Elements of a Divorce

- Division of Property (Assets and Debts):
    - This includes all financial assets and debts - such as: real estate, retirement accounts, pensions, bank accounts, investments, businesses, furnishings, credit card debt, etc.
    - **California is a "Community Property" State (50/50)**
    - Community Property vs. Separate Property - generally anything earned or accumulated during marriage is community property; inheritance & gifts are notable potential exceptions
- Child Support:
    - Calculating child support is a fairly defined process and is largely determined by the two parents' incomes and the percentage of time each parent has the children
    - Child support generally goes until each child graduates from high school
    - Expenses after high school graduation, such as college, are generally not mandatory
- Spousal Support (formerly 'Alimony'):
    - Determining spousal support can often be a time-consuming and difficult process since it deals with money, strong emotions and people's sense of self & sense of financial security
    - **Factors to address: 1. Monthly Amount, 2. Duration, 3. Modifiability & 4. Security**
    - Duration of support depends partially on the length of marriage
- Parenting Plan (Custody):
    - Need to address both physical and legal custody - "Best Interest" of the children is paramount
    - The more parents can work together and put their emotions aside, the better for the child (and the parents) – **Parental Conflict = # 1 traumatizing factor for children of divorce**
    - It's helpful for the parenting schedule to be very specific, but with room for real-life flexibility (when possible/appropriate) – "Investing" in Good Will = flexibility in the future
    - The plan needs to be as comprehensive as possible including vacations/holidays, notifications, activities, contingencies, etc. - **Good Parenting Plan = investment in reduced conflict**
    - Different parenting styles does not make the other parent incompetent

Helpful Internet Resources

Parents:

1. www.UpToParents.org - interactive website that helps parents focus on their children's well-being in a very practical manner by helping them understand how their decisions impact their children.

2. Parents Guide to Helping Children through Divorce – things parents can do to help their children deal with divorce in a more productive manner. (www.helpguide.org/mental/children_divorce.htm)

3. Helping Children Understand Divorce – advice on talking with children & info on how they understand divorce at different ages. (extension.missouri.edu/publications/DisplayPub.aspx?P=GH6600)

4. Helping Infants and Toddlers Adjust to Divorce –specific, age-appropriate advice on addressing the needs of infants and toddlers (extension.missouri.edu/publications/DisplayPub.aspx?P=GH6607)

5. www.DivorceCare.org – listing of church-based support groups for both parents and children.

Children:

1. Sesame Street – several videos, a coloring book and an e-book to help young children understand and deal with divorce - very well done - (www.sesamestreet.org/parents/topicsandactivities/toolkits/divorce)

2. Families Change – comprehensive site with separate sections for kids (animated), teenagers and parents with practical, age-appropriate advice for divorce (www.familieschange.ca)

3. Divorce and Teens– specific divorce advice for teens (www.divorceandteens.weebly.com)

4. www.KidsFirst.cc – list of helpful books for children and parents going through divorce.

5. A Kid's Guide to Divorce – article about the basics of divorce written specifically for children. (http://kidshealth.org/PageManager.jsp?dn=nemours&article_set=22370&lic=60&cat_id=20068#)

Organizations:

1. Association of Family & Conciliation Courts - www.afccnet.org
2. Center for Families, Children and the Court - http://www.courts.ca.gov/programs-cfcc.htm
3. Los Angeles Collaborative Family Law Association - www.lacfla.org

Helpful Books

Children:

1. It's Not Your fault, Koko Bear – Lansky (for young children)
2. Two Homes – Masurel (for young children)
3. Mom's House, Dad's House for Kids – Ricci
4. Dinosaurs Divorce: A Guide for Changing Families – Brown & Brown
5. Divorce Is Not the End of the World: Zoe's & Evan's Coping Guide for Kids – Stern
6. The Divorce Express – Danziger (for teenagers)

Parents:

