

Parting Ways Later in Life

By Jennifer L. Stanford and Sonja N. Aoun

The announcement earlier this year that Al and Tipper Gore had decided to separate came as a shock to many Americans. But individuals married four decades or more are starting to experience divorce at higher rates. The reasons that older couples separate can be as varied as those for younger divorcing couples, but the considerations may be different.

Couples facing divorce in their twenties, thirties, and forties may face the crisis of co-parenting and how to financially manage two households with young children. But what if you are closer to retirement? What issues should you be considering?

What is your retirement plan? If your spouse has been the one to manage your savings over the years, it is time to get familiar with what is in place. It is critical that you are empowered with this information so that you can make knowledgeable decisions about your future. Specifically, what has been saved for retirement? Are either you or your spouse going to receive a pension?

- Social security is another piece of your retirement portfolio. For example, you should know that a spouse whose marriage lasted ten years or more can collect off of a former spouse's retirement benefits once reaching the age of 62. If your former spouse dies after divorce, you may even be able to receive survivor benefits of 100% of your former spouse's Social Security benefit. There are usually restrictions based on remarriage so this topic ought to be discussed with your attorney.

If you are near retirement age, there may be limited time to make significant contributions to your savings and to earn retirement benefits. The bottom line is that your retirement plan will have to be reanalyzed to see what is realistic.



How will you provide for your health after you divorce?

The cost and availability of health care is a dominant issue for individuals of all ages. However, for older individuals, the options for securing an individual plan may be more limited.

In addition, serious health conditions can influence how a marital estate is divided and can impact alimony, especially if that spouse is not able to earn income and does not have sufficient assets to live on. And a spouse with serious cognitive impairments (Alzheimer's or other dementia) may need special considerations in order to provide surrogate decision making.

If you currently receive insurance coverage through your husband's employment, it is likely that benefit will end when you are no longer his wife. Take the time now to research the availability and costs of purchasing a new plan for yourself. You will need to account for this new expense in your monthly budget and it may impact what amount of spousal support is appropriate.

What estate planning tools should be in place? Estate planning can be an integral part of your divorce settlement in a number of ways. For example, you may want to negotiate for death benefits from life insurance, a retirement plan, a will, or a trust. Your divorce settlement can establish trusts to provide for agreed-upon responsibilities such as a joint mortgage or financial support for you or adult children.

Is a post-marital agreement right for you? Another unique late-life divorce question is whether to resolve financial issues through a post-marital agreement, rather than via a full-fledged legal divorce. Leaving the legal marriage intact can allow spouses to:

- bring a military marriage to the 10-year or 20-year point that entitles the spouse to receive certain benefits,
- keep marital status intact until a spouse becomes eligible for Medicare,
- meet the 10-year requirement when a "former spouse" is eligible for Social Security benefits,
- allow for health insurance coverage under a family plan,
- defuse financial inequities, or
- stay married for personal or religious reasons.

As with any person facing a major life change, we encourage you to picture what you want your life to look like a year from now and five years from now. Giving these items serious consideration will arm you with information in order to help put that plan in place.



About Sonja Aoun: Sonja Aoun received her law degree from Georgetown University Law Center. She also attended Georgetown University as an undergraduate, where she received her Bachelor of Sciences in Languages, cum laude. She has practiced law since 2001, focusing her practice almost exclusively on family law. In 2007 she opened her current practice, Aoun & Stanford, P.C., with Jennifer Stanford. Ms. Aoun represents individuals in matters such as divorce, child custody, visitation, spousal and child support, enforcement of court orders, division of property, military divorces, relocation, protective orders, and annulments. She is also a family law mediator and encourages the use of alternate dispute resolution when appropriate.



About Jennifer Stanford: Jennifer Stanford received her law degree from George Mason University and her undergraduate degree from the University of Richmond. She has practiced law since 2004 focusing on family law, wills and estate planning, and general civil litigation. Ms. Stanford has litigated issues such as child custody and support, spousal support enforcement, division of property in divorces, and guardianship for elder family members. She has represented clients in court in issues ranging from real estate to other types of contract disputes. Her practice also includes serving as a guardian and conservator for incapacitated adults. She is a member of the Virginia Bar, Massachusetts State Bars, the Family Law and Alternative Dispute Resolution Sections of the Fairfax Bar Association.

Divorce is hard... choosing the right lawyer is Easy.

You've already made the difficult decision to separate from your spouse. Now let us make the rest of the process as easy as possible.

Come meet the attorneys who care about you and who focus on what matters most - you and your family.

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