

DIVORCE MEDIATION TOPIC LIST (WITH CHILDREN TOPICS)

1. Parenting Plan – (Also see parenting plan template for more detailed analysis)
 - a. Allocation of Decision-making responsibility between parents for major decisions (i.e. medical, education, religion) – joint or sole?
 - b. Other decision-making areas – decision making protocol
 - i. Extracurricular activities
 - ii. Childcare providers
 - c. Scheduling of Parenting Time
 - i. School week
 - ii. Weekends
 - iii. School Recesses during School Year
 - iv. Summer
 - v. Holiday weekends
 - vi. Major Holidays (Thanksgiving, Christmas, Easter) and other holidays of importance
 - vii. Children's birthdays
 - viii. Mothers'/Fathers' Day
 - ix. Procedures for transitions of children between parents' residences (i.e. time, transportation responsibility)
 - x. Vacations away with children (limits on duration, advance notice, no. of times/yr.)
 - xi. Access to children by parents when children with other parent (i.e. phone, text)
 - xii. Right of first refusal if parent not available for parenting time
 - xiii. Changes to schedule
 - d. Parental values and communication protocol (see Parenting Plan Template)
 - e. Parental Relocation Protocol
 - i. Illinois Statutes
 - ii. Voluntary relocation agreements (i.e. geographic boundaries that would trigger relocation protocol, topics to be addressed in relocation discussion)
 - iii. Impact on relocation on choice of schools
 - f. Significant Others – Introduction of Children
2. Equitable Distribution of Assets and Debts
 - a. General Principles
 - i. Identification of all assets/debts
 - ii. Classification of assets/debts as Marital or Separate
 - iii. Valuation of assets/debts and determination of valuation date
 - iv. Plan for dividing assets and debts equitably
 1. Individual assets/debts can be divided, or one or more assets/debts can be retained wholly by one spouse in return for the other spouse retaining other assets/debts wholly.
 - b. Specifics

- i. Marital Residence
 1. Current Title (sole or joint)
 2. Options for Disposition (more than one option can be included in a plan – i.e. interim joint ownership followed by buyout/sale):
 - a. Remain in Joint Ownership
 - i. Use and Occupancy – which spouse?
 - ii. Payment of expenses related to Marital Residence
 - iii. Future Plan to end joint ownership (timing and financial terms of future buyout or sale)
 - iv. Survivorship issues if joint ownership after divorce
 - b. Buyout by one spouse
 - i. Terms of buyout
 1. Amount to be paid (determination of sale price and net equity to be divided and how divided to arrive at buyout price)
 2. Timing of payments
 3. Payment of deed preparation and filing/transfer taxes/mortgage recording fees – does one party pay or are these costs shared?
 - ii. Mortgage/Home Equity Loan implications
 - iii. Payment of expenses related to Marital Residence prior to buyout being finalized
 - c. Sale
 - i. Timing
 - ii. Use and Occupancy prior to closing on sale – which spouse/both spouses?
 - iii. Costs to Prepare for Sale
 - iv. Selection of realtor
 - v. Payment of house expenses prior to closing on sale
 - vi. Division of net equity after sale
 3. Interim living arrangements and allocation of living expenses
- ii. Retirement Assets
 1. Defined Benefit Plans (i.e. public or private pension plans)
 - a. Valuation Considerations (may need special analysis)
 - b. Division of future pension payments at retirement
 - c. Implications on marital status on any future division
 - d. Legal requirements for transfer of a portion of a Defined Benefit Retirement Plan from participant spouse to non-participant spouse

- e. Future survivor benefits if pension being divided
- 2. Defined Contribution Plans (i.e. 401K, 403B, 457, IRAs)
 - a. Valuation Date
 - b. Division
 - c. Implications on marital status on division being tax free
 - d. Legal requirements for transfer of a portion of a Defined Contribution Plan from participant spouse to non-participant spouse
- iii. Liquid assets – cash on hand, bank accounts, investments in stocks/bonds/mutual funds/cash surrender value of life insurance
 - 1. Valuation amount and date
 - 2. Plan for division
 - 3. Tax implications (i.e. future capital gains on stocks/mutual funds)
- iv. Vehicles
 - 1. Valuation (can obtain from Kelly Blue Book or equivalent source)
 - 2. Current Title
 - 3. Future Title
 - 4. Automobile Insurance – Future Coverage
 - 5. Loan Implications (if vehicle being retained by spouse who is not solely listed on a loan secured by the vehicle)
- v. Other Real Estate
- vi. Business Interests
- vii. Household Items
 - 1. Can spouses mutually agree on division of these items, which may include marital items that have significant value?
 - 2. If not, discuss process for negotiating division of these items
 - 3. Timing of any removal of items from their current location by the spouse retaining any items.
 - 4. Is disposal of unwanted items a topic that requires any discussion for responsibility and costs involved?
- viii. Other assets that are not as common
 - 1. Stock options
 - 2. Monies owed to either spouse by a third party
 - 3. Rental income associated with rental property owned
 - 4. Employment Benefits (i.e. unused vacation time, sick leave) that has a future cash value
- ix. Mortgage and Home Equity Debt
 - 1. Current amounts
 - 2. Current Debtors (both names or one name)
 - 3. Future Disposition
- x. Credit Card Debt (for any debt not paid off in current billing cycle)
 - 1. Current amounts

