

Part Three – Brainstorm Options

Your lawyer will help you brainstorm options to attempt to resolve any differences. From your own perspective, describe what you believe would be creative ways to solve any problems or issues about which there is no clear resolution already acceptable to both of you.

1. First, take a single problem or issue about which you think there is some disagreement and list all the ways you can think of that could solve the problem. Put an asterisk by those that you would find acceptable at this time. Copy this page for each specific matter that needs to be resolved.

(For example, if you both wanted all the appliances, some options you might list are: a) you receive the refrigerator and microwave and the other person receive the washer and dryer or vice versa, [continue with all options to divide the four items]; b) you could hold an “auction” – each would separately place values on all the appliances and the one who put the highest value on any given appliance would receive the appliance; the one with the highest valued appliances would pay the other an equalization payment for half their total value; c) you could have the appliances appraised and then the one who wanted them most – or the one who won a coin toss to get them or whatever – could pay the other for half their value; d) you could sell them and split the proceeds; e) you could give them to the child(ren) or to charity, etc.)

Item Requiring Resolution:

Options that could resolve the item are:

2. Now think globally, and write down three or more ways in which your property could be divided and your living expenses could be met using settlement “packages.” Put an asterisk by those that you would find acceptable at this time.

(Examples: a) A receives the townhouse, B receives the lakehouse, retirement is divided, b) B receives the townhouse, A receives the lakehouse, retirement is divided; c) A receives the townhouse and lakehouse, B receives the retirement.)

Items Requiring Resolution:

Settlement package options that could resolve the item are:

3. Write down three or more parenting plans for the child(ren)'s residential arrangements and parenting time schedules. Put an asterisk by those that you would find acceptable at this time.

4. Write down three or more ways that parental responsibilities and decision-making could be allocated between you and the child(ren)'s other parent. See the attached Parental Responsibility Chart in the Appendix. Put an asterisk by those that you would find acceptable at this time.

5. Write down three or more plans for meeting your child(ren)'s financial needs. Put an asterisk by those that you would find acceptable at this time.

Allocation of Parental Rights and Duties

The following are rights and duties that a parent in a divorce ordinarily retains at all times regardless of whether the child is in the parent's care at the time that the right is exercised/duty is performed (see Texas Family Code §153.073):

1.	Right to receive information from the other parent concerning the health, education and welfare of the child
2.	Right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child
3.	Right of access to medical, dental, psychological, educational, government agency, and law enforcement records of the child
4.	Right to consult with a physician, dentist, or psychotherapist of the child
5.	Right to consult with school officials concerning the child's welfare and educational status, including school activities
6.	Right to attend school and extracurricular activities
7.	Right to be designated on the child's records as a person to be notified in case of an emergency
8.	Right to consent for the child to medical, dental, and surgical treatment or mental health evaluation during an emergency involving immediate danger to the health and safety of the child
9.	Right to manage the child's estate to the extent the estate has been created by the parent or the parent's family
10.	Duty to inform the other parent in a timely manner of significant information concerning the health, education, and welfare of the child

The following is required in all Texas parenting plans (Texas Family Code sec. 153.076): The duty to inform the other parent if the parent resides with for at least 30 days, marries, or intends to marry a person who the parent knows is registered as a sex offender under chapter 62 of the Texas Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. This information should be tendered in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the parent of the child begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. The notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged.

The following are rights and duties that a parent in a divorce ordinarily retains during the parenting times that the child is in the parent's care (see Texas Family Code §153.074):

1.	Duty of care, control, protection, and reasonable discipline of the child
2.	Duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure
3.	Right to consent for the child to medical or dental care not involving an invasive procedure
4.	Right to direct the moral and religious training of the child

The following are additional rights and duties that a parent in a divorce retains either exclusively, independently, or jointly with the other parent. See Texas Family Code §153.133. An “exclusive” right or duty (“solely”) is one that a parent has the sole right to exercise or duty to perform which may require notice to or consultation with the other parent. Notice is defined in this context as the direct communication to the other parent some reasonable time in advance of the event or decision. Consultation is defined as a discussion with the other parent before making a decision. An “independent” right is one that both parents have and can exercise independently of each other at any time, but which could possibly require notice to or consultation with the other parent. Prior to divorce, parents have “independent” rights. Success in exercising rights independently after a divorce is enhanced by trust and communication. A “joint” (“subject to agreement”) right can be exercised only with the consent of the other parent. “Joint” means that either parent can veto the other’s decision to exercise the right by saying “no.” This chart will be explained more fully and completed during the collaborative process. These issues may need to be addressed separately for each child. The Rights and Duties Discussion below [Part 2.B] provides guidance on how to help parents decide how they would prefer to complete this chart.

The first two rights on the chart below should be addressed by the legal and financial professionals when child support is discussed with the parents. See “Part 5. Child Support” below.

RIGHTS AND DUTIES	EXCLUSIVE MOTHER	EXCLUSIVE MOTHER After notice to Father	EXCLUSIVE MOTHER After Consultation w Father	EXCLUSIVE FATHER	EXCLUSIVE FATHER After notice to Mother	EXCLUSIVE FATHER After consultation w Mother	INDEPENDENT	INDEPENDENT After notice to other parent	INDEPENDENT After consultation w other parent	JOINT (SUBJECT TO AGREEMENT)
1. Duty to make periodic child support payments										
2. Right to receive and give receipt for periodic payments for the support of the child and hold or disburse these funds for the benefit of the child										
3. Right to designate the primary residence of the child either <input type="checkbox"/> without regard to geographic location OR <input type="checkbox"/> which must be maintained within an established geographic area: _____										
4. Right to consent for the child to medical, dental, and surgical treatment involving an invasive procedure										
5. Right to consent for the child to inpatient psychiatric and psychological evaluation										
6. Right to consent for the child to inpatient psychiatric and psychological treatment										
7. Right to consent for the child to outpatient psychiatric and psychological evaluation										
8. Right to consent for the child to outpatient psychiatric and psychological treatment										
9. Right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child										
10. Right to consent to marriage										
11. Right to consent to enlistment in armed services of U.S.										
12. Right to make decisions concerning the child's education. Any special provisions: <input type="checkbox"/> _____										
13. Right to make decisions regarding the services and earnings of child [unless the child is in foster care]										
14. Except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the right to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the U.S. or a foreign government										
15. Right to manage the child's estate to the extent the estate has been created by community or joint property of the parents.										