

## Can a party move to another state with the children?

✦ If there is an existing custody and visitation judgment the provisions must be complied with until it is modified.

✦ Removal of a child without the consent of the other parent with the intention to deprive them of custody can constitute a criminal offense.

✦ Before a parent may move to another state, they are required to give written notice to the other spouse. If an opposition is made by that spouse, a hearing must be held to determine whether the move with the child may occur.

✦ It is strongly urged that any parent that is considering a move to another state take all necessary actions to comply with all laws as quickly as possible to avoid inconvenience.

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# Questions and Answers Concerning Divorce



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# Divorce

## What is the effect of filing a divorce?

- ✦ If you were married without a premarital agreement, property acquired and debts incurred during the marriage are half yours.
- ✦ Half of all your income and property will belong to your spouse and half of the debt your spouse incurs will be yours until a lawsuit for divorce is filed.
- ✦ If a judgement is obtained, debts after the filing will be the responsibility of the spouse that incurred the debt. All property purchased by a spouse after the filing will belong to that spouse.

## What are the grounds for divorce?

- ✦ If a married couple has lived separate and apart for a period of six months and have not reconciled during that period, either spouse is entitled to a divorce.
- ✦ If the parties have not lived separate for six months, one spouse may still file a lawsuit for divorce now and file a second pleading in six months to protect their interests.
- ✦ Either party is entitled to a divorce if the other spouse is guilty of adultery and there has been no reconciliation.

## Who gets custody of the children?

- ✦ There is a presumption in favor of joint legal custody unless it is not in the children's best interest.
- ✦ Whoever obtains domiciliary custody gets to make major decisions for the children and is owed child support.
- ✦ The best interest of the children will determine who the domiciliary parent and who the visiting parent will be, as well as the amount of time allotted for visitation.

## How much child support am I owed?

- ✦ Child support is determined by the gross incomes of both parents.
- ✦ The court may order the visiting parent to pay a percentage of medical insurance, unpaid medical bills, day care costs and other regular monthly expenses.

## Am I entitled to alimony?

- ✦ Before a judgment of divorce is rendered, alimony may be awarded if your expenses exceed your income and your spouse's income exceeds his/her expenses.
- ✦ Following a judgment of divorce, the court will look at the parties means which include income, expenses, education, property, etc. In no case can more than one third of a spouse's income be awarded to pay alimony.

## How is community property divided?

- ✦ Regardless of who is at fault in bringing the breakup of the marriage, both parties are entitled to a one half undivided interest in all community property acquired and are responsible for one half of the debt incurred during the marriage.
- ✦ If the parties agree, they may enter into a contract to divide the property and debts of the marriage.

- ✦ Either spouse may file a lawsuit to determine the property, values and division of the property and debts of the marriage.

## Can I stop my spouse from doing anything while we are in the process of getting a divorce?

- ✦ Injunctions may be granted to keep a spouse from disposing of community property or from bothering you.
- ✦ You may ask the court to grant you exclusive use of the home pending the divorce

## What can I do if I am being physically abused by my spouse?

- ✦ A court injunction may be granted to prevent contact with the other spouse. Violation of the court order may subject them to fines and imprisonment.
- ✦ The court may award exclusive use of the family home pending the partition of property.
- ✦ An abused spouse may seek their own relief under the Family Domestic Violence Act. Although this relief is temporary, the abused spouse may obtain child support, custody, exclusive use of the home, alimony and injunctions without the assistance of an attorney.

Call us at 225-769-4200 or  
800-769-3522

“Guiding You Through the  
Changes in Life”