

Unique Challenges When Divorcing After 50

The divorce rate for the general public has remained relatively stable since 1980. For older adults, rates have nearly doubled.¹



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Donna Kline, MBA, CDFA™, combines experience as an investment broker and wealth manager, a proven approach to long-term financial planning and the unique skills of a Certified Divorce Financial Analyst™ (CDFA™) to help a divorcing client understand and address the associated financial issues and helping them in obtaining a fair and equitable divorce settlement. She directs the HBKS® CDFA™ practice out of the firm's Pittsburgh offices.

Ms. Kline is the author of *Fundamentals of the Futures Market*, published by McGraw-Hill in 2000, and has contributed numerous articles to various magazines, including *Futures Magazine* and *Bloomberg BusinessWeek*. She is a member of the Institute for Divorce Financial Analysts (www.institutedfa.com), International Academy of Collaborative Professionals (www.collaborativepractice.com) and The Collaborative Law Association of South Western PA (www.clasplaw.org). She holds a B.S. in Genetics from University of California at Davis, and an MBA from Santa Clara University.

Many of us plan and prepare to comfortably breeze through our golden years. We've worked hard, we've saved money, and, hopefully, we've raised our children to be productive members of society. Then, whether we saw it coming or not, we find ourselves faced with a divorce.

Couples divorce later in life for many of the same reasons younger couples do – infidelity, financial pressures and the like. But there may be other factors that contribute to the decision, such as tensions brought on by spending more time together, or the stark realization that there are more years behind you than you likely have ahead.

Fewer and fewer couples seem to be able to embrace these changes and work through them. If you are filing for divorce or just considering it, here are some important facts to know.

Division of Assets

For folks over 50, the largest of the family assets may be equity in the house, a retirement account, or possibly a pension plan. Choosing how these assets are divided is critical to long-term planning. All assets are not created equally. They have different levels of liquidity, risk and tax ramifications. It is important to contact a professional qualified to evaluate these assets before making any decisions. Once the papers are signed, there is little chance of retribution.

The House

A younger family facing divorce may have strong desires to stay in the neighborhood or school district for the benefit of their young children. However, that may not be the best solution for them financially. The mortgage and tax payments may be high, and there may not be enough other family assets available to provide enough income to stay. The rationale for a more mature family to stay in the home is different. If the home is paid off, and there are enough assets to offset the equity tied up in the home, it may be the least expensive option for one party to stay. For example, older age triggers eligibility for real estate property tax rebates at the state and county level, which could lower costs. Also, at age 62 and older, reverse mortgages can be utilized to

provide a potential stream of income. These options and others are not available to younger families.

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Retirement Accounts

Money set aside for retirement during a marriage is a marital asset that is to be divided equitably upon divorce. It does not matter which spouse earned the money. It is very important for you, your lawyer and your financial advisor to review any and all familial retirement assets. You may need a legal document called a Qualified Domestic Relations Order (QDRO) to be drafted, which will enable the

account to be divided. Great care needs to be taken to avoid a tax penalty for any distribution. There is also a one-time opportunity to take cash out of a plan penalty-free as the result of a divorce.

If the asset is a pension plan – one that pays an income stream after retirement rather than a lump sum – you will want to clarify when you can receive distributions without penalties, and if survivor benefits remain on those payments after the divorce is final. This information will help you, your attorney and your advisor to determine if it is more financially favorable to accept a lump sum to offset the value of the payments, or to agree to split the payments down the road.

Social Security

Speaking of pension plans, the United States government provides one for every working taxpayer, it is called Social Security. If your marriage lasted 10 years or more and you are not re-married, you may qualify to collect retirement benefits from your former spouse's Social Security record, without reducing your ex-spouse's own benefits – even if you earned little or no benefit of your own. Once you have been divorced for two years, you also may be entitled to draw benefits, even if your former spouse is eligible but not drawing.² Social Security payments are also a factor in determining equitable distribution. If one spouse has earned \$2,400 per month in full retirement benefits, and the most the ex-spouse would qualify for is \$1,200 (half of his or her ex-spouse's), then that is a factor to consider when dividing property or determining alimony.

Alimony

Couples divorcing later in life have likely been married for an extended period. If the marriage has lasted a long time and there is a sizable income disparity between the parties, alimony is likely to be awarded. Tread carefully here, as it depends on many different factors, such as the ability to earn an income, the ability to pay the alimony and whether there are enough assets to offset what would otherwise be awarded. Every case is unique and should be

discussed with an industry professional.

Choosing your divorce team

If you are faced with divorce, the emotional aspects can be overwhelming, particularly at an older age. It may seem as there is more loss to mourn and less time ahead to rebuild. This is why it is important to create a strong, supportive team of professionals to help you through it all. Friends are helpful, but they are not experts. You will need a good counselor, a financial advisor, an accountant and a lawyer to get you through the process as little scathed as possible. Be selective in this process. Look for those who aim to foster a brighter future and encourage you do make the choices that will keep your golden years just the way they are supposed to be: golden. □

1- Research provided by a study co-authored by Susan Brown, co-director of the National Center for Family and Marriage Research at Bowling Green University.

2 - See the Social Security Administration's website at www.ssa.gov for more information.

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