1. Helping Your Kids Cope with Divorce the Sandcastles Way – Neuman
2. Mom's House, Dad's House – Ricci
3. Putting Children First – Pedro-Carroll
4. The Good Divorce – Ahrons
5. Divorce Book for Parents – Vicki Lansky
6. The Truth about Children and Divorce – Emery

Mediation

- Mediation Process Overview:
  - Complimentary Consultation
    - Explain process and answer questions so clients can make an informed decision
  - Individual Sessions
    - Private forum for client to discuss issues and concerns & mediator to understand factors
    - **Sets the stage to help clients focus on their priorities; mediator provides coaching**
  - Joint Sessions (ongoing)
    - Forum to jointly address issues, brainstorm solutions and create agreements that the parties are comfortable with. Agreements are then recorded in a summary letter.
- Client-Focused Process:
  - The parties participate directly in decision-making (more likely to abide by agreements)
  - The agreement-building process allows the parties to:
    - Identify needs & priorities (**focus on interests & long-term, not on negative emotions)**
    - Explore creative options for addressing interests
    - Come up with solutions that are specific to their situation rather than a 'one-size fits all' approach (such as court)
    - Do trial runs to see if potential solutions actually work (especially with parenting plans)
- Informed Decision-Making
  - Informed consent is a foundation of mediation and leads to informed decision-making
  - **No agreement is reached unless both parties agree – all the control rests with the clients**
  - Both parties need to understand their rights, options and potential outcomes if they go to court
  - If the client needs 'assistance' in a certain area this will be addressed through education or use of other professionals (attorneys, financial professionals, custody evaluator, paralegal, etc.)
- Confidentiality:
  - **Everything discussed in mediation is confidential & cannot be used outside of mediation**
  - Nothing is binding until submitted to court or the parties specifically release confidentiality
  - Confidentiality of mediation has been strongly upheld by the California Supreme Court multiple times

- Balance/Impartiality:
    - **The mediator absolutely needs to be balanced (not necessarily a "blank slate")**
        - Invite parties to discuss any concerns about balance openly with the mediator
    - Mediator's responsibility is to create as level a playing field as possible
        - There are situations that require more active balancing by the mediator (often through the use of other professionals or through 'reality testing')
    - Ultimate requirement is "informed consent" of the parties
- Helpful Professionals:
    - Consulting Attorneys & Paralegals
    - Certified Divorce Financial Analysts
    - Mental Health Professionals specializing in divorce-related fields:
        - Parenting/Step-parenting specialists
        - Custody evaluators
        - Family Therapists

Collaborative Divorce

- Professionals Involved:
    - Collaborative Attorneys
    - Collaborative Coaches (often MFTs or LCSWs)
    - Neutral Financial Specialist (often Certified Divorce Financial Analyst)
    - Neutral Child Specialist
- Aspects of Collaborative Divorce:
    - Process is generally more structured and involves more protocols
        - More containment; less flexible/creative depending on the professionals involved
    - **Attorneys sign agreement not to represent client if they go to court (motivation to settle)**
    - Very important to have attorneys and coaches that work well together and trust each other
    - Can involve a "full team" or only using some of the professionals

Telling your Children about Divorce

There are four significant concepts that parents need to make sure they address with their children:

1. It is **not the children's fault**. There is nothing they could have done to prevent this & it's not their job to fix it
2. You still **love** them and will **always be there** for them
3. Provide them with **clarity** and **specific information** on how things will be going forward
4. Provide them with as much **stability** and **consistency** as possible

Research shows that it is not divorce that traumatizes children, it is the conflict between their parents that does

- You have the power to help your children through this and to allow them to grow up healthy

Practicalities of telling your children:

1. Both parents need to be there and both need to speak – your children need to see you acting as a team
   - Your children need you to be strong & communicate in a caring manner with them and the other parent
2. Timing – children need time to process this, so it's best to do it over a weekend. Avoid talking before bedtime
3. Anticipate what your children may ask and come up with potential responses together
4. Be aware of your non-verbal communication – don't let your anger/hurt interfere with focusing on them

The "Talk":

