



Guide to Good Divorce Fall 2019 Enews

Revisiting the "conscious uncoupling" concept

By Trey Yates

The term "conscious uncoupling" exploded in the news media a few years back as Hollywood actor Gwyneth Paltrow announced she and Coldplay lead singer Chris Martin were ending their 10-year marriage. Paltrow used the obscure term to describe the couple's goal to keep their separation *blame-free* and *as amicable as possible for the sake of the children*.

The term and the couple got lots of press coverage, while social media exploded with comments, questions and debates about this rather unusual approach to divorce.



“The idea of using the word *uncoupling* to describe divorce has been around since the early 1940s,” according to Dr. Habib and Dr. Sherry Sami. “In 1976, sociologist Diane Vaughan created her ‘uncoupling theory.’ In 2009 Katherine Woodward Thomas coined the term *conscious uncoupling* and began teaching this alternative approach to divorce throughout the world.”

“For the vast majority of history, humans lived relatively short lives,” said Habib and Sami, “and subsequently, weren’t in relationships with the same person for 25 and 50 years... As divorce rates indicate, human beings haven’t been able to fully adapt to our skyrocketing life expectancy. Social research suggests that because we’re living so long, most people will have two or three significant long-term relationships.”



Couples in Texas who are considering a *kinder, gentler way to untie the knot*, may want to explore the Collaborative Divorce model. In this approach, both spouses and their respective

attorneys agree in advance that neither spouse will take any contested issue to court. Instead, the couple will create a “Collaborative team” which include attorneys for each spouse, and also may include a neutral mental health and financial professional, who will focus on finding ways to assist the spouses meet each of their most important goals and concerns.

In a Collaborative Divorce approach, both spouses must sign an agreement that they will share all information available to them about their property and children. The couple and their team meet together in the same room at mutually convenient times where all issues discussed are confidential. Participation is voluntary and either spouse can choose to the end the process at any time. Both spouses must agree to any resolution that is reached. If the couple cannot agree on a settlement, they can still take the litigation path toward divorce. However, their collaborative lawyers must withdraw and cannot continue to represent the parties in the case.

The potential benefits of a Collaborative Divorce include privacy, lower costs, client control, protecting the children, preserving family relationships and minimizing post-divorce conflicts. Collaborative Divorce also offers couples and their team an opportunity to work without court interference to develop a creative and customized solution to their divorce that works best for all.

This approach is not appropriate for every situation. Couples who aren’t willing to compromise, or are especially angry at each other, or who “want their day in court,” may be better off proceeding through the litigation process instead. Meeting with an experienced divorce attorney trained in Collaborative Law is the best first step in determining if you and your spouse are good candidates for the Collaborative Divorce process.

To schedule a divorce consultation to see if Collaborative Divorce may be right for you, call the law office of Trey Yates at 713-932-7177.

Social Security benefits and divorce

By Patricia Barrett, CFP, CDFA

Decisions about filing for Social Security benefits will affect you financially for the rest of your life. And if you have gotten divorced in the past, or are preparing for divorce now, you may qualify to receive Social Security on the work record of your ex-spouse, and later on your own work record.

In order to do this, however, you must meet several requirements and consider at what age to start taking those benefits. This option should be considered and factored into your overall financial divorce strategy.



Here are the basic rules for qualifying for Social Security benefits *on the work record of your ex-spouse*:

- You must be at least age 62 and married to your ex-spouse for 10 years or more;
- Your divorce must have been final at least two years before you file;
- Your ex-spouse must have reached the age at which he or she is eligible to receive a retirement or disability benefit;
- You are not entitled to a higher Social Security benefit under your own work record at the time of filing; and
- You must be unmarried.

If you meet all the above criteria, *and* you have reached your full retirement age — *that age is now 66 for people born from 1943 to 1954 or 67 for birth dates in 1960 and later* — then you qualify for 50 percent of the amount your spouse is due at his or her full retirement age. If you are 62, then you qualify to receive 35 percent of his or her benefits.

Any benefit you get does not affect the amount your former spouse, or his or her current spouse, may receive. And the remarriage of the ex-spouse has no bearing on your ability to file under his or her earnings record. It is only your own remarriage that revokes your eligibility to file under his or her work record. If you remarry and are married to a second spouse for 10 years or more and divorce, you can take the benefit from either ex, whichever is greater. By the way, Social Security's regulations and policies are gender-neutral and apply equally for men and women.

At what age should I apply?

If you contributed to your own Social Security benefits, it may well be greater than 50 percent of your ex-spouse's benefits. You may need to file under his or her earnings record (a spousal benefit), due to certain circumstances, but if your benefits will be greater, you would be wise to wait if possible. For instance, if you have a \$1,400 per month benefit coming at age 66, but would be entitled to only \$800 per month by filing under your exes' earnings record, naturally, you would wish to apply for benefits under your own record.

Note that if you want to file under your ex-spouse's benefit, the ex-spouse must be old enough to file for Social Security. He or she does not have to apply for those benefits, but must be eligible.

What if you have no Social Security earnings record?

You are still eligible for the Spousal Benefit if you need it under your ex-spouse if the above requirements are met. You can also still decide at what age to apply for your Social Security benefits — at age 62, 66 or later, in order to secure the delayed retirement credit. Assuming you have other income sources, the best choice would be to allow your benefits to continue to earn that 8 percent per year deferred retirement credit increase as long as possible.

What are your options if your ex-spouse dies?

If your ex-spouse dies, you can access a “widow’s benefit” as early as age 60. Once again, you must have been married to your ex-spouse for 10 years or more. However, if you remarry before age 60, you will not be eligible to take the widow’s benefit. But, if you are over age 60 and remarry, you are still eligible to receive a widow’s benefit.

Since each case is unique and the laws are always subject to change, it’s best if you consult with a Certified Divorce Financial Analyst, like myself. We are trained specifically in this area and knowledgeable about maximizing your Social Security benefits following divorce, from within the context of your total financial situation. Knowledge is power, even when it comes to Social Security. For more specific information on Social Security, visit www.socialsecurity.gov.

Each divorce situation is unique, with its own set of circumstances and financial issues. The information in this column is meant to provide a guideline. For more information on divorce financial planning, contact Patricia at 832-858-0099.

Talking to your kids about divorce

When parents are about to divorce, it is important they tell their children and adolescents what is happening. And more importantly, they need to carefully plan for this discussion.

This free, downloadable [guidebook](#) will help parents think through and accomplish this difficult task. It is published by the American Academy of Matrimonial Lawyers and is designed to help make this discussion meaningful and helpful for both parents and their children. For additional free information on navigating the divorce process, visit <http://www.GuideToGoodDivorce.com/Resources>.

