

# DIVORCE IN 2020

**THE DOS AND DON'TS** OF  
TECHNOLOGY, SOCIAL MEDIA &  
COMMUNICATING ABOUT  
YOUR DIVORCE



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There's no question: Divorce is difficult. Regardless of the circumstances leading up to the end of a marriage, most people find it to be an emotionally trying and stressful time. One common way of dealing with stress is talking to friends and family, either to solicit advice or simply to vent your feelings.

In today's technology-driven age, it may seem like the most natural thing to turn to your social media circle to share your feelings and frustrations about your ending relationship. However, posting about your divorce on Facebook, Twitter, Instagram, Snapchat, or other sites can backfire.

## Social Media Evidence is Routinely Used in Wisconsin Divorce Actions

Most of us like to think our social media posts, texts, and email communications are only for our friends' and families' eyes, and can simply be deleted if necessary. Many people routinely share information about their day using text, photo, or video posts about the places they visit, people they see, food they eat, etc. It's easy to understand why many think this type of post is harmless. However, the reality is that such communications can come back to hurt you in your divorce in ways you might not have ever considered.

Your online presence, including your social media accounts, online posts and comments, blog, or personal website may be one of the first places your spouse or spouse's attorney will turn when looking for information to build their case. The information they find may be taken out of context and used as part of an attempt to demonstrate that your lifestyle or spending patterns are inappropriate or extravagant, or to paint your behavior in a way that makes it seem as though you are not as responsible of a parent as you hold yourself out to be. In addition to being used to bolster your spouse's position in the divorce, your online and social media posts may also be used to discredit what you are asking for or are claiming in your court filings. For example, if you post or are 'tagged' in photos or videos showing you frequently out late at night with friends or perhaps a new significant other, those images or posts could be used to argue that you should not share placement of your children or even custodial decision-making power regarding certain issues. Similarly, posts that demonstrate a lavish lifestyle could seemingly be at odds with a claim for spousal maintenance or a demand for increased child support.

Although it doesn't always seem fair, and many people understand that a social media presence often differs from reality, this online portrayal of your life using your own words, photos, and videos can impact a court's determination of property division, spousal support, and even your child's placement and support.

## Protecting Yourself: What to Do (and What Not to Do) Online Before or During Your Divorce

If you believe your marriage is headed toward divorce or legal separation, or if you or your spouse have already initiated divorce proceedings, consider the following list of Dos and Don'ts to help guide you through this difficult time:

### DO

- **Evaluate your social networking use.** Of course, the best way to protect yourself from having your online presence potentially used against you is to eliminate your social media presence by deactivating your accounts and profiles. However, that's not realistic or practical for everyone in 2020, especially for anyone who uses social networking sites for work or even for communicating with their children. For most of us, closing accounts can mean losing years' worth of photos, videos, and other precious memories. But you can protect yourself by reviewing your existing posts on your timeline, using a critical eye thinking about how you would feel if your spouse's attorney or a judge were to see the information you've shared, especially when taken out of context. Consider deleting old problematic posts, and refrain from posting or commenting on any hostile or questionable posts.
- **Change your privacy settings.** It is important to look closely at your privacy settings on each networking site or other cloud-based services, such as online photo and video repositories. If your posts are shared to a "public" audience and anyone can view what you you've shared, whether it's a photo of your lunch or a complaint about your spouse, you should consider making your posts "private". However, don't be lulled into a false sense of security by using a "friends only" setting. Your spouse and/or their attorney could still gain access to what you've shared through a mutual friend or a follower who is able to view your posts.



- **Consider what your location might say about you.** In today's ever-connected environment, it is nearly impossible to be completely "off the grid." While you may be careful with your online presence and communications, you should also consider how the places you visit during your divorce could be used as evidence in your case. For example, if your spouse wants to portray you as financially irresponsible or as someone with a gambling or drinking problem and there is substantial evidence online that you regularly visit casinos or spend hours at the bar, they may try to utilize that information to their advantage in your case. The best course of action is to avoid visiting questionable locations altogether, and always be cognizant of the GPS/location settings on your phone and social media accounts.
- **Hire a skilled attorney.** If your marriage is ending, you need someone who will advocate for your rights and interests, and the rights and interests of your minor children. It is important to choose a family law attorney experienced in handling Wisconsin divorce actions, especially with facts similar to yours, whether or not your case is expected to be contentious.
- **Stay civil when communicating with – or about – your spouse.** When marriages are ending, it can be difficult to communicate with your spouse, or even to talk about your spouse with other people without letting your emotions get in the way. That's normal. However, exercise caution and try to avoid allowing the trauma of your divorce get the best of you. Avoid saying anything derogatory or inflammatory (especially via text or email message) to your spouse or about your spouse as those communications can be used against you.

# DON'T

- **DON'T accept friend requests from strangers.** For a lot of people, part of the allure of having a social media presence is attracting “friends” or “followers” from across the country and even from around the world. Social networking can be a great way to cultivate relationships with people you might otherwise never meet. However, before or during a divorce is not the time to expand your lists of friends or followers. Tightening the list of people who can see what you post can help avoid inadvertently sharing things with your spouse or your spouse’s attorney through an unknown third party.
- **DON'T let your emotions control your messaging.** When emotions and tensions run high, as is often the case when marriages end, it can feel good to commit your frustrations to texts, emails, or social media posts, letting the reader know exactly how you feel and what you think of your soon-to-be ex-spouse. However, now is the time to exercise higher than normal caution and restraint in your commenting and communications. Before you hit “send” or “post,” read over what you’ve written and think about the potential consequences of the message being received as is, and think about who may be reviewing that text or post in court. Sometimes, the smartest thing you can do is not to engage or respond at all. If you do continue to use such communication tools during your divorce, keep your messages brief, cordial, and to the point.
- **DON'T assume that deleting something means it’s gone forever.** If you have potentially problematic content on your social networking pages or you made a comment in anger on someone else’s post, you can hit the “delete” button. However, that does not mean the content is gone for good. In the time your post or comment was ‘live,’ someone else could have taken a screenshot or otherwise captured it on their own device. That is one reason it is so important to evaluate your words carefully beforehand.
- **DON'T be afraid to communicate about your divorce in an appropriate way.** Don’t let the above list make you afraid to talk about your divorce with your confidants, friends, and family. As important as it is to be careful about what you say, how you say it, and to whom you’re communicating, it is also important to have trusted outlets where you can be open and honest and share your emotions during this difficult time of your life. Many individuals find needed support in church groups, or with licensed therapists and counselors.

## Understand Technology's Role in Your Life

Make no mistake, technology tools such as email, text messaging, blogs, and social media sites, can all continue to have places in our lives. In fact, in today's technology-dependent world, it would be difficult to get by without using some form of technology to communicate.

To protect your interests in the weeks and months leading up to filing for divorce, and while your divorce action is pending, it is important that you exercise caution with how you use these online tools. During a divorce and afterward, social media can be a great way for the non-custodial parent to stay in touch and maintain communication with children. But, think twice before you decide to log on to gripe about something your spouse did or said, and consider how that message may be misinterpreted or misconstrued.

For more tips and advice on how to protect yourself before and during a divorce, talk to an experienced family law attorney at Schott, Bublitz & Engel. [Contact us](#) today in Waukesha at 262.827.1700 to schedule a confidential consultation.



### ABOUT THE AUTHOR

Attorney AnnMarie M. Sylla focuses her practice on representing clients across southeastern Wisconsin in litigation and family law including complex cases involving divorce, paternity, modifications of child custody and placement, child support and maintenance disputes. Attorney Sylla is known for her passion in fighting for her clients' interests.



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