



# Separation and Divorce Information

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Children and Divorce

Taking Care of Yourself During Separation and Divorce

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## **Introduction**

The Fairfax County Commission for Women developed this information because of the large number of women in crisis who lack basic information about the legal process of divorce. The Commission receives more calls about this issue than any other. We have tried to answer the most commonly asked questions about the legal procedures and about available community resources.

This booklet is intended only as a starting point of information – not as a substitute for legal advice or professional counseling. However, we have tried to make difficult concepts easier to understand, and it is our hope that any woman thinking about divorce will first look at the legal, financial, and emotional issues involved. All legal information relates to current law and practices in the Commonwealth of Virginia.

This material can help men as well as women, but the information gives special focus to areas like child support and finances – where women are particularly affected. Typically, a woman's income will decrease by over 50% after a divorce, and she will take on the extra burdens of being a single parent.

You may duplicate these materials for any educational, not-for-profit use. And feel free to comment on the Separation and Divorce information or to bring to our attention any other issues that the Commission, as an advocacy group for women and girls, might address.

Fairfax County is committed to non-discrimination on the basis of disability in all County programs, services, and activities. Special accommodations will be provided upon request.

## **Acknowledgement**

This information booklet was developed by the Fairfax County Commission for Women with the professional help of its Divorce and Separation Advisory Council: Linda Bozoky, Fairfax County Family Court; Emily Brown, Key Bridge Therapy and Mediation Center; Linda Girdner, Consensus; Nancy Nimmich, Life Transitions; Michelle Rydell, Reichhandt and Rydell, P.C.

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## Separation and Divorce Definitions

**Adultery:** A ground for divorce based upon proof that a spouse has had sexual relations with someone other than his or her spouse. In a Bill of Complaint/Cross Bill of Complaint, adultery must be alleged and proved by clear and convincing evidence specifically as to person, place and date. A spouse can be separated and still commit adultery. Opportunity and intent must also be proved by “clear and convincing evidence”.

**Answer:** The answer is filed by the defendant or cross defendant and admits or denies the allegations in the Bill of Complaint/Cross Bill of Complaint, as well as includes other defenses that may be asserted. The Answer usually must be filed within 21 days of service of the Bill of Complaint or Cross Bill of Complaint.

**Bill of Complaint:** The Bill of Complaint is usually the first pleading filed in a divorce case. It states the grounds for divorce and the relief that is being requested, i.e., spousal support, child support and custody, injunctions, division of property.

**Child Support:** Child support is payable until a child reaches age eighteen. However, if a child is a senior in high school, and is not self-supporting, child support can be ordered until the child graduates from high school or turns nineteen-whichever comes first. Only in particular circumstances will child support be ordered after a child has reached age nineteen. Spouses may enter into a voluntary agreement providing child support beyond these age limits. In addition, spouses may be ordered by the Court to pay support beyond these age limits if a child is handicapped and not self-supporting.

**Circuit Court:** In Virginia, the Circuit Court is where cases involving divorce, annulment, adoption, and name change are filed.

**Commissioner’s Hearing:** In some cases, a private attorney is appointed as Commissioner in Chancery to hear evidence on the grounds for divorce and in Fairfax County, the factors and circumstances causing the dissolution of the marriage. In uncontested divorce cases, the Commissioner’s hearing is usually held in an attorney’s office, the hearing is short and those appearing are usually the client going forward, his or her witness, a court reporter, the attorney for the other side, and the Commissioner In Chancery. In a contested case, the hearing usually lasts longer and involves testimony of both the husband and wife as well as witnesses. A contested Commissioner’s hearing sometimes is held in a hearing room at the courthouse.

**Complainant:** The person who starts the legal proceedings in a divorce case.

**Contempt:** When a person violates a Court order, he or she is “in contempt” of Court and may be sanctioned, fined, and/or imprisoned by the Court.

**Contested Divorce:** A term commonly used to describe a divorce case where the spouses don’t agree about money, property, or children. The grounds for divorce may

be based on “Fault” or “No Fault”. A variety of legal procedures and hearings may be used. In Northern Virginia, a contested case may take several years to complete, from the time of filing for the divorce to the time of the final hearing. It’s a very expensive process.

**Court Order:** The Court Order details the findings and instructions/rulings of the Court.

**Cross-Bill of Complaint:** The Cross-Bill of Complaint sets forth the grounds for divorce that the Defendant/Cross-Complainant alleges against the person who originally filed the Bill of Complaint and sets forth the relief the Defendant/Cross Complainant is seeking. The filing of a Cross-Bill of Complaint is not mandatory. The Cross-Bill of Complaint is usually filed at the same time that the Answer is filed.