1. Keep the language constructive and positive (at least neutral) without blaming or finger-pointing.
   a. Don't get too detailed about why the marriage is ending. Whatever thoughts either party has about who "caused" the divorce are issues for adults to discuss and not for children to hear
   b. Let the children know that this is not their fault and that they had nothing to do with this happening. "Sometimes grown-ups want different things and grow apart, but nothing you did has anything to do with our decision – this is a grown-up thing."
   c. Speak to them on their level. Ask them if they have questions – or possibly ask them what they know about divorce (often times from friend's families). Possibly use age-appropriate books.
2. Emphasize that while the marriage relationship is ending, that your individual parenting relationship with each of them will never end. Let them know that you will always be their mommy/daddy no matter what and that you will continue to see them a lot and do certain activities together. "I will always love you!"
3. Explain to them in detail what the new living and school arrangements will be
   a. If you have a parenting plan, go through it with them and explain when they will be where
   b. Tell them you will set-up a calendar at each house showing where they are on certain days
4. Don't assume that the children know certain things
   a. From the emotional, such as your continued love for them, to the practical, such as what a divorce or separation means, children need both detailed explanations as well as reassurance
5. Empathize with them– don't try to pretend that everything is rosy, but tell them that it will be ok
   a. Allow them their feelings and help reassure them – "It seems like you're feeling ____. I know that this isn't easy, but your mom/dad and I will be here to help you out."

After the "Talk":

1. Follow-up and prompt them to open up – this isn't a one-time conversation; as a parent you will need to initiate follow-up conversations to see how they are doing and allow them to ask questions.
2. Focus on consistency and stability – a lot has changed in their lives so see what routines you can keep in place such as ongoing sports/activities, watching a favorite TV show together or anything else from before
3. If age appropriate, empower them by involving them in appropriate decision-making. This way, they are less likely to feel like a victim or out-of –control. "What would you like to do with our time this weekend?"

Advice From the Front Lines. . .

advice from adult children of divorced parents

To Parents:

Keep your differences away from the kids so they don't have to listen to it, and don't make them make choices or choose between each other and don't screw with the kids' minds.

Don't put the kids in the middle; don't make kids the jury; don't make visitation difficult; don't speak ill of the other parent. Kids don't care whose fault it is. Don't blame each other. Each of you is responsible.

Keep your differences private. Don't let the kids hear it and don't make the kids feel guilty. Don't make one be the messenger for the other.

No matter what the cost to you, no matter how much it hurts, it is so important that you not bad-mouth the other parent in front of the kids. Please, be civil in front of your kids.

Get over yourself enough to quit being so selfish. Any two people can get along if they're selfless enough.

I think it's important not to say things about the other spouse in front of the children. As a child, I really looked up to both my parents, and when one of them would say something bad about the other, it would put me in the position of agreeing and thinking something bad about the other parent, or disagreeing and putting me in conflict with the parent. That's hard for parents to do, but I think it's really important.

Put feelings aside so that your kids can have a childhood. Remember that the kids are first. In the long run, they'll remember whether or not you kept that in mind.

Get along. Worry about the kids, not who gets what money or who gets the couch.

Make sure that you call your kids. Call your kids and be a humongous part of their life.

Just because you do not live in the same house does not mean that you do not need to have equal responsibility.

Always talk to your kids as far as what's going on and what's happening. If things seem scary, still tell them how it is; don't sugarcoat it at all.

Be sure your kids know that the issues at hand are your problem and have nothing to do with them. I don't think you can say that enough times to a child.

Keep using love word as much as possible, because I think that when some kids go through divorce they do think it's them.

Stay involved in your kid's lives. Don't move across the country.

Don't stay together just for the children, because they're smart. They can feel the tension; they can feel what's going on around them. And that could be more detrimental to them than the parent leaving.

At the time it might all seem negative, but as I look back I think there were a lot of positive things that happened in my life because of the divorce. Not because they didn't get divorced.

Get over it and move on! Life is short!

From "We're Still Family: What Grown Children Have to Say About Their Parents' Divorce," by Constance Ahrons, Ph.D.