

Preparing to Resolve My Case: Married

You will need to resolve 2 core issues in your divorce: (1) Maintenance and (2) Property Division. For each of those issues, there is a brief description below followed by questions for you to answer to help us resolve your divorce as quickly as possible.

(1) **Maintenance** – most people call this alimony. This is money paid from one spouse to another to support them financially.

a. Not every divorce leads to maintenance. Some spouses choose to waive maintenance. If you do not want to collect maintenance, and you do not anticipate your spouse seeking maintenance from you, you can skip this section.

b. Maintenance Basic Facts:

i. When were you married? (month, day, and year) _____

ii. When was the divorce filed? (month, day, and year) _____

iii. What do you earn annually (yearly) before you pay taxes (your gross earnings)? _____

iv. What does your spouse earn annually (yearly) before he/she pays taxes (his/her gross earnings)? _____

c. Maintenance factors – the court must determine if either spouse is entitled to receive maintenance. To do this, the court will consider the following 21 factors. If you are seeking maintenance, please review all of these factors and be prepared to explain why you believe you should receive maintenance. If your spouse is seeking maintenance, please review all of these factors and be prepared to explain why you believe you should not pay maintenance to your spouse.

i. Factors: (1) Income of each party, (2) Property of each party, (3) Needs of each party, (4) Was either parent a stay-at-home parent for any period of time?, (5) Are there any reasons either of you

cannot support yourself now (medical issues, educational/training issue, child care responsibilities, etc.)?, (6) Are there any reasons either of you cannot support yourself in the future (medical issues, educational/training issues, childcare responsibilities, etc.)?, (7) How long would it take you or your spouse to get education, training, or employment so that you each could support yourself?, (8) What was the standard of living during the marriage (did you take many vacations, drive fancy cars, have nice clothes, etc.)?, (9) How long were you married?, (10) How old are each of you?, (11) Do either of you have any medical conditions?, (12) Are either of you employed?, (13) Are either of you capable of being employed?, (14) What education/training do each of you have?(15) Have either of you received any inheritance?, (16) Do either of you owe any debt?, (17) Do either of you receive disability, retirement income, or any form of government support?, (18) Will you owe any taxes as a result of the divorce?, (19) Did either of you contribute to the career of the other?, (20) Did you have a prenuptial agreement?, and (21) the Court can consider anything else that the Court thinks is relevant.

Notes: _____

(2) **Property Division** – the Court generally considers four elements in dividing property: (1) the Court identifies what property exists, (2) the Court classifies the property as marital or non-marital, (3) the Court values the property, and (4) the Court divides the marital property between the spouses.

- a. Identifying Property That You Hold or That is Jointly Held – complete your Financial Affidavit and provide a copy of it to your attorney.

b. Classifying Property – in Illinois all property in a divorce is either marital (which is all property acquired while you were married regardless of how it is titled) or non-marital (which is property that was owned before the marriage, property that was inherited, or property that was a gift)

i. Did you own any of the property (the assets and debts) listed on your financial affidavit before you were married?

No

Yes

o Which assets or debts were pre-marital? _____

ii. Did you receive any of the property (the assets and debts) listed on your financial affidavit through inheritance?

No

Yes

o Which assets or debts did you inherit? _____

iii. Did you receive any of the property (the assets and debts) listed on your financial affidavit as a gift?

No

Yes

o Which assets or debts were gifts to you? _____

iv. Did you exchange any non-marital property (pre-marital, inheritance, or gift) for other property (for example: selling a pre-marital house and putting the proceeds into a bank account)?

No

Yes

o Which assets or debts were from exchanged non-marital property? _____

c. Valuing Property – the value of a bank account is easily determined, however much money is in the account is its value. Other assets are harder to value.

i. Do you own any real estate?

No

Yes

○ How did you determine the value you listed on your financial affidavit for the real estate? (Check all that apply)

I listed the purchase price

I looked online

I asked a realtor

I had the real estate valued

I guessed

Other: _____

ii. Do you own any motor vehicles?

No

Yes

○ How did you determine the value you listed on your financial affidavit for the motor vehicles? (Check all that apply)

I listed the purchase price

I looked online

I had the vehicle appraised

I guessed

Other: _____

iii. Do you own any businesses?

No

Yes

○ How did you determine the value you listed on your financial affidavit for the business interests? (Check all that apply)

I listed the purchase price

I had the business appraised

I guessed

Other: _____

- d. Dividing Property – the Court will award the non-marital property to whichever spouse owns it (Example: wife inherited farm – farm gets allocated to wife). However, the Court will divide the marital property (assets and debts) between the spouses.
- i. How would you like to have the property divided between yourself and your spouse?
 - Equal (50%/50%)
 - _____% to me, _____% to my spouse
 - By title (what’s in my name is mine, what’s in spouse’s name is theirs)

 - ii. If you selected anything other than an equal division (50/50), please be prepared to explain to the Court why you believe the Court should not divide the property equally. The Court will consider roughly twenty factors in deciding how to divide the property, you should be prepared to address each: (1) each spouse’s contribution to the marital property, (2) dissipation – spending of money on a non-marital purpose, (3) the value of the property to be given to each spouse, (4) how long you were married, (5) will anyone be remaining in the marital home, (6) any support obligations from other relationships – child support or maintenance, (7) any support received from other relationships – child support or maintenance, (8) your ages, (9) any medical conditions of either party, (10) the income and occupations of each spouse, (11) the debts of the parties, (12) who is the primary caregiver for the children, (13) whether maintenance is being paid, (14) each spouse’s ability to be employed in the future, (15) any tax consequences of dividing the property, and (16) anything else that the Court thinks is relevant.

Notes: _____