**Cruelty:** A ground for divorce based upon proof that a spouse has been cruel to the other spouse, without just cause or provocation. Cruelty usually involves some act of physical abuse. Mental cruelty alone is rarely enough.

**Depositions:** A Deposition is a common form of discovery. Oral questions are asked “live”, and the questions and responses are transcribed by a court reporter. Responses are under oath. The questions asked are often an expansion of the questions asked in interrogatories. Each party has the right to attend each and every deposition if they so choose. In some jurisdictions, such as Fairfax, depositions can also be held to present evidence for an uncontested divorce. The transcript of the deposition is then sent to a judge who later signs the final decree of divorce.

**Desertion:** A ground for divorce based upon proof of a spouse breaking off the marital relationship without just cause or excuse, and with the intent to “desert” the marriage. This is usually established by the fact that the “deserting” spouse moves out of the marital residence without consent and before signing the separation and property settlement agreement.

**Discovery:** Discovery procedures are typically used to find out about the finances of both spouses, the grounds for divorce, and the facts supporting claims related to custody, support and property division. Discovery can include the taking of depositions and the filing of interrogatories, requests for production of documents and request for admissions.

**Divorce A Mensa Et Thoro:** A decree of divorce that ends the marriage, but does not enable the former spouses to remarry. Once the former spouses have been separated for one year, a divorce a mensa et thoro can be merged into a divorce a vinculo matrimonii, and then the man or women can remarry. It is not necessary to obtain this type of divorce in order to get the divorce a vinculo matrimonii.

**Divorce A Vinculo Matrimonii:** A final decree of divorce that completely ends the spouses’ marriage and enables them to remarry. This decree is commonly referred to as “The Final Decree of Divorce”.

**Equitable Distribution:** The term for property distribution in Virginia. The Court will consider the monetary and non-monetary contributions of each person to the well-being of the family, the length of the marriage, and other factors specified by statute. While a court is required to consider the grounds for divorce and factors causing the dissolution of the marriage, only in extreme cases does such evidence impact the division of property. "Equitable" does not automatically mean an equal division of assets. Having an asset under one person's name does not itself determine if it is marital or separate property. Generally, if an asset is acquired during the marriage by either spouse, it is considered a marital asset.

**Fault Divorce:** The term commonly used when a divorce is based upon the grounds of adultery, cruelty, and desertion.

**Final Decree of Divorce:** This is the term commonly used for the court order which grants the parties a divorce. The parties are not divorced until the Final Decree of Divorce is actually signed by a judge. The formal term for this decree is a "Divorce A Vinculo Matrimonii".

**Juvenile and Domestic Relations Court:** The Court where cases involving conflicts between family members are filed. (Exceptions are cases listed above for Circuit Court.) Juvenile and Domestic Relations Court cases include: child custody and child support; husband and wife assault and battery; spousal abuse; and juvenile delinquency.

**No-Fault Divorce:** The term commonly used to describe a divorce based upon the grounds that the spouses have lived separate and apart, without interruption, for a certain time period, and if at least one spouse wants to dissolve the marriage. Spouses who have lived apart for six months, have a separation agreement, and have no minor children have grounds to file. If the spouses have not entered into an agreement and/or have minor children, they must be separated for one year before they can file for a divorce on a no-fault ground.

**Joint Custody:** Joint legal custody means that both parents retain joint responsibility for the care of the child and joint authority to make decisions about the child even if the child's primary residence is with one parent. Joint physical custody is where both parents share substantial physical and custodial time with of a child. Joint physical custody is not necessarily a 50-50 division of time.

**Legal Negotiation:** A process in which each spouse is represented by an attorney, and the attorneys negotiate the terms of a settlement. An attorney tries to get the best outcome for his or her individual client. This is different from mediation where the mediator is not an advocate for either spouse.

**Legal Separation:** There is no such thing in Virginia. People are either 1) married and living together; 2) married and living apart; or 3) divorced.

**Mediation:** In mediation, a neutral person helps resolve disputes, such as custody and visitation, support, and property division.

**Ore Tenus Divorce Hearing:** A hearing before a judge who hears the evidence supporting an uncontested divorce.

**Petitioner:** The term commonly used for a person who starts a support, custody, or visitation case.

**Respondent:** The term commonly used for a person who must respond to the pleading filed by a petitioner in a support, custody, or visitation case.

