

Many of the issues listed will be irrelevant to your case. Similarly, there may be details in your case that are not included. So for now, just scan the items below and as you continue to learn about divorce, return to these pages and use them as a checklist to make sure you've "covered all the bases." You can download and print the list at www.21stCenturyDivorce.com.

Child-Related Issues

- Legal Custody (decision making regarding children)
- Joint vs. Sole Custody
 - Major decisions
 - General health and well-being
 - Education
 - Religious training
 - Day to day decisions
 - Whether either parent has the sole right to make specific decisions
- Physical Custody
 - Joint vs. Sole Custody/Primary Residence
- Parenting Plan Schedules
 - School year weekend and midweek time
 - School year vacations
 - Holidays and three-day weekends
 - Summer vacation
 - Special days: Mother's and Father's Days, parents' birthdays, children's birthdays, traditional family gatherings
 - Access to and communication with children
 - Transportation of children to and from the parents' homes
- Relocation of custodial parent with children
 - Notice requirements
 - Prohibition of move without written agreement or court order
 - Defining geographical area within which agreement or court order is *not* required
- Other Considerations
 - Nurturing parental relationship with both parents
 - Communications with and about children
 - Transportation
 - Significant Others
 - Grandparents and other third party access
 - Appropriate role of subsequent spouses

Support Issues

- Spousal Support
 - Amount
 - Flat periodic payments
 - Support as a percentage of obligor's income
 - "Base" (minimum) flat amount plus percentage of income exceeding a certain amount
 - Alimony (tax deductible spousal support)
 - Tax considerations and I.R.C. recapture risks
 - Unallocated alimony & support (single tax deductible payment that includes both child and spousal support)
 - Support "floors" (an agreed-upon minimum amount of support)
 - Income "caps" or "ceilings" on the amount of the obligor's income that will be subject to spousal support
 - "Safe harbors:" Income increases that cannot trigger, or be considered in, post-judgment modification proceedings such as, for example
 - New income of a spouse who is reentering the workforce
 - Anticipated increase in obligor's income already factored into agreed upon alimony amount
 - Health insurance – COBRA rights to equivalent coverage for 3 years (at additional cost)
 - Duration of spousal support
 - Transitional ("rehabilitative") and compensatory alimony
 - Permanent alimony
 - Statutory rights to modification due to changes in circumstances, unless limited or prohibited by parties' agreement
 - Nominal alimony (\$1 per year) that allows the court to modify if there is a substantial change of circumstances in the future
 - "Wedding Gift:" Alimony payoff or continuing alimony after remarriage in rare circumstances such as recipient's remarriage is anticipated
 - Modification upon substantial change in circumstances
 - Limits on modification
 - Termination, modification, or suspension upon cohabitation by recipient
- Child support
 - Child Support Guidelines mandated in every state
 - Deviation criteria for orders outside of the Guidelines

- Per child amount that allows for automatic reduction upon older children attaining majority; vs. Single amount for several children that may require renegotiation
- Duration
- Modification upon substantial change in circumstances
- “Extras” (e.g. camp, extracurricular expenses, etc.)
- Private school/college obligations
 - Funding plans (e.g. 529 education accounts)
- Allocation of responsibility for children’s health insurance
- Life insurance on obligor’s life to insure spousal and child support
 - Allocation between children and spouse
 - Designation of personal representative to receive life insurance proceeds for minor children
 - Step-downs in amount of required coverage over time as amount of remaining obligation declines

Property Issues

- Property Distribution
 - Identification and valuation of “marital property” that can be distributed by the court
 - Identification and valuation of separate or “non-marital” property in some states
 - Date of acquisition (before or after marriage)
 - Nature of property (e.g., inheritance, gift, etc.)
 - “Transmutation” of non-marital property to “marital property” e.g., through con-mingling of funds or augmentation of an asset’s value with joint funds or other contributions
 - Continuing occupancy of family home by 1 party
 - Ownership
 - Legal effect of divorce on joint ownership and rights of survivorship
 - Transfer of property to spouse in residence with note and mortgage to other spouse
 - Details of eventual sale of residence such as
 - Buy-out provisions
 - Allocation of responsibility for
 - Pre-sale “fix-up” expenses
 - Necessary repairs and capital improvements
 - Mechanisms to resolve disputes

- Valuation, vesting, and tax issues regarding pensions and other pre-tax assets such as 401(k) plan, IRAs, stock options, and stock plans
- Personal property
 - Personal effects
 - Valuables (e.g. antiques, artwork, and collectibles)
 - The rest
- Valuation of spouse's business
 - Whether minority or marketability discounts apply
 - Whether valuation would "double dip" alimony
 - Whether a business's "goodwill" should be valued
- Trusts
 - Established by spouse for benefit of children or third parties
 - Established for others for benefit of a spouse
- Life Insurance Surrender Value
- Frequent Flyer Rewards Points
- Digital assets such as
 - Websites
 - Domain names
- Allocation of debt between the parties
 - Credit cards, credit lines, etc.
 - Indemnification of other spouse by spouse responsible for a debt

Miscellaneous Issues

- Taxes
 - Filing Status (e.g. head of household) In Current & Future Years
 - Allocation Of Exemptions & Child Tax Credits Between Parents
 - Entitlement To Refunds: Obligations For Payment regarding Past & Future Joint Returns
 - Entitlement To Deductions (e.g. mortgage interest, property tax, and charitable contributions)
- Professional fees
 - Contribution by one spouse to attorneys' fees of other spouse
 - Allocation of other professional fees

Deciding on Your Divorce Goals

Once you have familiarized yourself with the issues requiring resolution in your case (and have learned more about them), you can decide how you'd like to resolve them. When that time comes, use the following approach to formulate your goals: