

After litigating over 2,000 divorces, we found these items often get missed in divorce decrees.

If you are going through a divorce, keep this checklist handy. And, don't forget to ask your divorce lawyer to include these items.

This PDF can save you tons of time, money, and sleepless nights once your divorce is final:

Days and Times for Custody Exchanges

To avoid confusion, missed days with your children, and potentially additional litigation with your ex, ensure your divorce decree is specific regarding custody exchange days and times. For example, if you have agreed with your ex to do a week on/week off visitation, make sure you say what day and time you will be exchanging the kids.

Writing something like "exchanges will be every other week after school" could confuse you, your ex, and your children. Instead, be specific. Write something like, "We agree to do a week on/week off with exchanges occurring every Friday at 5 pm."

Adding the day and the time to an exchange is not only required to get the judge to sign your decree; it will save you confusion and headaches in the future.

Minor Child Tax Deduction

Most divorces with children include a provision for "who will claim the kids on their taxes each year."

But, many DIY divorce kits do not have this information.

This lapse often creates extensive post-divorce litigation. It can also land you in hot water with the IRS if both of you try to claim the kids.

TIP: Before you get divorced, determine who will claim the kids for tax purposes. If you have joint custody, the tax deduction will usually get split.

This could mean alternating the child every other year if you only have one child. If you have two children, each of you can claim a child.

There is no one-size-fits-all solution to the tax deduction. It is best to talk to a tax professional before you decide so that you and your ex can maximize your returns.

QDRO Cost

You've figured out how the retirement accounts are getting divided. But did you know that you still need another document once your divorce gets finalized?

If you are splitting a pension, 401(k), or another retirement account with the ex, your retirement plan administrator will require you to get a [Qualified Domestic Relations Order \(QDRO\)](#) to divide the account.

A QDRO is an order signed by the judge after your divorce is complete. The decree tells your retirement plan how to divide up the account.

QDROs are generally pretty complicated. The language contained in a QDRO is usually particular to each plan. As a result, there is a good chance your divorce lawyer will not prepare the QDRO or refer you to a QDRO specialist.

A QDRO specialist can charge \$300 to \$1000 depending on the complexity of the QDRO plan itself and the number of accounts.

You might be thinking, "I just paid a bucket ton of money to my divorce lawyer, and now I need to pay more money to a QDRO specialist before I get my share of my ex's retirement???" The answer is YES!

To get your share, you need a QDRO, which costs money.

TIP: Before you sign the divorce decree, it is best to determine who will pay the QDRO costs. Again, there is no rule or law for who pays the costs, so it is best to work it out before the divorce gets finalized. You can split the costs, ask your ex to pay it, or pay the fee yourself.

Specify What Happens To Investment Money Between the Divorce and Division of Accounts

In any divorce, there will inevitably be a delay between the time the divorce is final and the time you get your QDRO done, and the funds get split.

So what happens if you invest in a stock at \$5 before divorce, but after divorce, the stock is worth \$500?

In most jurisdictions, you still have to share the gains on the stock even if your divorce is final, but the funds have not yet been divided, or no QDRO is done.

To protect your investments, you should specify in your decree that any gains on investments that occur after the divorce decree will not get split with your ex. If you don't specify this, and there is a lengthy delay in dividing the accounts, you may be giving your ex more money than anticipated.

Taxes

Make sure you keep a provision in your divorce decree about handling the previous year's tax filings. For example, what happens if you were married in 2010 and divorced in 2022 and get audited by the IRS for 2015 taxes? Who will be responsible for any money owed - you? Your ex? Or both of you? What happens if your ex does not participate or you find out your ex committed tax fraud during the marriage?

To protect yourself from these issues, include language in your divorce decree that saves you some time and money if the IRS comes knocking on your door.

If you don't specifically tell your divorce judge you want them to decide these issues; if they come up, you may need to file another lawsuit and spend more time and money dealing with your ex.

Likewise, you will want to include a hold harmless provision in your divorce decree that protects you from any of your ex's bad conduct during the marriage.

