

Many women divorcing at midlife use it as an opportunity for a fresh start

By Trey Yates

Late-life divorce (after age 50) is more common than most people might think. And relationship expert [Dr. Pepper Schwatz](#) says, while infidelity is one reason, couples in this age bracket cite a number of determining factors in their divorces.

"Some relationships have been in decline for decades and finally lose all their juice," she says. "Often, a couple's issues intensify. It could be a change in jobs, health, children's lives, personal ambitions or other triggers. Many couples just grow apart.

Sometimes there's a lack of communication and loss of trust. We are also living longer, so couples may find themselves wanting to make changes in their lives at this stage."



Whatever the reason, I have found that divorce can be especially devastating for women in this category. They often feel as if they have lost control over every aspect of their lives – financial, emotional and spiritual. They are thrust into an unfamiliar legal maze and called upon to make important, irreversible life changing decisions.

Despite these challenges, I have met and worked with women who overcome these challenges and come to see divorce as an opportunity for a fresh start – a catalyst to propel them into a better life. These are women who emerge from divorce stronger, wiser and in more control of their destinies than ever before.

In 2011, I created the Guide to Good Divorce program to offer women of all ages an informational workshop designed to help them successfully navigate the divorce process. The seminars provide information and access to experts on divorce law in Texas, divorce financial planning, life skills development and wellness. Another important component of the seminars encourages women to meet and share with others facing the challenges of divorce, and start to build new communities of support.

The program is based on what I call the [Five Keys to a Good Divorce](#): securing good legal representation, wrapping your head around the financial side of divorce, refreshing your life skills, attaining a new level of wellness, and making new friends and connections.

Ten facts about divorce that may shock you

By Patricia Barrett, CFP, CDFIA

If you are considering divorce, realize that what you don't know about the divorce process can hurt you. And, what you think you know about divorce, may not be fact!

Myths about divorce abound. For one thing, divorce laws vary from state to state. So, quite often, people are confused due to what they have heard about celebrity divorces, or a friend or family member's divorce in another state. To help bridge this knowledge gap, I have compiled a list of ten facts about divorce that may surprise you.



1. You may be responsible for debts incurred by your spouse during the marriage.

Generally, debt incurred during marriage in order to provide necessities like clothing, food, etc. is considered joint debt in most cases. That means that each spouse shares the responsibility of paying back the debt. Debts from before marriage are a person's separate debt, and not the liability of a spouse. That being said, there are exceptions to these general rules that need further review with your attorney.

2. Everything purchased during the marriage, even in another state, no matter whose name it's in, is typically considered community property.

Many people get confused about what is separate and what is community property when it comes time to divide the marital estate. Separate property is what is brought into the marriage, what is inherited during the marriage, or received as a gift during the marriage. So long as it is not mingled with the community property, it maintains its separate property status during divorce. If one spouse buys property or an asset during the marriage under his or her name it is still considered community property to be divided in a divorce.

Community property is all the property acquired during marriage, no matter whose name it is in and in which state it was purchased. In Texas, the income from separate property (such as a interest earned) is also considered community property although the appreciation in value of the underlying asset remains separate. For IRAs and qualified plans the rules are different. The appreciation on IRAs and qualified plans is considered community property, unless you trace the activity to separate community. Once again, make sure to closely examine your property/assets with an expert to be sure.

3. There is a form of alimony in Texas.

Court-ordered, spousal support, what most people call alimony, is very limited in Texas. It is referred to as *spousal maintenance*, and a spouse must meet strict requirements to qualify. Be prepared to provide a detailed, projected post-divorce budget that demonstrates a clear monetary need if you plan to apply for spousal maintenance. However, one may be able to negotiate *contractual alimony* from a spouse that goes

beyond what the law allows. A Certified Divorce Financial Analyst can assist in the preparation of this budget. Often the higher earning spouse receives more assets as an offset in exchange for providing alimony.

4. It may not make sense for the custodial guardian of the children to keep the family home.

In many divorcing families, there is an emotional attachment to the family home. It's important to analyze what it will cost to pay the mortgage, maintain the home, and pay utilities. Retaining the home must be evaluated from a cost perspective, and compared to giving up other assets that may provide income or future appreciation such as investments. Additionally, the cost of alternative housing must be considered, whether renting or acquiring a less expensive home. Read more about the issue of [buying a house during divorce](#) here. A Certified Divorce Financial Analyst can help to answer this question before committing to a settlement that cannot be changed.

5. Many Texas divorces never go to court.

Most divorce cases in Texas are settled out of court by agreement of the parties, either through negotiations through attorneys or through mediation. In the greater Houston area, family courts require that all divorcing couples try mediation before going to court for their divorce. If you are unable to reach a settlement agreement in mediation, you may recess and try mediating again. Otherwise, both spouses will be required to attend court with their attorneys.

6. Texas divorce law does not support the common belief of splitting marital assets 50/50.

The State of Texas requires a "just and equitable" division of property. A 50/50 settlement is rarely appropriate and should never be implemented without the advice of an attorney, and ideally, using an analysis of the situation by a Certified Divorce Financial Analyst. The division of marital assets in a divorce should take into account the need for one spouse to receive sufficient assets to provide support considering the much higher earnings of the other party.

7. I recommend retaining an attorney to assist in a divorce.

Some people consider getting a divorce without using an attorney to save money. This can be risky for both parties, especially if there are complex legal or financial issues to hammer out. Going through divorce with only limited legal oversight requires the divorcing individuals to be very familiar with Texas divorce law. They must also gather and analyze all their own financial data, which requires a high level of trust between the parties.

8. If you have been married for 10 years or more, you are entitled to one-half of your spouse's Social Security after divorce.

Your spouse still retains his full Social Security benefit and if he or she marries, his/her new spouse will also qualify to receive half the Social Security as well. This is strictly determined by federal law and is not a negotiation issue in divorce. However, if you remarry, you lose this benefit.

9. "Courts do not get involved in dividing pots and pans."

Most possessions and household goods hold "garage sale" value in a divorce. You would be wise to divide these items without paying an attorney or financial expert to get involved. I advise my clients to make a complete list of all possessions and then, take turns selecting items each of them wants. Remember to omit all items inherited or given as gifts to the other party. These are considered separate property.

There are some things that hold higher value like art, antiques, guns and other types of collections. These should be appraised. Cars and boats are typically valued using Kelly Blue Book online or another similar service. Home appraisal companies can be engaged to determine market value of the family home. If there is a dispute, each spouse is free to get a separate appraisal and then meet in the middle. If a privately-owned businesses is part of the mix, you may need an expert to determine its market value.

10. Working out an equitable financial settlement agreement may require the expertise of a Certified Divorce Financial Analyst.

In today's complex financial world of IRAs, 401(k)s, stock options, pension plans, executive bonuses, deferred compensation, supplemental executive retirement plans, and more, CDFAs offer a valuable service that most attorneys are not trained to provide. Gaining a clear understanding of all assets on the table is paramount to an equitable settlement. A CDFA can also advise on your options for choosing which asset mix will work best for you. He or she can also help you see how certain decisions made during the divorce process will affect you and your children in the short- and long-terms. Knowledge truly is power.