

SEPARATION AGREEMENT CHECKLIST

1. Full name of Husband (First, middle initial, last)
2. Full name of Wife (First, middle initial, last)
3. County and City/Town and State where Husband resides
4. County and City/Town and State where Wife resides
5. Date of Marriage
6. Place of marriage (city, county, state)
7. Date of Separation. This means the date when one spouse moved out of the former marital residence.
8. Full names and dates of birth of all children born (or adopted) during this marriage
9. Full address where Husband currently resides
10. Full address where Wife currently resides
11. Full address of what was the former marital home
12. Equity in the marital home. This is the current value of the home minus any/all mortgages, liens, lines of credit, loans, etc. against the property. For each lien, list the name of the lender, the type of debt, the account number, and the current outstanding balance.
13. Complete address and/or description of any real estate other than the marital home. Include real estate owned jointly and real estate owned by either spouse individually.
14. Who is to get the marital home? Do you wish to make the party who receives the marital home in the property division refinance the mortgage (if one exists)?

Do you want to make the party who is not receiving the house deed over his or her interest in the home? If the mortgage is to be refinanced, how much time do you want to allow for that to happen? What do you want to happen if the spouse who wants to keep the home is unable to secure financing in his/her own name?

15. Who is to receive the mortgage interest deduction (if you file separate tax returns)?

16. Who is to get any/all other real estate? (Remember to give us your deed and deed of trust to any real estate that is to be transferred between Husband and Wife)

17. Are there time limits/time restrictions for the Husband or Wife to keep any of the above mentioned real estate? (For example, does the home have to be sold by a certain date, and if so, who picks the Realtor and what are the terms for the sale of the house? How are the net proceeds to be divided when the home is sold?)

18. List all pension, retirement, and deferred compensation plans owned by Husband and how they will be divided... Include all I.R.A.'s

19. List all pension, retirement, and deferred compensation plans owned by Wife and how they will be divided... Include all I.R.A.'s

20. List all investment property (i.e. stocks, bonds, annuities, mutual funds, etc.) that has been accumulated during the marriage and how it will be divided

21. List any/all business interests that the Husband has (example - equity shares in a business or a closely held corporation) and how they are to be divided

22. List any/all business interests that the Wife has (example - equity shares in a business or a closely held corporation) and how they are to be divided

23. What car(s) will the Wife get? Please list the year, make, and model of each. Remember to include whose name the vehicle(s) is (are) in and whether you desire for the other parties' name to come off the vehicle(s). Will you require the party getting the vehicle(s) to refinance any outstanding loans on the vehicle(s)?

24. What car(s) will the Husband get? Please list the year, make and model of each. Remember to include whose name the vehicle(s) is (are) in and whether you desire for the other parties' name to come off the vehicle(s). Will you require the party getting the vehicle(s) to refinance any outstanding loans on the vehicle(s)?

25. What boat(s), truck(s) and mobile home(s) will the Wife get? Whose names

are these items in?

26. What boat(s) truck(s) and mobile home(s) will the Husband get? Whose names are these items in?

27. How will any artwork and collectibles (example - antique rugs with great value) be divided? Please give a detailed description of the artwork and collectibles here

28. Do you own an airplane? Which spouse will get the plane? Is there a lien against the plane? Whose name is on the debt? Does the debt need to be refinanced to remove other spouse's name? How much time do you want to allow the spouse keeping the plane to secure new financing? What happens if he/she is unable to obtain adequate financing in his/her own name?

29. Do you or your spouse own a safety deposit box with marital property in it? Please describe in detail any items in a safety deposit box and how they will be divided.

30. Do you or your spouse have bank accounts? Please list each bank account that you have now or used to have and how you choose to divide the contents (between husband and wife). List the name of the bank, the type of account, the account number, whose name is on the account and the current balance.

31. Do you or your spouse have cash on hand? How do you choose to divide any cash on hand between Husband and Wife?

32. Do you or your spouse have any notes/receivables that have value? If so, how do you choose to divide these between husband and wife? Describe these notes and receivables that are to be divided with particularity

33. Do you or your spouse have any insurance policies that have cash value? Please list the name of the insurance company, the type of insurance and the name of the policy and policy number and any other identifying features and how these will be divided between Husband and Wife

34. Have you accumulated household goods and equipment (i.e. personal property such as tables, desks, chairs, refrigerators, washers, dryers, couches, bedroom suites, etc.)? How is this to be divided? Please note that courts will rarely divide personal property. If a Husband and Wife going through a separation cannot agree on how to divide personal property, Judges will usually do one of the following: 1. Order all personal property sold at a yard sale and the proceeds from the sale divided equally between Husband and Wife, 2. Assign a personal property

appraiser to the case and have that person assign values and then see if the parties can agree. If they can't, then the property will be ordered sold and the proceeds from the sale split evenly between Husband and Wife, or, 3. Order the case into mediation where a mediator will "auction" the property off (since personal property is particularly difficult to value, it is frequently only worth what the parties are willing to pay for it, thus an auction is the best test of what the property is really worth to the parties).