Car Insurance

Car insurance is one of the most forgotten items in divorce cases.

Most people pay their car insurance months or even years ahead. When they get divorced, there may be a big refund due to changing your car insurance. Or your insurance may automatically cancel upon divorce.

It is best to check with your auto insurance agent regarding any coverage changes.

Further, make sure your divorce decree specifies when the insurance will be separated and who will get any refund from the policy change.

Health Insurance

Getting divorced is usually a "change event" that will trigger a change in your health insurance. If you get coverage on your spouse's health insurance plan, you will probably need to look for your own coverage once the divorce is final.

You might be able to maintain insurance through your spouse by electing to be covered under COBRA. However, COBRA coverage is often costly and only available for a short time once your divorce is final.

Another option may be to obtain coverage through your employer. Again, getting divorced is usually considered a "change event," and you likely will not need to wait for an enrollment period to get insurance through your employer when you get divorced.

If your employer doesn't offer health insurance, you may need to find a private policy. Sometimes these can be expensive. Before you sign your divorce decree, you should consider how much health insurance may cost you, and if it is too costly, you may need to consider asking for alimony.

Life Insurance

It is not unusual that anything with a cash value gets divided and sold in a divorce. If your life insurance policies have a cash value and were ordered to cash them in, you should speak to a tax professional

about any tax consequences. You may also consider obtaining new policies and creating an estate plan to ensure your loved ones are taken care of.

If you kept any life insurance policies, consider changing your beneficiaries. While you may not have been able to change beneficiaries during the divorce, you can identify anyone you want to be the beneficiary, including your ex, once the divorce is complete.

Split Your Cell Phone

In most divorce cases, you cannot change even basic things like your cell phone plan until the divorce is final. When finalizing your divorce decree, if you want to keep your number, include language that your cell number is yours. It would help to consider any penalties you may face for changing plans or providers. Determine who will be responsible for the costs if you break your contract with the cell company or change your cell phone plan.

Statutory Notices

The Court rejects many Nevada divorce decrees if they do not contain the required statutory notices. This is especially true if your case involves children. In any divorce case with children, each party must get notified of the law regarding relocation, child support, and child support enforcement. Avoid delays in finalizing your case and ensure the proper statutory notices get included in the decree.

Extracurricular Costs For Children

Before you sign your divorce decree, have you considered how you will split your children's extracurricular expenses? If not, you could be setting yourself up for additional litigation in the future. If you want extracurricular costs shared, you need to include that in your divorce decree. Otherwise, if you are receiving child support, chances are you will be using your child support payments to fund your kids' extracurricular expenses.

Private School vs. Public School

Before you sign on the dotted line, consider your children's education. If you get divorced, and your children are in private school, will they continue to attend? Who will pay the costs? And what will happen if your ex decides not to pay? These items should get spelled out in your Decree of Divorce.

If you decide that a private school is no longer an option for your children once your divorce is final, decide early where your children will attend public school. Will you try to enroll your children in a charter school or a magnet school? If so, specify this in your decree. The last thing you want is for your children to be uncertain about their education after their parent's divorce. Have a frank conversation with your ex about where the children will attend school, and the associated costs, before you sign divorce papers to avoid a long, drawn-out fight about your children's education later.

School Uniforms

Similar to extracurricular costs, you need to address school uniforms in your divorce decree to avoid conflict later. Decide if you and your ex will each keep your own sets of school uniforms or will you share uniforms. Also, decide who will pay for uniforms if you share a set. Typically, child support does not include the costs associated with school uniforms, so it is best to address this issue before the divorce decree gets finalized.

Selling the Marital Residence

Divorce is hard enough without additional fights regarding selling the marital residence. Before you sign the divorce decree, make sure you and your ex have agreed on who the realtor will be, the list price, the offering price you will accept, and what you will do if you don't get offers at your expected price. For example, if your house doesn't sell 30 days after listing, will you lower your cost? If so, by how much?

