

DIVORCE

Kelly McClure, The McClure Law Group

Q. I want to stay married, but am having an affair. How can I protect my privacy and avoid the damage of getting caught?

As we rely on our phones to communicate, the ways to catch a cheating spouse continue to grow. One way is with location sharing. On the iPhone, iCloud has “Share My Location” that many people forget is on and reveals the location of your phone. Also, spouses may inadvertently share messages through a family iCloud account. These days, a “smart” person straying shouldn’t use a personal phone number. Two new apps, Burner Phone and Hushed, allow people to create and use a disposable phone number. What’s App or Kik apps are an alternative to text if your spouse is reading your text messages. Cyber Dust is a texting app protected from screen shots and texts disappear once read. TigerText allows people to send text messages that self-destruct after a set amount of time. Using Black SMS app, someone can convert a regular text message into a password-protected image that will appear as a black box to anyone without the password. NosyTrap is an app disguised as a phone home screen that will snap a picture of anyone who uses your phone trying to snoop. Another app, Vaulty Stocks, looks like a stock market app really stores private photos and videos. Photo Safe is another way to store photos in a password-protected and encrypted vault. If anyone attempts to break in and gets the password wrong, the program will automatically delete any photos inside. Be careful, and feel free to consult our law firm if you have any questions regarding protecting your privacy and anti-wiretapping laws.

Q: Help! I didn’t get a prenuptial agreement. What can I can do?

Yes. One option is a post-marital agreement. In Texas, spouses can at any time divide or exchange all or part of community property that they currently own or will own. Through a post-marital agreement, a husband and wife can designate certain property as separate property. The purpose is to allow spouses to convert their community property interests into separate property. Another good reason for a post-marital agreement is to preserve income from separate property as separate property, since in Texas, income from separate property earned during marriage is considered community property.

Q: Are my personal earnings and bank accounts and assets titled in my name considered separate property?

In Texas, all property acquired by either spouse during marriage is presumed to be community property, including personal earnings and assets acquired during the marriage exclusively by one spouse or held solely in the name of one spouse. With a few exceptions, separate property is property owned or claimed by a spouse prior to marriage; property acquired by a spouse during marriage by gift, devise, or descent; and recovery for personal injuries sustained by a spouse during marriage.

Q: Is it true my wife will be awarded custody of our child because she is the mother?

No. Section 153.003 of the Texas Family Code provides that the court cannot discriminate based on the sex of a parent, but only look to his or her qualifications as a parent. Our law firm has represented many fathers who were awarded custody based on their individual circumstances. There is no longer an automatic presumption that mom is the better parent.

Armed with more than 25 years of experience experience as a family law attorney, Kelly McClure is family law board certified with the Texas Board of Legal Specialization. She works passionately for meaningful outcomes in complex divorces, custody matters, division of assets, pre- and postmarital agreements, and other family law matters. A leader in the collaborative law movement, McClure offers clients the option of a collaborative approach to protect privacy and reduce the financial and emotional burdens that can come with litigation.

However, if litigation is necessary, McClure’s tough, no-nonsense demeanor and dynamic presence make her a powerhouse in the courtroom. McClure began her career practicing tax law. This experience complements her ability to delve into the tax implications of a divorce and easily handle complex property cases.

Kelly McClure has been named among the Best Lawyers in Dallas by D Magazine 13 times since 2003 and as a Texas Super Lawyer by Thomson Reuters for 15 years since 2003. Additional recognition includes 2016 Top 50 Female Attorneys in Texas by Super Lawyers, Thomson Reuters and 2016 Most Dynamic Women by Dallas by Modern Luxury.



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*Family Law Board Certified by the
Texas Board of Legal Specializations*



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