18 Important Things to Know About California Divorce

1. Residency Requirements For California Divorces & Legal Separation

To file for divorce in California, you must have been a resident of California for 6 months and of the county in which you are filing the divorce petition for 3 months immediately prior to the filing.

There are no residency requirements for filing for Legal Separation in California. Therefore, for persons who cannot meet the residency requirements for divorce, they can first file for Legal Separation and later amend their Petition into a divorce proceeding once they have met the residency requirements. In situations where it is necessary to obtain custody, support and other orders from the court as quickly as possible, filing for Legal Separation first and later changing the proceeding into one for divorce may make sense.

2. What Are The Requirements For Filing For Divorce, aka "Marital Dissolution" in California?

In California, you do not have to cite a reason for seeking a divorce like you can be required to do in other states, such as domestic violence or adultery. There are only 2 bases for obtaining a divorce in California: "Irreconcilable Differences" or "Incurable Insanity." While you may in fact believe that your spouse suffers from the latter, the reality is that the overwhelming majority of divorce cases end due to irreconcilable differences.

In the State of California, there are only two legal reasons for ending a marriage: [1] "Irreconcilable Differences" or [2] incurable insanity. Irreconcilable differences means that no amount of marital counseling will save the marriage. California is a "no-fault" divorce state, meaning that you do not give the court any reason for ending your marriage as opposed to other states which require proof of adultery, etc.

To file for a California divorce, you must have lived in California for 6 months and for 3 months in the county where you intend to file the divorce paperwork. A "petition" is filed with the county clerk's office, along with a Summons.

The importance of personally serving the Summons and Petition on your spouse is that the Summons includes automatic, built-in family law restraining orders preventing either spouse from selling or giving away any property, changing any insurance policies or beneficiaries, or taking any children of the marriage out of the State of California without the express written consent of the other spouse. These automatic restraining orders state as follows:

> "Starting immediately, you and your spouse or domestic partner is restrained from:

- removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court;
- cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability held for the benefit of the parties and their minor child or children;
- transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
- creating a non-probate transfer or modifying a non-probate transfer or modifying a non-probate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a non-probate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.
- You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay any attorney to help you or to pay court costs."

Personal service of the Summons and Petition can only be accomplished by someone who is 18 years or older who is not a party to the divorce, and alternate means of service may be necessary if the other spouse cannot be located.

3. <u>What is a "Legal Separation" and Should I File for it Instead of Divorce? What About An Annulment?</u>

In situations where a party wants to obtain orders for child custody, visitation, and/or other issues but has not lived in the same county for the past 3 months or in California for the past 6 months to meet the time requirements for filing for divorce, that party can file for Legal Separation and amend his or her petition to a divorce after 6 months have passed.

Legal Separation is also appropriate for some parties for religious and/or insurance coverage issues. Medical insurance companies who had previously insured a spouse under the other spouse's medical insurance during the marriage generally terminates such coverage options when a divorce is finalized. Therefore, for spouses who would have difficulty in obtaining their own medical insurance coverage after termination of their marriage due to pre-existing medical conditions, a legal separation can make sense because it enables such medical insurance coverage to continue. The Court can make orders relating to child custody, visitation, child and spousal support and divide property in a legal separation case, but the parties otherwise remain married to each other.

Unless your circumstances fit one of those circumstances above, you should consider divorce instead of legal separation because you will still be married at the end of a legal separation case and if you later decide to divorce, you will have to file a new case for divorce.

What About An Annulment? In order to qualify for an annulment instead of obtaining a divorce, the party seeking an annulment must be able to prove that the parties' marriage was "void" (i.e. an incestuous marriage or where one of the parties was still legally married to another individual at the same time) or "voidable (where the party seeking annulment was under 18 years of age at the same time of marriage or that the marriage was entered into based upon fraudulent representations, force, or mental and/or physical incapacity). It is generally substantially more difficult to obtain an annulment than a divorce.

4. How Is Martial Property Divided In California?

Under California law, most property and debts of the marriage will generally be characterized as either community property or separate property.

"Community Property" is all real property (i.e. real estate) or personal property that you and your spouse acquired through labor or skill during the marriage (i.e. from date of marriage to date of separation). Community Property means that each spouse has a one-half interest in such property, regardless of whether property is in only one of the spouses' names or whether only one of the parties worked during the marriage.