Also, if someone is staying in the house until it sells, include provisions about showing the home. For example, in your divorce decree, you might want to say that the house will be made available for showings on 8 hours' notice. Or you might want to include a provision that the house will be kept in a "showable condition" at all times, and a lockbox will get placed on the home.

It's not easy to get divorced, and selling your home can seem overwhelming. Talk about different provisions for selling your home with your divorce lawyer before the divorce decree. This will save you time and extra fights once the divorce gets finalized.

Parenting Apps

Once you are divorced, the last thing you may want is to have to answer endless texts and calls from your ex about the children. One way to solve this problem is to agree to a parenting app. Whether it is Talking Parents or Our Family Wizard, or another app, you and your ex should agree to any limits on communications and place those in your divorce decree. For example, you may want to say that you will only communicate through the app in the event of an emergency, or you may wish to limit non-emergency communications to once a day or once a week.

Some apps have calendaring features and receipt features. Include whether or not you will use these features in your divorce decree.

Time Limits For Selling Or Refinancing

If you and your ex have agreed to sell a house, car, or other property (or refinance), you must include time limits for doing those things in your decree. For example, will your ex have one year, six months, or ten years to refinance the marital residence and get it out of your name? If you don't specify a time limit in your decree, it is possible that your ex can hold onto the property forever and may never get forced to

refinance or sell it. This could affect your credit and could keep you from being able to obtain a loan in the future. A reasonable time to sell or refinance property in your divorce decree will save you an expensive and perhaps unnecessary fight later.

Be Clear About Timing of Periodic Payments

If you are receiving alimony or child support, you will want to ensure your divorce decree includes a “due by” date. This will avoid arguments in the future about whether alimony is late or child support should be paid by the first of the month.

Likewise, if you are paying alimony or child support, you may want to split your payments into two or even weekly payments. Make sure your divorce decree is clear about the date payment is due and how much you will pay with each payment.

What happens if there is a dispute?

Undoubtedly, going through a divorce is mentally, emotionally, and financially draining. And when it's over, chances are you will not be in a hurry to return to Court. But what do you do if you and your spouse have a massive disagreement about your divorce decree?

You always have the right to return to Court but hiring an attorney means more money, time, and stress. To avoid this, you should consider including a provision in your divorce decree that if you and your ex have a significant disagreement, you will try to mediate it first. Mediation can save you time, money, and the emotional toll of litigation. Mediation offers a confidential and neutral resource for you and your ex to work out your differences.

Another option, if your divorce was extremely high conflict, might be to utilize the services of a parenting coordinator. If your disputes relate to your children, a parenting coordinator is a neutral third party who is certified in high conflict divorce and child custody matters. A parenting coordinator can assist you and your ex in navigating any differences that come up related to the raising of your children. A parenting coordinator can save you time, money, and the emotional toll of being in Court by using mediation.

Who pays the out-of-pocket medical expenses for the children?

In almost every Nevada divorce decree, if you have children, you will be required to include a statement about your kids' health insurance. The law requires that both parents provide health insurance for the children so long as it is “reasonably available through your employer or other means.”

But what happens if insurance is costly? Or if you lose your job? Or if you both have insurance? These items and more need to be considered in your divorce decree.

Your decree should not only include the statement above (which is required); it should specify how health

insurance premiums should get split. Will you and your ex share the premium cost, or will only one parent be responsible? What will you do if you both have insurance for your children? Will those costs be divided, or will each parent pay their own?

Another thing to consider is the priority order for insurance. Will your insurance be primary? Will your ex? And how will you handle the submission of out-of-pocket medical expenses to your insurance companies?

One more thing to consider is what happens when you have more than one child covered by insurance. How will those premium costs be divided? What happens when one of your children is too old to be covered under your insurance? Will your child support be affected?

Answering these questions will save you time and money later if a dispute arises about your children's health insurance.

