



CAMAUR CRAMPTON

FAMILY LAW

IS THERE A DIVORCE SURVIVAL KIT?:

More than half the people we know are divorced or very unhappily married... and yet, it's so much more difficult to get divorced than married. For marriage, you simply need a marriage certificate and someone to officiate the ceremony...whether it's your local minister, the justice of the peace or an Elvis impersonator in Vegas, the requirements are loose and easily obtainable in a matter of minutes. Yet, to undo the marital bond, it seems spouses must endure the confusing (seemingly insurmountable) paperwork, huge legal bills and microscopic investigation.

Some people attempt to simplify their lives and their divorce by attempting to obtain a divorce without the assistance of lawyers. This can be the fatal mistake. It is extremely foolish to attempt a divorce without a knowledgeable family law attorney. Family law has become increasingly complicated and technical in California. And, divorces can become much more complicated and costly if first attempted without the proper guidance.

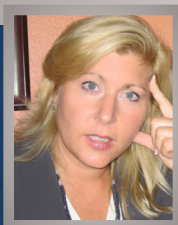
Once married, spouses are held under California law as fiduciaries to each other. In 1993, the California legislature enacted requirements that spouses provide full disclosure to each other of assets, liabilities, income and expenses prior to a property division in a divorce case. A court will not enter a divorce until the proper disclosures have been made and forms completed. Moreover, in 1993 the legislature also enacted laws which give courts the discretion to set aside (undo) divorce judgments if they were obtained through fraud, perjury, duress, mental incapacity, mistake or if one of the parties failed to comply with the stringent disclosure requirements. Even after a divorce is entered, there is potential that the entire divorce will be undone if it was not completed properly the first time with the required disclosures.

With the increased cost and difficulty in obtaining a divorce, many couples live separated for years without being able to complete their divorce. And, in fact, even attorneys with other specialities have extreme difficulty obtaining their own divorces without the assistance of a family law attorney.

Ultimately, the best way to get through the trauma of a divorce is to meet with a family law attorney and discuss the options for resolving the matter amicably first. If the case can be resolved through agreement, then the parties have the option to work collaboratively or through mediation to provide the disclosures and complete the divorce. This is the most efficient and least costly method to complete the divorce (both financially and emotionally). If the parties are not able to reach an agreement on all issues, then they should attempt to resolve any issues they can and narrow down the issues that will require litigation. It should be both parties' goal to keep the litigation down to a minimum. Both parties will have more control to creatively work through their issues if done outside of court.

Some family law attorneys, retired judges and retired commissioners also provide services as mediators who can assist couples in reaching agreements after inspecting and having the parties complete the proper disclosures to each other. A mediator cannot represent either party, but instead provides services to couples who want to reach agreements. Each spouse may choose to have their own separate family law attorney review and advise them regarding an agreement reached at mediation. Either way, if the parties can reach an agreement at mediation, it will save them significant financial and emotional anguish.

If litigation is necessary, then having the right lawyer can make the difference in the outcome. Having an attorney who has substantial knowledge and experience in family law is imperative. This is your life... your family...you should be able to trust that the attorney will be working for your best interests and is knowledgeable on how to approach the issues in your case. You want your divorce to be a memory... not a reoccurring nightmare.



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