2. Current Debtors (both names or one name)
 3. Future Disposition
 - xi. Student Loans
 1. Marital vs. Separate
 2. Consideration of payments of pre-marital debt from marital funds
 3. Future Disposition
 - xii. Other Loans
3. Financial Support
 - a. Children's Needs
 - i. Budgeting for Children's Basic Expenses (see budgeting worksheet)
 - ii. Reviewing the Illinois Guidelines
 1. Parental Income
 2. Allocation of Parenting Time (Parenting Plan)
 3. Guideline amounts
 - iii. Parental Discussion of Financial Support of Children comparing budgeted needs of children and parental resources to presumptive support under the Child Support Standards Act
 - iv. Terms and Conditions of Child Support
 1. Amount
 2. Schedule
 - v. Determining Specific Expenses (Add Ons)
 1. Health Insurance for Children (cost of family coverage minus cost of individual coverage)
 2. Dental Insurance for Children
 3. Vision Insurance for Children
 4. Determination of which parent shall maintain coverage for children
 5. Out of pocket expenses for medical/dental (i.e. co-pays, orthodontics, other uninsured medical/dental/vision related)
 6. Child Care Expenses (before/after school care, summer camps)
 - vi. Extracurricular activities
 - vii. Other children expenses requiring discussion
 - viii. Private Education Expenses and/or Tutoring
 - ix. Future Modifications (including end of maintenance, emancipation of oldest child)
 - x. Higher Education Expenses
 1. Decide now or later
 2. If later, how decided
 3. Topics
 - a. Parental Contribution
 - b. Allocation of Parental Contribution between parents
 - c. Contributions to College Savings Plans/Funds

- b. Spousal Needs
 - i. Determination of Spousal Incomes
 - ii. Review of Spousal Maintenance Guidelines under Illinois Law
 - iii. Review of Budgeted Expenses for Each Spouse
 - iv. Spousal discussion of specific terms of any spousal maintenance to be paid from one spouse to the other
 - 1. Amount
 - 2. Duration
 - 3. Events that trigger termination (death, remarriage, co-habitation (and defining “co-habitation”))
 - 4. Any other modifications in amounts related to cost of living, achieving self-support, retirement, etc.
- c. Life Insurance
 - i. Review current policies, death benefit amounts, beneficiaries
 - ii. Discuss future expectations for life insurance to provide for needs of children and any remaining unpaid spousal maintenance in the event of a parent’s death
 - 1. Amount
 - 2. Changes in Amount over time (and when insurance no longer required (i.e. children reaching a certain age))
 - 3. Beneficiary
 - a. In Trust for Children (discuss naming of Trustee)
 - b. To a Uniform Transfers to Minors ‘Act Account with designated custodian
 - c. The surviving parent
 - d. Other arrangements
- d. Spousal Health Insurance
 - i. Discussion of Health Insurance coverage after divorce for spouse who loses insurance coverage
 - 1. COBRA
 - 2. Insurance through employer
 - 3. Private Insurance/Health Insurance Exchange
 - 4. Costs for above options – any provisions for financial assistance
- e. Tax Considerations
 - i. Filing Status Considerations (Married Joint vs. Married Separate vs. Single or Head of Household) - depends on marital status as of December 31st
 - ii. Child Support not deductible to payor, not income to recipient
 - iii. Spousal Maintenance (for Agreements after 12/31/2018) will not be tax deductible to payor, will not be taxable income to recipient
 - iv. Children
 - 1. Who claims tax exemption for each child (including Child Tax Credit)

2. Consult IRS Publication 504/Tax Professional for discussion of Head of Household Status and how this may affect future tax liability
- v. Tax deductions for mortgage interest/property taxes (consult IRS Publication 504/Tax Professional)
- vi. Capital Gains Taxes
- vii. Prior Tax Returns – Future Audits

4. Miscellaneous Topics

- a. Pets
- b. Provisions for Resolution of any Future Disputes
- c. Allocation of payment of mediation expenses
- d. Allocation of payment of legal expenses
 - i. Marital Settlement Agreement
 - ii. Preparation and Filing of legal documents to complete divorce (including any legal representation at “prove up”)
 - iii. Court filing fees for divorce
 - iv. Other legal fees
 1. Deed preparation
 2. Court orders (may be needed to divide retirement assets)
 3. Legal Representation for consultation or document review (if needed)
- e. Any timing issues that require discussion (i.e. health insurance coverage, tax filing, expectations for filing for divorce) and review of timeline and procedures for post mediation steps to be taken by spouses