Once you reach an agreement on how to divide your personal property, please draft an "Attachment A - Wife's Personal Property" and list each item of personal property that the Wife is to get. Then draft an "Attachment B - Husband's Personal Property" and list each item of personal property that the Husband is to get. Write down the personal property items with enough particularity so that it is clear what you are describing so as to minimize future disputes. An easy way to handle this is to do either an "Attachment A" or an "Attachment B" depending on which party is getting the least amount of personal property and once you have completed that schedule, for the other "Attachment" simply put, "All other personal property not listed on Schedule A (or B)." In this way, you don't have to spend as much time drafting these Attachments

35. Please list all marital debts and how they are to be divided between Husband and Wife. For each debt, list the specific amount owed and the minimum payment (usually per month) that is due on each debt. For example, with credit card debt, list the credit card, whose name it is in, the credit card account number and the specific balance on the card as of the drafting of the Separation Agreement. Then list the minimal payment (per month) that must be made in order to fulfill the Husband's (or Wife's) end of the bargain

36. Who is to have primary physical care of the children? (I.E. With whom will the children reside more than half of the overnights in the calendar year?)

37. Who is to have legal custody of the children? In most all separation agreements, the parties agree to "joint legal custody." This means that the parties have equal decision making authority when issues such as religious training for children, medical care for children, which psychiatrist a child will go to (if any), whether children will attend Summer Camp and where, and whether the children will attend public or private school or which school, and other such decisions related to the child's upbringing and well-being.

38. What will be the regular custodial schedule? The regular schedule would be the schedule when there are no holidays or vacations. What will be the holiday and vacation schedule? Decide which holidays you want to address and how much

vacation time you want to allot to each parent.

39. Who is to pick up and drop off the children for visitations? Where will the exchanges take place? If the parents live in different cities, who will pay for the cost of transportation between homes?

40. Who will pay child support? What is the amount to be exchanged (child support is virtually always a monthly amount). On what day of the month will the child support payment be due? Would you like the child support payment to be made directly to one party at their home address or would you like for them to be made to the Clerk of Court's office. If you want the payments to be made through the Clerk of Court, a court order will have to be entered.

41. Who will provide medical/health insurance for the children?

42. What kind of medical coverage do you wish to have? Coverage that just covers major medical and dental or coverage that covers optical, psychological, dental, orthodontics, prescription drugs, etc.?

43. How do you wish to cover medical/health/dental, optical, etc. costs that are not covered by insurance or are un-reimbursed by insurance? Typically parties agree to pay these expenses either 50/50 or in the same percentage as the money that they make (i.e. a "pro rata share").

44. Will one or either spouse agree to pay for the children's college education? How much will they agree to pay?

45. Who is to receive the child dependency tax exemptions? Who is to receive any child related tax credits that the parties may be eligible for under Federal and State tax laws? Consult with a CPA before making these decisions, as the law will change dramatically after the 2018 tax year.

46. Will one party require the other to maintain a life insurance policy? This is usually a very good idea - i.e. to make the party paying child support to maintain a life insurance policy that would keep the "child support" payments coming in the event of the payor of child support's death. How much life insurance will be required? Do you want a provision in the Separation Agreement that allows the payee of child support to be able to verify that the life insurance policy is still in full force and effect in the future? Do you want the requirement for life insurance to be reciprocal?

47. Will one party require the other to maintain disability insurance? If so, how

much and under what terms?

48. Regarding life insurance, will one party agree to name the other as owner of the policy for so long as a child support obligation exists? This is very important since the owner of the policy is the only one who can cancel the policy or change the beneficiary. The owner is the one who must be informed of a missed premium payment that might cause the policy to be canceled. Transfer of ownership such as this cannot be done with some group insurance plans. It can always be done with individual insurance policies.

49. Do you want to file joint tax returns for each year for which you are eligible? Do you want to equally divide any refunds and deficiencies or do you want to divide refunds and deficiencies on a prorated basis?

50. Will one party pay alimony to the other? How much per month? (Alimony is usually a monthly sum due on a specific date of each month, but it can be a "lump sum" amount). How long will the alimony last (# of years or months). What is the specific last month and year on which alimony will be due? Where should the alimony payments be made? On what day of the month each month will the alimony payments be due? Consult a CPA before making a decision about alimony, as the alimony tax laws will change dramatically after the 2018 tax year.

51. Do you wish to waive alimony? (No alimony to be paid by either spouse.)

52. Do you wish to waive all claims against third parties (such as paramours who are / might be having an affair with your spouse) against whom you might have a legal claim? Or, do you wish to keep open the possibility of lawsuits against such third parties?

53. Do you wish to remain on your spouse's medical/health insurance plan? For how long? Do you wish for your spouse to remain on your medical/health insurance plan? For how long? (Most health insurance carriers will automatically cut off a spouse from health insurance plans as of the date of divorce. A spouse who will be cut off may be able to elect COBRA coverage whereby he or she can obtain a separate similar medical/health insurance policy at virtually the same rate. Please check with your employer or your spouse's employer to see if this possibility exists)

54. Who will cover the un-reimbursed by insurance medical/health care costs of the "other spouse" (i.e. the one who is on the other's medical/health insurance plan) prior to the divorce (i.e. during the period of separation). When will payments of these uncovered expenses end?