**Separation and Property Settlement Agreement:** A legally binding contract that is entered into by agreement of the husband and wife. The agreement resolves issues arising out of the spouses' marital relationship, such as property, support, and children. These agreements are sometimes called "Separation Agreements" or "Property Settlement Agreements".

**Sole Legal Custody:** One parent has control over all decisions affecting the child.

**Spousal Support/Alimony:** Pursuant to Virginia law, either spouse can be ordered to pay support for his or her spouse. Spousal support can be awarded for a specific period of time, or continue indefinitely (i.e., until the death of either party or the remarriage or cohabitation in a marriage like relationship of the person receiving support). A spouse can lose the right to be awarded support if he/she is found to have committed adultery. If there is "manifest injustice", an adulterous spouse can still be awarded support. The amount and duration of spousal support depends on the parties' means, needs, and other factors. Spousal support is usually taxable to the recipient, and tax deductible by the payor.

**Suit:** A case that is filed in a Court. For example, a divorce suit, a child support suit, or a custody suit.

**Uncontested Divorce:** A term used to describe a divorce case where the spouses have resolved all outstanding issues regarding support, property, and children. The ground upon which the divorce is based is usually the "no fault" ground of 6 months or 1 year separation. These cases generally take two to three months to complete once the Bill of Complaint is filed with the Court.



# **The Legal Process of Separation and Divorce**

## **How do I define my marital status?**

For purposes of Virginia Law, you are either: 1) married and living together; 2) married and living apart; or 3) divorced.

## **What is separation?**

Separation means you are married but living apart. Virginia statutes do not provide for a legal separation.

## **What should I consider before separating?**

You need to make decisions about financial, parenting, and property arrangements.

## **How do I go about making these decisions?**

Some couples work these issues out by themselves, with or without the assistance of a mediator. Some couples want the attorneys to negotiate the terms. If you cannot come to a mutual decision, the Court will decide the issues for you.

## **What will happen if these issues are not decided before separation?**

You can continue the decision making process through mediation or through attorneys. In some cases, there may be some unexpected results if you don't decide issues before the separation. You may, for example, be charged with "desertion" if you do not first sign a separation and property settlement agreement before moving from your residence.

## **Can I get financial support and custody of children now?**

Support decisions take effect when you and your spouse sign the separation and property settlement agreement. If an interim agreement is not reached before a final divorce hearing, then one spouse may file for a Pendente Lite hearing to resolve these issues temporarily.

## **What is the process of divorce if my spouse and I have a separation and property settlement agreement?**

In a number of jurisdictions, including Fairfax, a deposition and/or an Ore Tenus hearing can be held for the presentation of evidence supporting the six months or one year separation period and execution of a separation and property settlement agreement.

**What is the process of divorce if I do not have a separation and property settlement agreement and my spouse and I have different positions about custody, child or spousal support, property division, etc.?**

By the time of the final divorce hearing, if you and your spouse have not reached an agreement regarding your children, support, property, and/or attorneys' fees, a Commissioner's hearing is held to determine the grounds for divorce and in Fairfax, factors and circumstances causing the dissolution of the marriage. Then a final hearing is held before a judge of the Circuit Court, and the unresolved issues will be decided by the judge.

**When is the divorce final?**

When the judge signs the Final Decree of Divorce which specifies the grounds for divorce and the final settlement or determination by the Court of custody, child support, spousal support, property division, attorney fees, etc.

**Can changes be made to the divorce decree?**

After a divorce decree is entered, many couples make changes privately, particularly about arrangements for access to the children. It is important to consult an attorney when you and your former spouse make changes to an agreement, final decree of divorce or other court order. Changes usually must be incorporated into a consent order to confirm the commencement date for the changes.

When former spouses do not agree, a court can change issues about the support of your children, custody, and visitation if there is a substantial change of circumstances. A court can change spousal support only if your separation and property settlement and/or divorce decree clearly state that the court can make such changes. Property issues may only be changed by agreement of the spouses, not by the Court after a final hearing.

## **Divorce Mediation**

### **What is divorce mediation?**

Divorce mediation is a process in which an impartial third person helps you and your spouse reach an agreement on the issues relating to separation and divorce.

### **What issues are mediated?**

Divorce mediation focuses on the economic and parenting issues that arise when you and your spouse are separating or divorcing, or when you need to change agreements after divorce. These issues may include division of marital property, spousal support, child support, custody, and visitation. If you are not yet living separately, the mediator can help you and your spouse work out how and when that will occur. Divorce mediation is also appropriate for ex-spouses or never-married parents who need to negotiate arrangements around support, custody, or visitation of children.

