.

- ***How Close Is Retirement?***

One more financial consideration is how close you and your spouse are to retirement. A party's retirement income is likely to be significantly less. That reduced income can mean reduced support for the other spouse, so filing well in advance of a spouse's retirement can be beneficial to a nonworking or lower-earning spouse.

If you and your spouse have been married for at least ten years, then when you claim your Social Security benefits, you are entitled to claim based on either your own employment record or that of your former spouse. For that reason, staying married for at least ten years may have financial benefits down the road, and if you are near that mark, it may be worth waiting.

Less common, but still important, are issues around business ownership. Are you or your spouse starting a new business? If you are the business owner, you may want to start a divorce action before you start the business. If you are the non-titled spouse, you may want to wait until the business is up and running and potentially has some value.

It is important to be aware, though, that, while you may want to take these financial issues into consideration in deciding whether the time is right to start the divorce process, some states impose a fiduciary duty on married parties, meaning that you have an obligation to consider what is best for both yourself and your spouse as you make financial decisions during your marriage. If you take steps that benefit you alone, a court may find that you engaged in "divorce planning" and that such planning is contrary to your spouse's best interests.

Medical Issues

Before starting the divorce process, it's important to take stock of your family's physical health.

- ***How's Your and Your Spouse's Health?***

Are you personally confronting any health issues? Do you have health issues that you know flare up under stress? If so, are these issues that you can manage on your own, or do you need another adult to help you while you are treating them? Keep in mind the physical and psychological effects of any health issues, the corresponding treatment, and how those may impact your ability to participate in the divorce process and cope with the changes in your life related to the separation.

Is your spouse in good health, or are there medical issues that might impact his or her ability to participate in the divorce process and become independent? For either of you, are the medical issues ones that impact your employability such that you may be more dependent on the other financially?

- ***Can You Both Attend to Your Child's Health Needs?***

Consider any medical issues that a child may have and whether those medical issues may require your time and attention or your spouse's, and whether these may distract you from the divorce process. Also, are a child's medical issues ones that you and your spouse are both capable of managing? In most divorced families, children spend overnight time with each parent. Whether it's asthma, food allergies, or a physical disability, you and your spouse will both need to be able to meet your child's medical needs. Are you both able to do so?

Health Insurance

Health insurance, as you know, can be expensive.

- ***What Plans Are Available to You?***

Once you are divorced, you can no longer be covered under a spouse's employer-sponsored health insurance plan. A federal law known by the acronym "COBRA" requires most employer-sponsored plans to allow you to keep the same coverage for thirty-six months—except that you will now have to pay the full cost of the premiums. (This is different from COBRA coverage after you leave a job, which is available for only eighteen months). COBRA can be very costly.

With that in mind, consider whether you have good health insurance in place before you file and whether you will be able to continue that coverage once you divorce.

Geographical Considerations

Some couples settle in one community and never move. Others move around many times during their marriage, whether due to job relocations, service in the military, or other considerations.

- ***Will You, or Do You Want to, Relocate?***

If your family has been mobile, are you anticipating a relocation soon? If so, do you want to stay where you are? Or do you want the ability to move somewhere other than where your family is being relocated? If you have children living at home, it may be difficult to relocate as part of the divorce process or after your divorce is finalized, so give consideration to where you want to be living long term with your family before filing for divorce.

- ***Consider the Custody Laws of Each State***

Additionally, financial and custody-related issues in divorce are covered by state, not federal, law. The laws of the state where you live may work better or worse for you than the laws of the state to which you might be moving.

Have You Exhausted Other Options?

Before you start the divorce process, you might want to see if there is a way to save your marriage.

- ***Might You Be Able to Save Your Marriage?***

Have you and your spouse discussed trying couple's therapy? Is it possible that one or both of you would benefit from individual therapy? If you are concerned about your financial security, can you address those concerns through a post-nuptial agreement? Would doing so give you the comfort you need to stay in the marriage?

- ***Legal Separation Is Also an Option***

A legal divorce isn't for everyone. Some couples choose to live separate from one another, but stay married. The main factors that prompt couples to follow this path are the ability to file joint income tax returns and the continuation of health insurance coverage.

Conclusion

To be sure, there are some circumstances where you can't wait to divorce, but when you can, the issues raised above should give you some things to consider in deciding if the time is right for you. **FA**

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