Paying The Lawyers

Most people don't realize that the lawyers may have the final say about your division of assets if you don't pay for their services. Specifically, a lawyer can put a lien on your assets to ensure their fees get paid. So while you may be expecting a nice sum of money from selling your marital residence after your divorce is final, if you don't pay your lawyers, the lawyers might take the money to pay their bills. We suggest including a provision in your divorce decree about how your lawyers will get paid. Will the money come from the sale of the house? Will your spouse be responsible for paying the fees, and when will payment be received? This will avoid collection action by your attorneys and even more litigation once your divorce is over.

Dividing the Business

If you are dividing a business in your divorce, consider a few things for your divorce decree.

First, if one spouse is receiving their community share interest in the business by periodic payments, you will want to specify how much each payment will be, when it will get paid each month and how long the payments will last. Your decree should also state whether or not the payments are subject to interest. In most cases, the divorce decree should include an amortization schedule showing the amount of each payment and any interest.

Second, if you are paying a lump sum for the ex's interest in the business, you will want to include a provision in your divorce decree about when the payment will be due and how much the payment will be. If payments are getting split into a couple of payments, make sure your divorce decree is clear about the amount and timing of each payment.

Finally, suppose you and your spouse continue to work together in the business. In that case, you should

consider including a provision in your decree that business documents may need to be re-done. For example, you may want a new operating agreement specifying your and your spouse's responsibilities and what will happen if one of you can no longer work in the business. You may also need new articles on incorporation, or you may want to hire a neutral resident agent. Again, these matters should get specified in your divorce decree to avoid fights later.

Be Clear About Your Estate Plan

If you get divorced and have a family trust, your trust will automatically cancel by operation of law. However, you should include a provision in your decree that clarifies that the trust no longer exists.

Likewise, you should also include a provision in your decree that you are now free to change your beneficiaries and make your own estate plans separate and independent of each other.

You should probably have it updated to reflect your new status as a single, unmarried person if you have an estate plan. These items should get discussed with your divorce lawyer and a qualified estate planning attorney.

What happens if you discover a new bank account or your ex left out a car from the divorce decree? In Nevada, the law requires that if you have purposefully left out an asset from your decree of divorce, your ex may be entitled to 100% of that asset. We always caution our clients that "omitting" an asset can have dire consequences. This is why it is essential to include EVERY asset you have, even if you believe the asset is separate property. You will avoid post-decree litigation about an asset that your ex claims you "purposefully left out" of the decree. Most divorce decrees have a provision that your ex is entitled to 100% of the asset you left out, but they may also be entitled to recover their attorney's fees and costs from you if they have to file something with the Court to pursue this asset. If you are curious about omitted assets and how they work, you should discuss this with your attorney.

Closing Bank Accounts and Credit Cards

If you and your ex have already divided your bank accounts and determined who will pay certain credit cards, you need to be clear in your divorce decree about who is responsible for what. Ensure your bank accounts get specified by the institution's name, the type of account, and the last four digits of the account number. For example, "Sally will receive the Bank of Smith Checking Account, last four 1234, with an approximate balance of \$10 as her sole and separate property."

Your divorce decree should also include two key provisions in your divorce decree if you are closing accounts:

(1) make sure your divorce decree includes a provision that the account will be closed within a certain period upon the entry of the decree (for example, "the Bank of Smith account ending 1234 will be closed no later than five days after the entry of a decree of divorce"); and

(2) include a provision that neither party is to disrupt the accounts pending the final entry of the decree.

This means neither party will go charge up credits cards or withdraw money from the bank accounts while you are waiting for the judge to sign off on the divorce.

Pet Provisions

We have litigated many cases where the only thing holding up the divorce was who would get the dog. Litigating custody of a dog can be more time-consuming and costly than litigating the divorce itself. If you and your ex have pets, your divorce decree should include a provision for who will receive the pets once the divorce is final. If there are vet bills associated with the pet, your decree might also state that whoever gets the pets is responsible for making sure the bills get paid.

We're Ready to Help You

Call us today at (702) 433-2889 to set a time to speak to one of our legal team members. We're ready to help!