### **What are the benefits of mediation?**

Mediation is based on the idea that the two spouses know best what their needs are, and that by negotiating directly with each other they can work on an agreement that is fair and fits their particular needs. The process of mediation does not pit one spouse against the other, and therefore facilitates a better relationship after the divorce. Mediators help parents understand their children's special needs which result from separation and divorce. They help you work out a plan for your family. A mediated agreement can be more creative and more fitting for your situation than an order handed down by a judge.

### **How are decisions made in mediation?**

In mediation, the decisions are made by you and your spouse, not by the mediator. The mediator will guide you through the process and structure tasks to help you gather the necessary information to make decisions. Ground rules for mediation provide for full disclosure of financial information, documentation, and other safeguards. The mediator will assist you and your spouse in clarifying the issues, developing options, and making decisions. The mediator can help turn destructive conflict into constructive problem solving.

### **What is the goal of mediation?**

Mediation helps you to stay in control of the decisions affecting your life. No decision can be imposed upon you in mediation. The end product of mediation is usually a memorandum of agreement that spells out the decisions upon which you and your spouse have agreed. This memorandum becomes the basis of your separation and property settlement agreement, which is then drafted by an attorney.

### **Do I need an attorney?**

Because a mediator is neutral and can not give legal advice, you should consult with an attorney when going through mediation. An attorney can advise you as to your individual rights and interests, and assist you in the legal procedures of divorce. The advice of an attorney can help you better assess options that you are considering in mediation. An attorney is necessary to draft the separation and property settlement agreement.

### **How do I know if mediation is right for me?**

Divorce mediators generally begin with an orientation session, in which you and your spouse learn more about mediation and about the particular mediator. This is an opportunity for you to ask the mediator questions about his or her experience and background. You can see how the mediator handles interactions between you and your spouse. You should feel that the mediator is someone who can work well with both of you, who hears your concerns, and who can address power imbalances. If you agree to mediate and later decide that it is not for you, you can withdraw at any time. Mediation has been found to be successful even with couples experiencing great conflicts.

### **How do I find a mediator?**

Professional divorce mediators are listed in the Yellow Pages, or you might also ask your therapist or attorney to recommend a mediator to you. Courts in a number of jurisdictions offer mediation services or have a list of mediators that can be called.

## **Child Support**

### **Who may file for child support?**

Any primary caretaker of a child may file for child support from the other parent, unless the caretaker is receiving Temporary Assistance to Needy Families (TANF) for that child. In the case of a TANF grant, the state would have the right to receive the support payments from the other parent to reimburse the state for the welfare grant.

The petitioner (person seeking support) will have to prove the following if the matter needs to be resolved by a Court decision:

1. The respondent (the person who will pay support) has a duty to support the child.
2. The child needs the amount of support requested.
3. The respondent has the ability to pay that amount of support.

### **Who must support our children?**

All parents, whether married or unmarried, have a duty to help support their children.

Minor children are entitled to child support. In Virginia, this usually means children under 18 years of age. An exception is an 18-year old who is a high school senior. He or she may be eligible for support until graduation from high school or reaching the age of 19, whichever comes first. Another exception would be if both parents agree through a separation agreement or a consent order to support a child past the age of 18. A third exception may be in the case of a severely physically or mentally handicapped child who is not able to be self-supporting.

If the parents were never married, and the paternity has not been established, the Court may order blood tests to determine the biological father.

### **How is the amount of support determined?**

The amount of child support can be agreed upon by the two parents; negotiated through mediation or by the parents' attorney; or if that fails, it can be determined by the Court.

To determine the amount of support needed, you will need to prepare a financial statement that is complete, accurate, and documented. It should show your total monthly expenses for the child and indicate your gross monthly income and total monthly expenses.

Virginia has child support guidelines that are used to help the Court decide how much support should be ordered. The guidelines are based on the combined gross (before taxes) incomes of the father and mother, the number of children they must support, and the time a child is with each parent. A formula is used to determine the percentage each

parent is earning of the combined gross income. Each parent is responsible for that percentage of the total amount of child support. If a parent is voluntarily unemployed or underemployed, an argument can be made that the amount of support should be based on the parent's potential income. You may obtain a copy of the guidelines from the Virginia Division of Child Support Enforcement 800-468-8894 or visit their website at: <http://www.dss.state.va.us/family/dcse.html>

In addition to the base amount of child support, child support usually includes a provision for proportional sharing of health insurance coverage for the child, payment of work related child care and uninsured medical and dental expenses for a child.