In addition, debts incurred during the marriage are generally considered community obligations, even if the debt is in only one of the spouse's names. There are some exceptions to this rule, such as student loans, which are considered the separate property debt of the spouse who incurred such student loans because they also get the benefit of the education obtained as a result of such student loans.

Pursuant to California law, Community Property assets and debts are generally divided equally between the parties. However, the parties can agree to a division of property that favors one spouse over the other.

It is highly advised that any marital debts be paid off from the proceeds of the property division so that both parties can start over with a "clean slate" and also so that there is no risk that the other party may default in paying a debt that they agreed to do in the divorce. However, this is not always an option in situations where the parties have more marital debts and obligations than assets.

"Separate Property" is property and debt acquired prior to marriage, property acquired and income earned after date of separation, and any gifts or inheritances received before, during or after marriage. Such property is not divided in the divorce because separate property is not marital property.

In addition, Family Code Section 2640 entitles the reimbursement of a spouse's separate property contribution of the down payment made on a community property home and any improvements made to such community property home, if you can prove such payments with sufficient documents.

Unfortunately, property division can become complicated in situations where separate property has become commingled (i.e. mixed) with community property, such as bank accounts. Moreover, there can be situations where one spouse contends that an asset is their separate property asset with the other claims that there was a "transmutation" of the character of the property from separate into community property. Such determination can be complicated and you are best advised to seek legal advice to deal with those issues.

5. <u>What Happens In My Case After the Divorce Paperwork Is Filed And My Spouse Is Served?</u>

- *<u>Temporary Orders</u>*

After the initial divorce paperwork has been filed with the court, either spouse may file for an (crossed out: "Order to Show Cause") "Request For Order" hearing with the court requesting a hearing to decide temporary orders for child custody, visitation, child support, spousal support, and other orders while the divorce is pending. Other orders can involve temporary use of marital property, restraining orders and orders that one party pay the other party's attorney fees and costs.

Whenever (crossed out: Order to Show Cause) a Request For Order hearing addressing temporary child custody and visitation issues are filed, the Court will order that the parties attend mediation at no cost through the court's mediation department prior to the (crossed out: Order to Show Cause) Request For Order hearing date. Although the law requires that the parents participate in mediation, there is no requirement that they reach an agreement.

- *<u>Disclosure of The Spouses' Financial Assets, Debts, Incomes and Expenses</u>*

The next step after service of the Summons and Petition for Marital Dissolution and the Response thereto is for both parties to complete and exchange their own "Preliminary Declaration of Disclosure."

Both parties in a California divorce are required to disclose detailed, accurate information to the other about their respective incomes, expenses, property (both marital and separate property), and all debts and obligations. These mutual disclosures are called the parties "Preliminary Declaration of Disclosure". These formal disclosures are signed under penalty of perjury. A Final Declaration of Disclosure can be completed at approximately the time of trial or

settlement in the case, unless the parties mutually agree in writing to waive such final disclosure.

These Declarations of Disclosure consist of special forms required by the court, and except for proof that the parties served each other with such forms, these forms are otherwise not filed with the court. The 4 forms that generally comprise the Declaration of Disclosure are:

1. Declaration of Disclosure (form #FL-140)
2. Income & Expense Declaration (Form #FI-150)
3. Schedule of Assets & Debts (Form #FL-142)
4. Declaration Regarding Service of Declaration of Disclosure (Form #FL-141)

The purpose of such financial disclosures is to make settlement negotiations easier to proceed because of the generally clear picture of the parties' financial situation given by such formal disclosure. Moreover, it protects the parties in the event that either spouse failed to disclose all assets.

California law requires that the disclosure documents be completed and served twice, once at the beginning of the divorce (i.e. Preliminary Declaration of Disclosure) and then again near the end of the case immediately prior to trial or judgment (i.e. Final Declaration of Disclosure). However, the parties can agree to waive service of the Final Declaration of Disclosure, as long as such waiver is in writing on the appropriate legal paperwork.

- *Legal Discovery*

In divorces that require determinations of the fair market value of marital assets, community businesses, debts, and self-employment incomes for support purposes, "discovery" requests served on one or both spouses may be necessary. Such discovery requests can require responses to general and specific questions, production of documentation and other tangible items, and depositions of the parties or third parties.

Completion of the discovery process is generally necessary before a divorce case can be set for trial and can slow down the divorce process. However, such discovery is necessary to protect the parties' rights and ensure a fair and reasonable division of the parties' assets and debts.

