

## FEAR

While the divorce process is often driven by the anger and frustration of the parties involved, fear is a primary factor that motivates people to make destructive choices during this period of their lives.

Fear is a reaction to the unknown. The family law system too often instills fear instead of allaying it.

The three biggest fears in “normal” divorce—which are discussed individually below—involve

- (1) child custody arrangements,
- (2) financial security,
- (3) facing life as a divorced person.

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Unethical attorneys prey on these fears to acquire and keep clients by saying or implying things like, “If you don’t file for sole custody of your children, you might not even get *joint* custody.”

All attorneys must occasionally use fear as a technique to apply pressure to the opposing side—it is inherent in litigation. However, unethical attorneys routinely capitalize on fear as a litigation and negotiation weapon against the other spouse; preying on fear is a main tool of their trade.

This is also why I believe that mediators and therapists need to play a larger role in the family law system. They are generally more inclined

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to promote communication, clarity, healing, and solutions to assuage the fears of the parties involved, so that fear doesn't become a driving force and create a destructive divorce.

If a couple locked in a high-conflict divorce is required to meet several times with a mediator, review the divorce laws and the process of dividing financial assets, and learn most-likely outcomes both with and without litigation, they will be more likely to make constructive decisions. Knowledge can minimize fear.

Virginia, Utah, Connecticut, and New Hampshire have passed legislation that requires divorcing parents to attend parent-education classes to sensitize them about how their behavior during and after the divorce will impact their children. (This has been such a success in Utah that eighty percent of the attendees believe that a similar program *before* marriage would be helpful.\*)

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### **(1) CHILD CUSTODY ARRANGEMENTS**

Certainly parent/child bonding is a prime consideration, but child custody arrangements are, in large part, about the oversight and control of the children's daily life.

For most parents, the thought of shared-custody arrangements that result in not seeing their children every day is extremely difficult. While we expect our children to leave home and live in other houses, apartments, or college dorms when they reach their late teens, most of us aren't emotionally prepared for it to happen when they are in the elementary grades or even preschool.

This early departure from the nest can be difficult even when the divorce and custody negotiations have been amicable. However, when

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\* *Speak Out for Children* (Children's Rights Council newsletter), Summer/Fall 1999

they become highly conflictive, the fear of “losing” custody, of seeing their children infrequently or not at all, of the other parent moving thousands of miles away, can make people crazy—in some cases quite literally.

One of the reasons people stay in unhappy marriages is so they can continue to have daily contact with, or oversight of, their children. The possibility of losing this daily connection is too high a price to pay in order to pursue their own personal happiness as a divorced person.\*

This daily oversight, involvement with—and care of—our children is an expectation with which we have been programmed our whole lives. As children, playing house with the boy or girl next door and acting out parenting roles, we were learning and rehearsing the covenant of caring for our future children.

It can be excruciating to reprogram ourselves to accept the fact that our young children will not be with us for days at a time and may be in the half-time care of someone we don’t entirely trust—i.e., if the other parent were a babysitter, we’d fire him or her.

In most cases, it gets easier as everyone gradually adjusts to the new living arrangements. After a year or so, you may wonder how you, your children, and your ex-spouse ever lived together in a house fraught with tension.

Sometimes spouses will seek full custody of a child because they are unable to give up control. These may be “control freaks” disguised as concerned parents who cannot stand the thought of someone else

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\*I heard a firsthand story about a couple who chose to stay together “for the sake of the children”; they agreed to delay their divorce until the youngest child turned eighteen years old. While the merits of this decision could be debated, it became insidious because they told their adolescent children of their decision. This placed an emotional burden on the children: They were now responsible for prolonging their parents’ unhappy marriage.

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caring for their child, bathing their child, selecting clothing for their child, feeding their child in a manner other than the way they want it to be done.

Then there are the emotionally insecure parents who cannot stand the thought of the other parent loving “their” child—or of the other parent receiving love from “their” child. They may be especially threatened if the ex-spouse is a good parent.

### **(2) FINANCIAL SECURITY**

Divorce has negative consequences on the financial security of both parties, which can result in drastic changes in lifestyle. The income earned to support one household must now support two.

From *Crazy Time* by Abigail Trafford:

One of the biggest shocks of divorce is financial: You’re a lot poorer than you were before. It doesn’t seem fair; to suffer so emotionally and then to suffer financially just when it would be nice to have some extra money to help you ease your way through the trauma. If you’re a man and worked for twenty years to have the good life, perhaps you’re now renting a furnished efficiency apartment; back where you were when you started, and what with child support you think you’ll be lucky if you ever have a decent place to live. If you’re a woman who’s been primarily a homemaker for the last fifteen years, you find you can’t even get credit, let alone a job. How are you supposed to go to work when there’s nothing you know how to do, and besides, who’s going to take care of the children when they come home from school? Life takes on a very grim edge.