### **To whom are the child support payments paid?**

Child support payments may be ordered payable directly to you, as the parent, or you may become a client of the Division of Child Support Enforcement (DCSE) and have the payments made through DCSE in Richmond, Virginia. In some cases the child support payment must be processed through the Division of Child Support Enforcement.

### **What if I do not receive the support?**

You or your Division of Child Support Enforcement office may take the following enforcement actions:

1. Most enforcement actions are motions for a mandatory wage assignment. This means that an employer is ordered to withdraw the support amount from the employee's earnings.

To file a wage assignment motion, you must know the other parent's employer, the other parent's social security number, and how often the parent is paid.

2. An affidavit (sworn statement) requests the judge to issue a rule for the other parent to "show cause" why he or she should not be found guilty of contempt of the Court order to pay support.

For both enforcement actions you must know the other parent's current address and how much support is overdue.

### **How do I get the amount of child support changed?**

You can negotiate a change in the amount of support through mediation or through attorneys. If this is not successful, you can request that the Court change the amount of child support. Generally, the amount of child support is changed only when there is a substantial change in the parents' financial circumstances or the needs of the child.

## **What are the income tax consequences of child support payments?**

Generally, child support payments are not taxable income to the receiver and therefore, are not a deduction for the parent who pays the support. All questions relating to federal and state income taxes and the claiming of dependents need to be asked of the IRS or your tax accountant. Call your local IRS to get a copy of IRS Publication 504, "Tax Information for Separated and Divorced Individuals", or visit their website at [www.irs.gov/publications/p504](http://www.irs.gov/publications/p504).

## **The Emotional Process of Divorce**

Separation is the major event in the emotional process of divorce. It creates emotional and physical stress for everyone in the family.

Grieving is part of healing. You will need to grieve the loss of your marriage and your dreams, even if you are the one who wanted the marriage to end. Don't expect too much of yourself while you are grieving, and recognize that individuals have different timetables for grieving. Spouses move through the divorce process differently. The spouse who initiates the separation has often started to grieve in the course of making the decision to leave. To avoid pain, limit contact with your former spouse to what is necessary in the early months after separating.

The spouse who is left usually experiences a "double whammy" at the time of separation: the pain of being abandoned combined with massive and undesired changes in living patterns. When denial wears off, that spouse will feel pain, guilt, helplessness, rage, and eventually sadness and acceptance.

Share your pain, not your blame, with those friends and relatives who care about you and are emotionally available. Those who back off are afraid of getting caught in the middle or are worried about "catching a case of separation."

If you are extremely depressed, if you feel continued hopelessness over a prolonged period of time, if you have no desire to live, you need to see a professional therapist. Isolation is undesirable. If you have no energy on your own behalf, speak to your family physician, a dear friend, your OB-GYN, or your most trusted confidant for a professional referral. An excellent psychotherapist will provide support for your feelings of hopelessness. Also, a therapist is familiar with the many community resources including nearby divorce support groups. Call the Fairfax County Commission for Women or Fairfax County's information and referral services to join a free support group. Local weekly newspapers carry such information as well.

If you are in therapy, talk with your therapist about how confidentiality can be maintained during the divorce proceedings if your former spouse requires information about your therapy as part of legal actions in the divorce.

With the help of family, friends, and counselors you will find healthy ways to work off your anger.

The emotional divorce does not come with the divorce decree. The emotional divorce takes a couple of years after separating, and only comes when you take responsibility for your contributions to the marriage and to its end, and for your life now. You will feel better in the long run, and so will your children, if you keep them out of your conflict with your former spouse. Wait until you are emotionally divorced before becoming deeply involved in another relationship and can bring to it insights gained through your experience.



## **Selecting and Working With Professionals**

**Professionals may include:** Attorneys, Mediators, Counselors, and Therapists

### **How do I find one?**

People often find a professional after talking to family, friends, co-workers, ministers, therapists, county or local resource organizations, and other professionals.