6. What Is The Purpose of Court Mediation Before My (crossed out: order to show cause) Request For Order Hearing for Custody & Visitation?

Mediation is intended to reduce conflict between the parties by encouraging cooperation and assisting parents in creating their own parenting plan that meet the needs of their children with their best interests in mind.

The court mediators are generally trained professionals who have at least a Master's Degree and have extensive experience in psychology and marital/family counseling, and are trained in conflict resolution.

In mediation, the mediator meets with the parties either together and/or individually. If there has been domestic violence between the parties, the mediation is usually held in separate sessions with each parent for safety reasons and to avoid any appearance of intimidation.

The mediator works to assist the parties in focusing on parenting arrangements that are in the best interests of their children and can put together a partial or full parenting agreement schedule (including legal custody, parenting plans, holiday and vacation schedules, transportation or other issues) depending on what the parties are able to agree upon in mediation.

Parents can sometimes resolve all of their parenting issues in mediation, sometimes only a partial agreement can be reached, and otherwise no agreement is reached. Mediators only draft agreements that are acceptable to both parties. If the mediation agreement is still agreeable to both parties at the time of the (crossed out: Order to Show) request for order hearing, it can be adopted and incorporated into a court order.

Only the parties attend mediation, with no attorneys, spouses or other family members present, although a second session can sometimes be requested so that the mediator can speak with the parties' children, if it is believed that such feedback would be helpful in assisting the parties to develop parenting plans.

In Orange County, mediators are merely efforts for the parties to meet face-to-face without their attorneys to attempt to resolve such issues. Mediators in Orange County do not make recommendations to the Court on parenting plans.

However, In Riverside County and other Inland Empire Family Courts, the court mediator can make recommendations regarding child custody and visitation that the Court judge will very likely give substantial consideration in to making court orders.

Mediators are allowed under the law to make recommendations to the Court where there are allegations of domestic violence, drug and/or alcohol abuse, and other concerns of the mediator affecting the welfare and best interests of the children. Such recommendations can include an emergency child evaluation, a domestic violence investigation, a full psychological child custody evaluation, or the appointment of a "minor's counsel," who is a private attorney appointed to represent and protect the best interests of the minor children.

7. What Does Legal & Physical Custody Mean?

Legal Custody

Legal Custody refers to who gets to make the decisions concerning the health, education and welfare of your child(ren).

- *"Sole Legal Custody"* means that one parent shall have the right and responsibility to make the decisions related to the health, education and welfare of the child (Family Code Section 3006).
- *"Joint Legal Custody"* means that both parents share the right and responsibility to make the decisions concerning the health, education and welfare of the child (Family Code Section 3003). In making an order for custody concerning both parents, the court may grant joint legal custody without granting joint physical custody (Family Code Section 3085). Generally, most parents agree to, and the courts otherwise order, joint legal custody, unless the court makes a finding that joint legal custody is not in the best interests of the child(ren).

Family Code Section 3003 does not spell out any details of exactly what "Joint Legal Custody" entails, and so it is highly advisable that any court orders reached in your case include a detailed listing of the specific rights and responsibilities of both parties as they pertain to joint legal custody. These specified joint rights and responsibilities should include at least the following:

- Enrollment in or leaving a particular private or public school or daycare center.
- Participation in particular religious activities or institutions.
- Beginning or ending or psychiatric, psychological, or other mental health counseling or therapy.
- Selection of a doctor, dentist, or other health professional (except in emergency situations).
- Participation in extracurricular activities.
- Out-of-country or out-of-state travel.
- The parent who has the physical care of the children at any given time shall have the routine decision-making rights and responsibilities during those periods of time; however, all major decisions pertaining to health, education and daycare shall be made jointly by the parents. No prior consultation is required between the parents regarding emergency medical or dental treatment, routine checkups, or minor illness. However, the other parent shall be notified immediately in the case of an emergency. A sharing of routine health information is encouraged.
- In the event that controversy arises regarding major decisions, both parents shall first consult together and if no resolution, meet and confer with an expert in the field related to the dispute, e.g. the child's doctor, teacher, counselor, etc. if the consultation does not resolve the dispute, the parents shall return together to Mediation at the courthouse in an attempt to reach an agreement. Finally, if the dispute continues, it shall be submitted to the Court for a decision, and until then, the existing orders shall remain in effect.
- Neither parent shall enroll the children in activities that require a commitment from the other parent or interfere with a previously agreed upon or Court-ordered schedule without mutual approval. Parents are encouraged to attend their children's activities. Parents are responsible for keeping themselves advised and for advising each other of all school, athletic, and social events in which the children participate.
- Both parents shall have the same access to psychological, medical, dental and school records pertaining to their children and shall be permitted independently to consult

with any and all concerned professionals. The names of both parents shall be listed on school and extracurricular cards to be contacted in case of emergency.

