

Should I Stay or Should I Go?  
Tips for Moving out of the House or Staying in the House  
By Nancy M. Perry

One of the decisions you need to make early on in your divorce is whether or not you want to continue living in the marital home during your divorce. You might think that you can't possibly afford to stay in the house so you'll have to move out. Or you may already know that you do not want to keep the house after the divorce, so you should move out now. That's not necessarily the case. Many times parties will remain in the home during the divorce, even though they know they will not keep it post-divorce. Most courts, during the initial temporary orders hearing, will issue orders to ensure that whoever remains in the home can cover the mortgage and expenses. In the vast majority of cases, the husband will be ordered to move out while the wife and children remain in the home. This makes perfect sense since it's clearly in the children's best interest to remain in a stable, familiar environment during the divorce. Many times the wife cannot afford the mortgage on her own, so the court will order the husband to pay to the wife temporary spousal support in an amount that will help her cover the mortgage, utilities, and other bills while living in the home.

If you're the husband and you've moved out, you need to check regularly with the mortgage company and utility companies to make sure they're getting paid, especially if the divorce is contentious. I had a case where the wife refused to pay the mortgage and used the money to go shopping. By the time the husband figured it out and we got back to court to fix the situation, the house was almost in foreclosure and his credit was damaged.

You have to look at your situation to determine what will work best for you. I had another case where the wife chose to move out with her children and live rent free with a friend. She was able to save the money she would have spent on the mortgage or rent so she could set herself up in her own apartment once the divorce was final. In that case, it was a smart move on her part to let her husband stay in the house and pay the mortgage.

Another issue about moving out is deciding what to take. Once you're aware of the divorce, immediately take all of your own important documents such as tax information to a location where your spouse can't get to it. Again, if the divorce is contentious, don't think for a minute that your spouse will keep your documents safe for you. Even if you try to get the documents back with the court's help, all your spouse has to say is he or she doesn't have them. Without proof that the spouse has your documents, there's little the court can do. It's best to have them with you at the very beginning.