You may want to talk to several professionals before deciding which professional to use. (Note: Being given a free session with a professional is not the only reason for choosing that person)

### **Some Questions for an Attorney:**

1. How much experience do you have in family law?
2. What kinds of cases do you prefer to work with?
3. Do you have time for my case?
4. What is your approach when there is disagreement in the case?
5. Do you advocate the use of private detectives? If so, in what circumstances and for what purpose?
6. Would you be interested in handling my case? Will you personally be handling my case, or will someone else in your office handle it?
7. What are your fees? Do you charge for telephone calls? Do you charge a different fee for time in Court? Do you have a flat fee for a simple divorce or do you charge by the hour?
8. Do you see yourself as protecting your clients? In what ways?
9. To what degree will you inform me about each step in my case and what it means?
10. Will you check with me before you make any agreement or decision in my case?
11. Do you attempt to provide counseling of an emotional nature to your client? (Note: an attorney should not be expected to provide emotional counseling. His/her role is to provide legal assistance. If you need counseling, work with a counselor or therapist).
12. What references or credentials do you or your practice have?

### **Some Questions for a Counselor or Therapist:**

1. How much experience do you have counseling individuals who are going through separation or divorce?
2. Are you familiar with my rights to spousal support, child support, and equitable distribution under the Virginia Code?
3. Do you have time for me in your schedule?
4. What kinds of fees are involved?
5. Is the information we will discuss completely confidential?

6. What is your background?
7. Do you have expertise in any specialized areas such as physical abuse?
8. What services do you provide? (e.g., individual, couple, group, or family counseling)
9. What references or credentials do you or your practice have?

### **Additional Questions for a Mediator:**

1. How much experience do you have with a case like mine?
2. Would you testify in court for either of us? (Note: mediators do not testify in Court.)
3. What is your role as a mediator?
4. What kinds of fees are involved?
5. About how long will the mediation process take?
6. Who makes the decision in mediation? (Note: mediators never try to “talk you into” a decision)
7. What references or credentials do you or your practice have?

### **Evaluating Your Professional’s Services**

As you go through your separation/divorce, evaluate your professional to see if your needs are being met. These are some things to consider:

#### **Evaluating an Attorney:**

1. Is the attorney available?
2. Does the attorney keep you informed?
3. Are things getting done within an expected time frame?
4. Will the attorney answer your questions?
5. Are you getting what you paid for?
6. Do you feel comfortable?
7. Do your personalities mesh?
8. Are you looking for emotional support from the attorney rather than legal support? (Note: An attorney is not a counselor.)
9. Is the attorney knowledgeable about other experts, such as financial planners, CPA’s, etc. who can advise you about options for various terms of a separation and property settlement agreement?

#### **Evaluating a Counselor or Therapist:**

1. Do you feel safe?
2. Are you being helped in a non-judgmental way to sort out painful issues?
3. Is the counselor or therapist helping you make decisions rather than telling you what to do?
4. Are your sessions with the therapist helping?
5. Can the counselor recommend other support systems?
6. Does the therapist listen?

7. Does the therapist seem to understand you?
8. Does the therapist work with individuals or with couples and families as well?
9. Are you talking about your concerns?
10. Is the therapist eligible for insurance?

**Evaluating a Mediator:**

1. Does the mediator keep the process on track rather than letting things get out of hand?
2. Does the mediator help both of you make full disclosure in mediation about all relevant facts (e.g., income, bank accounts, parental responsibilities...)?
3. Does the mediator help you to look at all the facts and options rather than arguing about who is “right” or “wrong”?

## **Children and Divorce**

**During separation and divorce, these are some things to consider for your children:**

The children who recover best from their parents' divorce are those whose parents cooperate. Parental conflict is the most damaging aspect of divorce for children.

Children need clear information about what is happening in their family, preferably from you and the other parent together. Children can cope with differences between their mother's and father's households in rules, procedures, and discipline, as long as you make the expectations clear.

Children need to maintain a relationship with both parents. In thinking about your parenting arrangements, consider:

1. the children's needs in terms of their ages, special problems, and talents;
2. the unique contributions of each parent to the children and how to continue these contributions;
3. how to assure the children's participation in celebrations on both sides of the family;
4. the logistics of school, work, friends, after-school activities, sitters, and the like;
5. personal time for each parent, free of child care responsibilities.

**Possible parenting arrangements include:**

1. Sole custody, where one parent has primary physical and decision-making responsibility for the children and the other parent takes the children for visits at agreed-upon times;
2. Joint legal custody, where both parents share equally in decision making. Physical custody may resemble sole custody or involve more substantial time with both parents
3. Joint Physical Custody is when both parents have substantial time with the children such as alternative weeks, dividing weeks, etc.
4. Split custody, where each parent has custody of at least one child;
5. The Bird's Nest, where legal physical custody is joint; the children stay in one residence, and the parents rotate in and out.

Keep in mind when choosing a parenting arrangement that siblings offer a great deal of support to each other.

Do not give your children the responsibility of deciding custody and visitation arrangements.

