

Emergency Points if a Divorce is Impending: Financial Accounts and Personal Property



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When you are contemplating a separation from your spouse, it is important to consider whether or not actions need to be taken to prevent dissipation of assets by your spouse prior to a final resolution of your case. You should discuss the following with your attorney to determine whether or not you should take special actions to safeguard your property and if so, the timing and notice to be given to your spouse of the actions taken.

With each of the categories below, you must weigh the risk that your spouse may take action if you do not against the possibility that action by you may anger your spouse. And, of course, time can be of the essence. While you are deliberating, your spouse may already be taking action.

Financial Institutions

(banks, savings and loans, credit unions, stock brokers, etc.)

Either party to a joint account can go to the financial institution and clean out the balance. You should talk with your attorney about whether to withdraw some or all of the amounts in your accounts, close the joint account and give your spouse a check for his or her share of the account with a separate check for you. Withdrawing large sums of money from a joint account or closing the account is not advisable in all cases since it may exacerbate the tensions between parties. It should be seriously considered if you believe your spouse will make unreasonable withdrawals from the account. It is usually best not to “freeze” the joint accounts because, while your spouse will be denied access without your approval, you would also be denied access.

Set up separate accounts in your sole name, preferably at different financial institutions than those that had your joint accounts.

See that your paycheck is deposited to your new separate account(s) and no longer deposited to your joint account.

You should consult with your attorney about what, if anything, should be taken out of any safety deposit boxes. You should definitely make copies of everything that is in them.

Credit and Credit Cards, Debit Cards

Accounts are joint if you have ever signed an application for a loan or card and/or the bill is addressed to both you and your spouse. You will be liable on the joint account as long as it is open.

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If you believe your spouse will run up the credit card debt, you should discuss with your attorney whether any joint credit card should be closed. The credit card company will usually close accounts only if there is zero balance and if all cards are returned.

Similarly, if you believe your spouse will run up debts without your consent, you should discuss with your attorney whether to close or put a hold on all joint lines of credit, home equity lines of credit and overdraft checking by sending a written notice to the creditor.

You should also consider obtaining a credit report on all debts in your name to determine the current status of the debts for which you may be liable.

Books, Records and Documents

It can be very important for you to have the family financial records in your possession. These should include the items listed below, if applicable:

- Tax returns from all prior years
- Account statements
- Checkbook ledgers
- Stockbroker statements, pensions, IRA, Keogh and 401(k) statements and plans
- Life insurance policies
- Pay stubs
- Deeds and deeds of trust
- Financial statements
- Loan applications
- Credit card bills
- Loan payment books or statements
- Identification cards or forms for health insurance
- Passports for you and the children

At the minimum, you should make a copy of the items above.

You should discuss with your attorney if you should place the originals where your spouse cannot find them or remove and destroy them in a safe location not in the house. Again, there are pros (safety) and cons (exacerbation of tensions) to these actions.

Mail, Computer, Email, Voicemail

Because your spouse should not know what mail you are receiving, you should make arrangements for an alternative place to receive mail. A friend or relative may be willing to receive your mail. Otherwise you should consider opening a post office or mail box.

All creditors, financial institutions and attorneys should be informed to send mail to the new address. Consider changing the remote access code for your answering machine and voicemail. Change your access code for your home computer (and at work, also, if it has remote access) and your smart phone. Put all of your computer disks and media where your spouse cannot

gain access. Change your passwords for your online and email accounts.

The House

Usually, you should not exclude your spouse from the marital residence, nor should you permanently depart from the marital resident without careful consultation with your attorney. If, however, your health, safety and well-being is in immediate jeopardy, you should avoid a confrontation and call the authorities right away.

Chattels and Personal Property

If there are items that are particularly valuable or dear to you, you should discuss with your attorney whether you should place these valuable items where your spouse cannot get them. There will come a time when ultimate ownership and possession of marital property is decided, but if you believe your spouse will take them unilaterally, you need to consider ways to assure their safekeeping. You should record the items and condition of the property by photograph or video. You can, in addition, write a written inventory.

Vehicles

If you want to be assured access to and use of a vehicle after separation, be sure you have at least one, if not all of the keys. If you are concerned your spouse may try to deprive you of a vehicle, you should discuss whether to have the locks on the car changed by a dealer or if you should purchase a security device like "The Club."

Your Office

Consider instructing your staff and colleagues that your spouse does not have permission to go through your office records or to remove or duplicate them. You should also tell your coworkers to be careful about what they say to your spouse.

Conclusion

You don't have to do any of these things, but you should at least think about them and discuss them with your attorney. As already stated, even if you don't do anything, your spouse may.