The threat of being left financially ruined can motivate one or both parents to play out their primal fears through litigation. One or both of the litigants can lose their moral center in the fear.

Money issues are often used to punish the other litigant or are the source of fear regarding basic survival. Too often, clients spend \$10,000 in attorney fees trying to acquire \$1,000 more from their ex-spouse. (I've heard this referred to as "burning the barn to cook an egg.")

An attorney friend once told me:

My observation is that far too much money in matrimonial litigation is spent on determining what the marital estate consists of, whereas the real and important issue for the parties' and children's ongoing well-being is how the marital estate should be divided. Rarely in my experience is there a big pay-off for expending large sums to determine what assets there are. Divorcing spouses probably know most of what there is to know about their and their spouse's financial condition, and it usually isn't worth the extra money to find out what little they don't know. Unfortunately, saying the words "I want a divorce" doesn't create new assets, but it often needlessly dissipates the ones you have.

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In many cases, spousal-support and child-support payments aren't as negotiable as litigants are led to believe. Most states have clear-cut formulas for financial issues such as support and have adopted computer software programs that, by comparing the incomes of both parties, determine guideline support payments to the dollar (see examples in Appendix).

I hope the chapters on finance at the end of this book will clarify the process, minimize your fears, and eliminate unnecessary litigation for you.

**(3) FACING LIFE AS A DIVORCED PERSON**

Most of us have been intensely programmed—virtually every day of our lives—to move toward the goal of marriage and creating a family. We learn this from our parents, friends, and relatives, from movies and books, even from popular songs.

When we marry, we invest that past—those expectations, hopes, and dreams—into the partnership. We also invest our future hopes and dreams: Everything we plan for our future now includes our partner. We have, in a sense, invested our whole self into this partnership.

One day we wake up and find ourselves alone—our worst nightmare has come true. We feel panic, tightness, despair, blood-draining-from-our-face disbelief. (“This can’t really be happening!”)

We are facing another unknown in life and can react with fear and confusion. It may feel like an emotional free fall. The stress may be compounded because we are no longer able to get support from our partner, who, in the past, may have helped us through other life crises. And not only are we facing the fears alone, but our ex-spouse may intentionally be causing us harm in litigation and intentionally using our fears as a litigation tactic against us.

The sense of loneliness may be intensified if, as is common, our married friends withdraw from us. Not only are we now a “fifth wheel,” but we are a living example that their worst nightmare can come true (and it might be contagious).

Reprogramming our inner souls to accept being single can take time. It requires support and love from friends and family. It requires guidance and reassurance from people who have been down the path before us. Knowing that the emotional turmoil we’re experiencing is normal and knowing what to expect in the ensuing months and years can

be a big help emotionally—and a big help in making better choices at the beginning of the divorce process.

Divorce is a huge loss. You may experience phases of grief similar to those of people who lose a loved one through death.

From Judith Viorst's book *Necessary Losses*:

The breakup of a marriage is a loss like the death of a spouse, and will often be mourned in closely parallel ways. There are some important distinctions: Divorce evokes more anger than death, and it is, of course, considerably more optional. But the sorrow and pining and yearning can be as intense. The denial and despair can be as intense. The guilt and self-reproach can be as intense. And the feeling of abandonment can be even more intense—"He didn't have to leave me; he chose to leave me."

According to recent studies, the costs of divorce—both the physical costs and the emotional ones—can be higher than those imposed by a spouse's death.

I have heard many women say—I've heard a few men say it too—that they would have rather been widowed than divorced, that death would not have entangled them in continuing fights over property and children, in feelings of jealousy, in feelings of failure.

Divorce hurts. Recovery will be slow. It will be one hour at a time, then one day at a time, then a week, then a month. A year or two after the divorce is finalized, you will probably find yourself back on your feet and moving forward.

In three to five years, you will likely wonder how you could ever have chosen to marry your ex-spouse. In five to ten years, it is not uncommon for ex-spouses to marry new partners and to be able to socialize together at their child's birthday party in a friendly manner.

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Personal therapy can bring some relief. Therapy is often about articulating and clarifying a situation—this clarity and knowledge can shine light into the dark unknowns that cause us fear. Therapy can help us define our unhealthy life patterns, especially in personal relationships. Through conscious, thoughtful effort, it can give us a better chance of making healthy choices.

Other things that may help you cope are divorce support groups, books, exercise, yoga, new friends, classes, and volunteer work. You need to redefine yourself as a single person. You need to do it without the false support of “feeling better” with alcohol, drugs, or a quick new rebound relationship.