Custodial arrangements should be developed based upon the individual needs of a child and particular circumstances of the parents. The focus should be the child's needs and not the needs of a parent.

### **Helping your children with the divorce:**

Never disparage the other parent to your children or in your children's hearing, no matter how much you want to. It damages your children's self-esteem, and in the long run may poison your relationship with your children. Preventing your children from seeing the other parent has the same effect.

Do not use your children to carry messages to and from the other parent.

Expect your children to grieve and to function at a less than optimum level for several months. Talk to the teachers and the school counselor if you are concerned about your children's reaction to the separation.

Your children need to be children. Do not make them your confidant or a stand-in for the other parent.

Children find it helpful to have other adults to turn to when their parents are preoccupied with grieving.

Leave your children out of your dating life unless it is a serious relationship. Give your children time (six months to a year after separation) to grieve for their family as they knew it, before introducing them to any new partner.

## **Taking Care of Yourself During Separation and Divorce**

### **Employment:**

Consider that you may need to re-enter the job market.

Don't jump at the first job opportunity. It may not be enough to sustain you financially.

Consider career counseling or alternative career options. Discuss with a qualified career counselor whether you need to go back to school. When awarding spousal support, a court can order your spouse to pay tuition and other educational related expenses necessary for you to obtain necessary education to enable you to be gainfully employed.

### **Physical Security:**

Call the police emergency number 911 if you believe there is a clear and present danger to you or your children.

Be aware that you are vulnerable and may have lost some "street sense" about self-protection.

Develop a support system made up of friends, family, and co-workers who know your whereabouts.

Survey your home for personal security. Change locks or install new locks, if needed.

If you must leave your home to protect you or your children from physical harm and have no other recourse, transitional housing is available. Seek out friends, family and shelters. Call Access/Coordinated Services Planning at 703-222-0880 or visit <http://www.co.fairfax.va.us/RIM> for names of shelters.

### **Financial Aspects:**

Be aware of your financial portfolio. Go back over several years of financial documents. Make copies of all your tax returns, bank statements, and other financial information related to your marriage.

If joint accounts exist for bank accounts or investments (including certificates of deposit, checking accounts, stock/brokerage accounts, etc.), call all financial institutions and require joint signatures for all future transactions.

If your spouse is financially irresponsible, close joint accounts.

Don't sign anything without having an attorney or other knowledgeable person review it.

Don't sign a second mortgage in order to settle all outstanding debts. Decisions about your house should be made in the context of your overall financial settlement.

Never equate child custody and financial settlement. They are very separate and do not affect one another.

Prepare a monthly budget and track your expenses. Be informed as to how much you need to sustain yourself and your family during and after separation and divorce.

### **Legal Aspects:**

Before you move out, get a signed separation and property settlement agreement between you and your spouse.

Consult your attorney before dating. You are married until the divorce is final. Before then a sexual relation with a partner other than your spouse is adultery. Dating without sexual relations can impact negotiations and final outcomes concerning custody, visitation, etc.

Consult your lawyer before resuming sexual relations with your spouse since this may affect the grounds upon which a divorce may be granted.

If you have the opportunity, observe contested cases in Court concerning divorce, custody, property, or support.

Retain and deposit in a safe place all documents pertaining to your separation and property settlement agreement and your divorce.

### **Personal Aspects:**

After a divorce, you will probably have less money and more responsibilities. You may not always be taken care of.

Divorce is an investment in your future, and it requires time and energy, so take one step at a time.

Physically take care of yourself. Exercise, rest, and find some way to unwind even though you may feel totally absorbed by the divorce process. You must help your body deal with stress.

Avoid self-defeating behavior such as drinking, drugs, overeating, etc. Do not hesitate to seek counseling even for a short while. There are many good counseling services in Northern Virginia.

Now more than ever, seek out support systems such as friends, family, clergy, and counseling. Surround yourself with people who will listen, be positive, and not criticize

you. Stay away from negative people and situations, particularly those who feel that divorce is “contagious” and may infect them.

If talking with your spouse is not productive, do not fight; just end the conversation.

When you are through the hardest part of divorce, start finding the positive aspects of your single status and your future.



## Attorney and Legal Service Referrals

This listing is not an endorsement for any agency or attorney nor does it include all resources which are available to you. Resources are periodically updated.