- Each parent shall notify the other of the name, address, and telephone number of each health practitioner who examines or treats the children; such notification to be made within one (1) day of the commencement of the first such treatment or examination.
- Neither parents shall submit the children to any psychological/psychiatric testing or evaluation or to any extended course of medical, dental, orthodontic, psychiatric or psychological treatment/counseling without first obtaining the consent of the other parent.
- Both parents are required to administer any prescribed medications for the children.
- Each parent shall be entitled to reasonable telephone communication with the children at reasonable hours. Each parent shall not interfere with the children's right to privacy during such telephone conversations.
- Neither party shall change the surname of the children or cause the surnames to be changed on medical, dental, school, DMV records or other legal documents without the consent of the other parent or order of the court.

Physical Custody

- *"Joint Physical Custody"* means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared in such a way so as to assure a child of "frequent and continuing contact" with both parents (Family Code Section 3004). In making an order for joint physical custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child for the purpose of determining eligibility for public assistance (Family Code Section 3086).
- *"Sole Physical Custody"* means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation with the supervision of one parent, subject to the power of the court to order visitation with the other parent (Family Code Section 3007).
- *"Joint Custody"* means joint physical and joint legal custody (Family Code Section 3002).

8. How Does Domestic Violence Affect Child Custody?

The Court will consider your case to be a "domestic violence case" if the Court finds that a parent committed or was convicted of domestic violence against the other parent in the last 5 years.

Pursuant to Family Code Section 3044, if the Court makes such a finding, there is a legal presumption that the party who perpetuated the domestic violence should not have sole or Joint Custody of the parties' children. Such legal presumption can be overcome and custody awarded to the parent who committed the domestic violence if it is in the best interests of the

child, the perpetrator has completed a 52-week batter's program, not committed any other domestic violence, and has complied with any other order of the court.

9. How Does The Court Determine Child Support?

California has a child support guideline formula that is used in all cases to determine the proper amount of child support. Generally, the courts and all attorneys in California use one of 2 recognized computer programs based on the child support guideline formula called "Dissomaster" and "X-spouse."

The factors considered in making child support orders are primarily the gross income of the parties and the amount of time each parent spends with the minor child. However, other factors that can be considered include any itemized deductions the parties can claim on their taxes, medical insurance premiums paid each month, and any mandatory retirement payments and union dues for individuals whose employment requires them to be part of a union and to contribute to a deferred compensation retirement plan (i.e. a pension).

In addition to the basic monthly child support, the court will generally also order that the parents equally share the costs of childcare expenses necessary for the custodial parent or both parents to work, as well as any medical, dental and vision expenses for the minor child not covered or reimbursed by medical/dental/vision insurance.

Child support can also include expenses for the special needs of a child, such as tutors or other services, as well as the transportation costs for visitation of a parent,

Finally, the Court generally orders that both parents keep their child medically insured with medical insurance of it is available at no cost or at reasonable cost to both parents.

Child Support is generally paid until the minor child reaches the age of 18, or age 19 if they are still a full-time high school student at age 18, unless the minor child dies or becomes emancipated prior to becoming an adult.

Child Support orders can be modified if there is:

- A significant increase or decrease in either parent's income;
- A change in custody or the amount of time the child spends with each parent; or
- Any other change that would affect the child support guideline calculations.

10. What Is The Difference Between "Temporary" Spousal Support & "Permanent" Spousal Support?

California law makes a distinction between "short-term" and "long-term" marriages in determining the duration of spousal support payments and the jurisdiction of the court to award spousal support. For marriages less than 10 years in duration, California law and case law precedent maintains that the spouse obligated to pay spousal support is obligated to do so for one-half the length of the actual marriage.

However, for marriages 10 years or more, the court generally has continuing jurisdiction over the issue of spousal support and the longer the marriage, generally the prospect of continuing spousal support for many years to come.

