

Checklist of Issues for Separation Agreement

Identifying Data

- c Names and addresses of parties
- c Date and place of marriage
- c Place last lived together
- c Names and ages of children

General

- c Acknowledgement of Fairness
- c Waiver of estate claims
- c Testamentary Dispositions
- c Mutual Release
- c Warranty of full disclosure of financial information
- c Entire Agreement
- c Merger/Survival of agreement
- c Privacy, confidentiality
- c Separate legal advise?
- c Dispute Resolution of future disputes
- c Effect of bankruptcy
- c Warranty of no prior expenses incurred
- c Enforcement Fees
- c Counsel Fees
- c Severability, partial invalidity
- c waiver of breach
- c Future modifications
- c Binding on heirs, executors, etc.
- c Indemnification for breach including estate
- c Massachusetts contract
- c Notarization

Parenting

- c Joint or individual legal custody.
- c Joint or individual physical custody.
- c Day to day residence of children.
- c Visitation schedule.
- c Transporting children to school, daycare, sports, activities, visits?
- c Access by phone, email, etc.?
- c Holidays (school, government, religious)
- c Religious training
- c Cooperation and non-disparagement
- c Procedure for making major decisions.
- c Access to academic, physical, medical and social information.
- c Parental permission to review all school, medical, dental and other written reports and to consult with professionals rendering services.
- c Procedure for authorization of emergency treatment.
- c Relocation outside Massachusetts?
- c Temporary removal of children from Massachusetts?
- c Contact with new partners?
- c Emergency decisions?

- c Access and visits with grandparents or others?
- c Changes in residence, visits expected?
- c Modifications or periodic review?

Alimony

- c Waiver, past, present, future
- c Periodic or Lump sum
- c COLA, adjustments, modification
- c Terminate after lapse of time, i.e., six years;
- c Terminate at death of Payee;
- c Terminate at remarriage of payee;
- c Terminate or reduce upon retirement?
- c Obligation after death of payor;
- c Tax consequences, includable in income, recapture, etc.
- c Preclude Reduction That Would Result in Recapture

Child Support

- c Periodic
- c Extra expenses (school tuition, sports fees, music lessons, daycare, summer camp, etc.)
- c College
- c Cooperation in seeking sources of financial assistance (scholarships, student loans, etc.)
- c vacation expenses
- c Emancipation defined.
- c Control of children's accounts

Health Insurance

- c Health Insurance – Children
- c Health Insurance –Spouse
- c Dental?
- c Uninsured Medical and Dental Expenses -- Children
- c Uninsured Medical and Dental Expenses -- Other Spouse
- c Cooperation

Life Insurance

- c Ownership
- c Obligation to maintain, how long, who pays?
- c Security for obligor's performance on support?
- c No borrowing/pledge
- c annual verification – provide automatically or when requested
- c remedies for default of payment
- c When term policies no longer available?
- c Beneficiary designation, ex-spouse, trust for children, etc.

Taxes

- c Filing status of current/upcoming Income Tax Return
- c Filing status of future Income Tax Returns
- c Disposition of refund on past returns filed;
- c Disposition of refund on future returns filed;
- c Dependency Exemptions for children

- c Agreement as to Recognition of Gain / losses
- c Indemnification for past and future taxes due
- c Cooperation in audit/investigation
- c allocation of deductions, exemptions
- c contribution to taxes due, expenses of filing
- c capital gains allocations
- c adjustments for changes to tax laws.

Division of Assets

Real Estate

- c Marital Home – identify, Book, Page, mortgage balance, etc.
- c who occupies
- c ordinary repairs
- c capital improvements
- c tenants? Rental income?
- c who pays utilities, insurance, condo fees, etc.
- c sale to third parties: timing, broker, payment of closing expenses, division of proceeds.
- c transfer to spouse: date of transfer appraisal, price, payment terms, tax consequences, mortgage liability, indemnification.
- c Other Real Estate

Financial / Bank Accounts

- c Checking accounts.
- c Savings accounts.
- c Certificates of deposit.
- c Money market accounts.
- c Securities, stocks, bonds, mutual funds, brokerage accounts, etc.

Personal property:

- c Furniture.
- c Children's furniture.
- c Tools, equipment, etc.
- c Works of art.
- c Antiques and heirlooms.
- c Cemetery / Burial lots.
- c Church/temple memberships.
- c Animals.
- c Automobiles
- c other vehicles
- c boats.
- c photos, albums
- c music, cd, dvd collections

Pension Assets:

- c IRA, Keough, 401(k), Profit Sharing, ESOP
- c Plan description, valuation, division
- c QDRO's

Employment Rights:

- c Bonus rights.
- c Stock options.

Stocks and Securities:

- c Identification of accounts, brokerages
- c valuation
- c division or transfer

Other Property:

- c claims.
- c Rights to deferred compensation.
- c Membership in organizations, country clubs, tennis and health clubs.
- c Corporate / Business interests.
- c Life insurance: cash surrender value.
- c Loans and mortgages receivable.
- c Trusts, family limited partnerships, life estates, remainder interests
- c Inheritances?
- c After-acquired property, waiver

Debts

- c Taxes
- c Credit Cards
- c Student loans
- c Counsel fees
- c Uninsured medical or dental
- c Others