### Organizations

### Telephone Number

<b>Fairfax Bar Association, Lawyer Referral Service</b> Legal service assistance with attorneys practicing in Fairfax County; \$40 referral fee for an initial 30 minute consultation. <a href="http://www.fairfaxbar.org/">http://www.fairfaxbar.org/</a>	<b>703-246-3780</b>
<b>Alexandria Bar Association, Lawyer Referral Service</b> Legal service assistance with attorneys practicing in the City of Alexandria; \$25 fee for a 30 minute consultation. <a href="http://www.alexandriabarassoc.com/AlexbarLRS.html">http://www.alexandriabarassoc.com/AlexbarLRS.html</a>	<b>703-548-1105</b>
<b>Arlington Bar Association, Lawyer Referral Service</b> Legal service assistance with attorneys practicing in Arlington County. <a href="http://patriot.net/~crouch/lrs.html">http://patriot.net/~crouch/lrs.html</a>	<b>703-228-3390</b>
<b>Virginia Lawyer Referral Service</b> Legal service assistance for residents of the state of Virginia; \$20 fee for a 30 minute consultation. <a href="http://www.vsb.org">www.vsb.org</a>	<b>1-800-552-7977</b>
<b>Legal Services of Northern Virginia</b> Assistance in civil and domestic cases to income eligible residents. No fees. <a href="http://www.lawhelp.org/program/1569/">http://www.lawhelp.org/program/1569/</a>	
<b>Arlington</b>	<b>703-532-3733</b>
<b>City of Alexandria</b>	<b>703-684-5566</b>
<b>Fairfax</b>	<b>703-246-4500</b>
<b>Falls Church</b>	<b>703-534-4343</b>
<b>Loudoun</b>	<b>703-777-7450</b>
<b>Manassas</b>	<b>703-368-5711</b>
<b>TTY</b>	<b>900-828-1120</b>

## Resources

- ◆ **Fairfax County Juvenile & Domestic Relations Court**  
Custody, visitation, and support services: 703-246-3040  
[www.fairfaxcounty.gov/courts/jdr](http://www.fairfaxcounty.gov/courts/jdr)
- ◆ **Northern Virginia Mediation Service**  
Mediation and training in problem solving.  
Sliding scale fee. 703-993-3656  
[www.gmu.edu/departments/nvms](http://www.gmu.edu/departments/nvms)
- ◆ **Child Support and You**, Division of Child Support Enforcement  
Free booklet, Call 1-800-468-8894.
- ◆ **Handbook on Child Support Enforcement**, free booklet  
Write to: Handbook, Department 628M, Consumer Information Center, Pueblo,  
Colorado 81009.
- ◆ **Fairfax County Information and Referral**  
703-222-0880 or TTY 803-7914
- ◆ **Fairfax County Commission for Women**  
703-324-5730 or TTY 324-5706  
<http://fairfaxcounty.gov/ofw/cfw.htm>
- ◆ **Center for Family Services** (counseling and support groups)  
Catholic Charities of the Diocese of Arlington: 703-841-2531  
[www.cdda.net](http://www.cdda.net)
- ◆ **The Women's Center of Northern Virginia**  
(counseling and support groups): 703-281-2657  
<http://www.thewomenscenter.org>
- ◆ **Mount Vernon Mental Health Center**  
(counseling and support groups): 703-360-6910  
<http://www.fairfaxcounty.gov/service/csb/>
- ◆ **Northwest Mental Health Center**  
(counseling and support groups): 703-481-4100  
<http://www.fairfaxcounty.gov/service/csb/>
- ◆ **Woodburn Mental Health Center**  
(counseling and support groups): 703-573-0523  
<http://www.fairfaxcounty.gov/service/csb/>

## Readings

- ★ **Children of Divorce: A Developmental Approach to Residence and Visitation**, by Baris and Garrity
- ★ **Mom’s House, Dad’s House: Making Shared Parenting Work**, by Tollisa Ricci
- ★ **More than “Just Surviving” A Concise Education and Self-Care Guide for Separation and Divorce**, by Judith A. Booker, M.S., LPC
  - Obtain a free copy from the Northern Virginia Mediation Service c/o Institute for Conflict Analysis and Resolution, George Mason University, 4260 Chain Bridge Road, Suite A-2, Fairfax, VA 22030 or view the document on-line at [www.gmu.edu/departments/nvms/forms.htm](http://www.gmu.edu/departments/nvms/forms.htm)

**Please Note:** A number of full-service Fairfax County Libraries have various printed materials pertaining to separation and divorce.

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This document and other materials provided by the Office for Women and Commission for Women are available at [www.fairfaxcounty.gov/ofw](http://www.fairfaxcounty.gov/ofw) or by calling 703-324-5730 to request a hard copy.