Temporary spousal support, also known as "pendite lite" spousal support, is generally an award of support while the divorce is still pending in the court. It is calculated using the same formula and computer programs noted above.

Permanent spousal support, which is determined by the court at time of trial or agreed to by the parties, does not involve a formula or computer program. Instead, it is a factual analysis of the factors of the marriage, including the marital standard of living and the following factors:

- The extent to which each party's earning capacity is sufficient to maintain the standard of living established during the marriage;
- The contributions of the supported party to the paying party's education, training, career position, or professional license;
- The ability of the supporting party to pay spousal support;
- The needs of each party based on the standard of living established during the marriage;
- The ability of the supported party to engage in gainful employment without interfering with the interests of dependent children;
- The age and health of the parties;
- Any history of domestic violence between the parties;
- The immediate and specific tax consequences to each party;
- The balance of the hardships to each party;
- The goal that the supported party become self-supporting within a reasonable period of time (usually one-half the length of the marriage);
- Any criminal conviction of an abusive spouse; and
- Any other factors the court deems just and equitable.

In situations where neither party needs spousal support at the moment, the Court can reserve jurisdiction to order spousal support in the future if there were any change of circumstances, such as serious illness, disability, or loss of employment.

11. Is It A Good Idea For Me To Keep The Marital House Or Sell It?

To answer that question, you must first take a realistic assessment of whether you can afford the costs to maintain the expenses associated with the home on your own, including the mortgage, property taxes, utilities, and maintenance costs. You will have to make such payments on one income instead of two, and if you are the spouse that will be responsible to pay child and/or spousal support, your post-marital expenses will be even higher.

In addition, your spouse is likely entitled to one-half of the equity in the marital home as part of his community property share. If you wish to keep the house, then the property will need to be professionally appraised to determine the fair market value of the property,

minus the mortgage and any home equity loans on the property. In addition, if either spouse contributed any separate property funds (i.e. generally, money that the spouse had prior to marriage) towards the down payments or for improvements to the property, Family Code section 2640 states that such spouse is entitled to reimbursement for such down payment or improvements first prior to any community property division of the remaining equity.

So, if you chose to keep the property, your option is generally to refinance the mortgage in your own name to pull out one-half of the equity in the property to pay off the other spouse's interest in the property. It is prudent to get pre-qualified for a new mortgage that is, in reality, 50% larger because of the buyout of the other spouse's interest, to see if you qualify and also if you can handle the new mortgage without losing sleep at night. This is where child support and spousal support can come into play, because if there are court orders in place for such support, a lender will generally view such monetary "income" streams in qualifying you for a new mortgage, if it is likely to continue for at least 3 years.

If you are the spouse leaving the home, you want to have written assurances that the other spouse will remain current on the mortgage until the property is refinanced in that spouse's name alone, at which point you would quit-claim the title to the property to that spouse as their own. In certain situations where the other spouse may not be able to readily refinance the property in their own name, you can contact your mortgage lender and request to do a "Qualifying Name Delete Assumption," wherein your name would be deleted from the existsting mortgage obligation.

Remember that selling your home is always the last resort if these options are not available.

12. <u>My Spouse Wants To Keep The House Until the Children Graduate High School-Is That A Good Idea?</u>

Trying to keep the marital house for the sake of the children is admirable and generally intended to be in their best interest, particularly during the instability of divorce and the adjustment of their life thereafter.

However, there are real considerations that have to be weighed in order to determine whether it is wise to enter into such agreement. First, you may have difficulty in qualifying for a new property you wish to purchase since you will be listed as a borrower under the existing mortgage for the marital property, thereby affecting your debt ratio that lenders use in qualifying borrowers.

Second, if the spouse remaining in the house makes late payments on the mortgage or defaults on payments, your own credit will also be detrimentally affected and seriously affect your credit score which in turn will affect your ability to borrow or lease anything in the future.

Finally, you will need to have a clear written understanding of what each spouse will be entiltled to years from now after Junior has graduated from High School and now the time

has come to sell the house. After all, should the spouse that did not keep the house still be entitled to one-half of the equity in the property at the time of sale, or at the time of the divorce? Having a clear agreement is vital to avoiding future, costly problems in how to divide a property sold years after the divorce was over.

