

When you are facing divorce, it can be one of the most difficult times in your life. It creates confusion and a real sense of loss. Many couples have established both personal and real property during the course of their marriage; furthermore, their marriage may consist of minor children. This compilation has been created to assist you in dealing with the real life issues that revolve around a divorce. This is not intended to be an interpretation of advice, it is only provided to you as an educational tool as to the general procedures of a divorce. There is no way to tell how much a divorce can cost. There are so many factors involved within the process, which makes it impossible to set a price. These factors include whether children are involved, how large the marital estate is, whether the parties can compromise, and settle the issues of personal, real, and marital property. If disputes are drawn out, several motions are filed, and trial is a possibility, the cost for a divorce can be pricey.

Grounds for Divorce in the State of Michigan

Michigan is a “no fault” State with respect to divorce. This means that the court generally views that neither party is entirely at fault for the onset of divorce. The courts do take in consideration fault if spousal support, child visitation or property issues are not settled between the parties through settlement and proceeds to trial in front of a judge. Fault, such as infidelity, can be a factor in resolving these issues. The common grounds for divorce in the State of Michigan is as follows:

There has been a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.

Procedure for Divorce

Filing for divorce consists of the following steps:

1. **Summons** - This is a standard document that advises your spouse that you have begun the proceedings for a suit and your spouse has 21 days to respond to the Summons.
2. **Complaint** - This is the document that names the parties involved in the suit and all allegations pertaining to when you were married, how long you have live in the county you reside, the names and ages of minor children involved, grounds for divorce, date of separation, property issues, length of marriage and relief requested by the Plaintiff who begins the suit.
3. **Proof of Service** - This document must be provided to the court upon receipt of the Summons and Complaint upon the Defendant (spouse). It is the proof that these documents were served and begins the 21-day deadline for filing a response.
4. **Verified Statement** – This document informs the Friend of the Court whether or not their services are required. The Friend of the Court would

be necessitated if there were minor children involved or if spousal support was necessary.

5. **Affidavit** – This document is filed if minor children are involved and consists of the current residence of the child(ren) for the past five years and that there is no pending custody action against any children involved in the current divorce proceedings.
6. **Record of Divorce or Annulment** – This document is required by the State of Michigan and is filed with the Circuit Court upon filing for divorce. It contains statistical information such as the color of each parties' hair, height, weight, date of marriage, date of separation, scars, tattoos and so on.

What Happens During the Process Between Filing for Divorce and the Judgment of Divorce

This is a period of time when information is compiled, which defines the issues and possibly resolves them. Interrogatories, which is a compilation of various questions regarding personal, employment, and property information is sought from either party. Appraisers and experts may be necessary to determine the value of marital property.

This is also a period of time when settlement may be reached. If this does not seem possible, the court may then order you to attend mediation. This is a time where you and your spouse, normally without your retained attorneys, meet with a third party attorney and try to come up with a settlement agreement.

If a settlement is still not reached, the discovery process continues and the possibility of a trial is foreseeable. If a settlement is not reached at mediation, there is still time to settle the marital issues up to the day of trial, but much of the expense during a divorce proceeding incurs between the discovery process and the trial. The most economical of all divorces are those that can settle in a quick and civil manner.

If the proceedings continue to trial, the Judge makes the decision on custody and property issues. It's a chance to take when the Judge makes the decision as to who gets the personal and marital property. He may even order that your home be sold on the market. The final document, whether the case is settled or decided at trial is the Judgment of Divorce. This is basically the "Bible" of the divorce. It sets forth all the final decisions either made by the parties or the Judge and these are to be followed as ordered by the court, unless the court directs a particular clause in the judgment otherwise.

If Your Divorce Involves Minor Children

When children are involved in a divorce proceeding, there are certain important steps that take place, and many considerations the court must make, especially if the parties cannot agree to who may have physical custody of the children. First of all, there are a couple different ways to retain custody between the parties.

1. **Joint Legal Custody** – This is where the parties share the legal aspects of the children involved. For example, both would have say in the child's education, health, and other matters related to the major decisions made in a child's future.
2. **Joint Physical Custody** – If the parties can agree to a set schedule where each party shares an equal amount of time with the children, the court may allow this type of custody. An example of joint physical custody would be that each parent would have parenting time every other week. This only works if the parties are in the same school district and can civilly coordinate between the weeks. This type of custody does not work with a couple that cannot effectively communicate regarding the children involved.
3. **Sole Legal Custody** – The custodial parent would be responsible for making any and all decisions regarding the child's education, health, and other matters related to the major decisions made in a child's future.
4. **Sole Physical Custody** – The custodial parent has full complete custody of the child, wherein the non-custodial parent may have little or no involvement with parenting time with the minor child.

If the parties cannot agree to custody issues, the Court will recommend a parenting time schedule and who will be the custodial parent. The Friend of the Court reviews the parties and their current situations and makes a recommendation to the Court temporarily throughout the divorce proceedings. If custody is not established through settlement and proceeds to trial, the Court has 11 factors they need to take into consideration before making a final decision on which party may receive custody of the minor child, and in which of the above manners.

11 Factors of Custody

1. The love, affection, and other emotional ties existing between the parties involved and the child.
2. The capacity and disposition of the parties involved to give the child love, affection, and guidance and continuation of the educating and raising of the child in its religion or creed, if any.
3. The capacity and disposition of the parties involved to provide the child with food, clothing, medical care and other remedial care recognized and permitted under the laws of this state in place of medical care, and other marital needs.
4. The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
5. The permanence, as a family unit, of the existing or proposed custodial home or homes.
6. The moral fitness of the parties involved.

7. The mental and physical health of the parties involved.
8. The home, school, and community record of the child.
9. The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.
10. The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent.
11. Any other factor considered by the court to be relevant to a particular child custody dispute.

Attorney Fees

One cannot contemplate the amount of fees it will take to litigate a divorce, or other areas of law. The cost depends on factors such as how fast the case can be litigated, the amount of work involved, time, labor, difficulty of the case, and how the opposing parties' case proceeds. If there are various motions and court hearings because the spouses can't agree, litigation is more costly. In order to keep costs down, the parties must be willing to compromise and work either together or through their attorneys in a civil manner. The less time spent filing motions and appearing at hearings to decide aspects of the divorce, the less costly the divorce will be. You will be charged for telephone calls, meetings, drafting of documents, court time, filing and research, both by the attorney and/or legal staff.

Please contact Shelley A. Kester for your free consultation and she can answer any other questions that you may have regarding divorce proceedings and child custody issues.

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