



Separation or Divorce? What Each Means for Your Finances

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Setting aside any personal or family issues that come to mind for many when they think of divorce, ending a marriage has major financial implications. That's why for some, a legal separation may seem like the better route to take.

Deciding which one is right for you depends on your situation.

Legal Separation

Legal separation is not a complete severance of a marriage, but a court separation of the two spouses with a court order outlining the responsibilities of both parties.

The main financial difference between a separation and a divorce is that in a separation, the two parties can keep sharing benefits such as health insurance. Jennifer A. Brandy, a family law attorney in Philadelphia specializing in divorce, says, "Although the parties are separated, the dependent party can continue to remain on their spouse's plan. Once the parties are divorced, there is usually only a limited period of time before the dependent party must obtain their own insurance."

Things to watch for in a separation

Legal separation can be a stepping stone to divorce, and couples should take the proper steps to set up their independent financial future.

Kenneth Gordon, a partner at Brinkley Morgan in Fort Lauderdale, Fla. says that precedents are sometimes set from the agreement made during a legal separation that can influence the terms of a

divorce. "A contract can be binding regardless of whether or not it is fair, equitable, or done with the assistance of counsel in the context of a divorce or paternity case," says Gordon. "Even if the agreement or contract is not binding indefinitely, one must be careful as to the precedent that is being set."

For example, the contract in a legal separation could effect alimony claims. "When dealing with potential alimony claims, if you agree to accept a sum certain each month to pay or assist with your expenses, and you are able to get by with such an amount, you can be sure that the other party will be using that as evidence that you don't need more," Gordon says.

Rosemary Frank, a financial adviser and divorce financial expert for Dollars of Divorce in Brentwood, Tenn., says that despite the shared benefits, separations aren't worth the financial risk. "During a separation, a spouse can sell off assets and deplete marital accounts, thereby financially ruining you for life," Frank says. "That is a high price to pay for some short-term advantages."

Divorce

"After a divorce, parties no longer enjoy the legal benefits of being married such as inheritance rights, tax filing benefits, decision making powers for their spouse or certain protections associated with jointly owned property," Brandy says.

Divorce can impact Social Security as well, depending on how long you've been married. Susan Carlisle, a forensic certified public accountant in Los Angeles, says that shared social security benefits will carry over from the marriage only if it lasted 10 years or more. "The divorced spouse has the advantage of collecting 100% of his or her benefits or 50% of the spouse's benefits, whichever is higher, with no reduction to the other divorced spouse," Carlisle says.

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