13. What Are The Tax Implications For Selling The Marital Resident?

Under current Federal tax law, if you have lived in the same house for two of the last 5 years as your pricipal residence, individuals are exempt from capital gains taxes of up to $250,000 in taxable profits on sale of your house, and $500,000 in taxable profits for married couples. For any profits above these amonuts, capital gains taxes are assessed of 15% would be assessed, which married couples would be equally liable for.

There are occasions where one of the spouses involved in a divorce wishes to "bifurcate marital status" while their divorce is pending, meaning that the Court can restore the parties to single persons while the rest of the dissolution case is still pending. For example, one of the spouses may wish to remarry, and they cannot legally do so without first terminating their marital status. However, the parties must first determine the approximate amount that their residence has appreciated in value since they bought it, because if one spouse decides to keep the marital residence and marital status has previously been determined, that spouse would be considered a single person for purposes of state and Federal tax exemptions. The tax implications are be substantial and should be considered in any settlement negotiations.

You should always consult with your tax professional before making any decisions in your divorce case.

14. What If My Spouse And I Are In Agreement On Some Or All Issues In Our Divorce?

When parties are able to work together in reaching agreements for temporary orders or final settlement of their entire marital dissolution case, a "Stipulation & Order" for temporary order or a "Marital Settlement Agreement" as part of a Stipulated Final Judgment can be drafted by the attorney outlining the terms of such agreement which the parties and their respective counsel will sign and when filed with the Court, they become official order of the Court.

15. What If My Spouse And I Cannot Resolve Some Issues In Our Divorce?

If the spouses ultimately are unable to reach a more "permanent" agreement on all custody, visitation and related issues, the parties will need to request that a trial date be set to have the judge assigned to the case decide the issues. There are no juries in family law court, so such issues are generally decided by the Judge or a Commissioner of the Family Law Court.

16. How Soon after I File For Divorce Can I Be Divorced?

California has a six-month “cooling-off” period prior to entry of judgment in a mrital dissolution case, meaning that a judgment terminating the marriage cannot be entered until at least 6 months after the date the other spouse was served with the Petition for marital dissolution has passed. However, nothing happens automatically when the 6 month time period is reached, and the Court does not automatically terminate the marriage after 6 months. Entry of Judgment requires either a formal Marital Settlement Agreement be entered into by the parties as part of a judgement package filed with the court, or otherwise by court orders made at trial.

In other words, a divorce judgment can only happen with either an agreed-upon judgement or going to trial. Until that time, neither party can legally remarry.

In situations where the parties have not resolved all issues or one or both parties seek to be divorced in order to remarry, a party can seek a “bifurcation” of marital status, wherein the court terminates your status as a married couple but reserves jurisdiction over all other issues of the marriage until further agreement can be reached or the case goes to trial.

17. <u>What Should I do After My Divorce Is Final?</u>

Review and revise your estate plan, including your will. If you had a revocable living trust with your ex-spouse, you should obtain one for yourself and revoke the prior one with your ex-spouse.

Change the beneficiaries on any life insurance and retirement policies to your children or others in place of your ex-spouse.

Consult with a tax consultant concerning your new financial circumstances. If you have physical custody of your minor children for more than 50% of the time, you generally get to claim the children as tax exemptions on your tax return (unless you and your spouse reached a different agreement in the judgment). If you are receiving child and spousal support from your ex-spouse, remember that child support is not tax-deductible so you do not have to claim such support on your tax returns. However, spousal support IS tax-deductible, and is considered as compensation by the IRS which you must claim on your tax returns.

18. <u>What Should I Do If I Am Considering Getting Married Again?</u>

Seriously consider a Prenuptial Agreement if you have significant assets, or you are involved in family business. Th first time around in marriage, most people marry young, have no money or assets, and have absolutely no idea what the laws are concerning marriage. The divorce rate is over 50% overall, but is even higher for subsequent marriaes.

Therefore, a Prenuptial Agreement is wise and prudent with those odds. Moreover, this time around, why not have the financial aspects of marriage dealt with upfront, so that hopefully you and your new spouse can concentrate on the romance of your marriage and

hopefully avoid the problems and pitfalls of your first marriage in the process. Marriage and romance over the years is challenging enough without financial stress, so why not make efforts to reduce or eliminate the potential to argue over money issues when both parties can agree and understand the financial agreement from the start.

Have further questions about getting divorced in California?

Please call us at 949-553-0304.