

A NEW YEAR, A NEW YOU: MAKING SENSE OF DIVORCE



By Mindy Snyder

Mindy Snyder is an attorney with Liebmann Family Law in Newtown. Each of the attorneys in the office has over 25 years' experience in handling these issues. We appear in Bucks and the surrounding counties, including New Jersey. Please contact our office to schedule the initial consultation to make this decision easier. (215) 860-8200. www.Liebmannfamilylaw.com.

Under Pennsylvania Law, a spouse can file an action for divorce when one of the parties has been a resident of Pennsylvania for at least six months prior to commencement of the action.

In Pennsylvania, you can obtain the grounds for divorce based upon mutual consent, one year separation or fault. With mutual consent, the Court may grant a divorce where the marriage is irretrievably broken and 90 days have elapsed from the date of the service of the action for divorce. An Affidavit must be filed by both of the parties showing that they consent to the divorce.

The Court may also grant a divorce where a Complaint has been filed that the marriage is irretrievably broken and an Affidavit has been filed setting forth that the parties have been separated for a period of at least **one year**.

In the event there is a marital estate and equitable distribution is requested by either party, the Court will not grant the divorce until the economic issues have been resolved.

It is the Court's obligation to **"equitably divide"** the marital property between the parties without regard to marital misconduct. This means that a person's negative behavior or the fact that they had an affair does not impact the distribution of property.

Property is not always divided 50/50. The Court is permitted to determine the appropriate percentage for each party based upon certain factors as set forth in the Divorce Code. The Court is to consider the following:

1. Length of the marriage;

2. Any prior marriage of either party;
3. The age, health, station, amount and sources of income, location of skills, employability, estate, liability, and needs of each of the parties;
4. The contribution by one party to the education, training, or increased earning power of the other party;
5. The opportunity of each party for future acquisition of capital assets and income;
6. The sources of income for both parties including but not limited to medical, retirement, insurance, and other benefits;
7. The contribution or dissipation of each party in the acquisition, preservation, depreciation, or appreciation of the marital property, including the contribution of a party as a homemaker;
8. The value of the property set aside to each party;
9. The standard of living of the parties established during the marriage;
10. The economic circumstances of each party at the time the division of property is to become effective;
11. The tax ramifications associated with each asset to be divided;
12. The expense of sale, transfer, or liquidation associated with the particular asset; and
13. Whether the party will be serving as a custodian for any dependent minor children.

What Is Marital Property?

Marital property means all property acquired by either party during the marriage and the increase in value of any non-marital property acquired prior to the marriage. Marital property does not include the following:

- Property acquired prior to the marriage or property acquired in exchange for property acquired prior to the marriage.
- Property excluded by valid agreement of the parties entered into before, during, or after the marriage.
- Property acquired by gift, except between spouses.
- Property acquired after final separation until the date of divorce.
- Veterans' benefits exempt from attachment.

-Any payment received as a result of an award or settlement for any cause of action or claim which accrued prior to the marriage or after the date of final separation regardless of when the payment was received.

All retirement benefits earned during the marriage are considered to be marital property and therefore subject to equitable distribution. These accounts are not treated any differently than a bank account or savings account accumulated during the marriage.

Support

This includes child support and spousal support. As to **child support**, the parent who has partial physical custody pays child support to the parent who has primary physical custody. Pennsylvania and New Jersey have in place Child Support Guidelines which determine how much

support one parent pays to the other. Even with a shared (equal) physical custody arrangement, if one parent earns more than the other, there still may be a child support obligation. This issue also includes contribution for child care, health insurance, and extra-curricular activities.

As to **spousal support**, if you are married and your spouse earns more than you, you may be entitled to spousal support. This is based upon many factors, but the main points are the length of the marriage and the income of the parties.

Liebmann Family Law

This is just an outline of the issues that you may confront. For more information on each of these issues, I suggest a consultation with an experienced family law attorney. At **Liebmann Family Law** in

Newtown, we offer a free initial consultation. We do this because making the decision to proceed and choosing an attorney is not easy. You must find someone who knows the law and someone you feel comfortable will protect your interests. With the legal answers, you are better equipped to make the emotional decision whether to proceed or not.

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