

JUSTIA

Property Division Laws in Divorce: 50-State Survey

As a divorce looms, a person may worry about what will happen to their property and whether their finances will suffer a devastating blow. A prenuptial or postnuptial agreement can avert this concern by outlining specifically what will happen to property if a marriage ends. If this contract is properly executed, a court likely will uphold its terms. If there is no pre-existing arrangement for property division, the divorcing spouses can negotiate a marital settlement agreement. This allows them to determine who gets what after the divorce without relying on a court.

If the spouses cannot reach an agreement, however, a court must divide their property under the laws of their state. Forty-one states and Washington, D.C. use a system known as equitable distribution. This means that a court will divide property in a way that is fair under the circumstances. Many equitable distribution states provide a statutory list of factors that a court must consider in dividing property, while other states have relied on courts to determine these factors. “Fair” does not necessarily mean “equal.” In practice, though, courts often find that an equitable distribution is an even or nearly

even split.

The nine remaining states are known as community property states. While this is a relatively small number, it accounts for a quarter of the U.S. population. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Under a community property system, most income, assets, and debts accumulated during a marriage are considered jointly held by both spouses. In some community property states, such as California, community property generally must be divided equally between the spouses in a divorce. Other community property states take a more flexible approach. For example, Texas does not require community property to be equally divided. States like Arizona and Nevada strongly favor a 50/50 split but give courts some discretion to deviate if needed.

Meanwhile, five equitable distribution states allow spouses to opt into a community property system if they prefer. These states are Alaska, Florida, Kentucky, South Dakota, and Tennessee. Spouses who are interested in exercising this option may want to **consult a family lawyer** to make sure that it is right for them and that they follow all of the applicable rules.

Click on a state below to find out more about how property is divided in a divorce there.

Alabama

Alaska

Arizona

Arkansas

California

Colorado

Connecticut

Delaware

Florida

Georgia

Hawaii

Idaho

Illinois

Indiana

Iowa

Kansas

Kentucky

Louisiana

Maine

Maryland

Massachusetts

Michigan

Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington

Washington D.C.

West Virginia

Wisconsin

Wyoming

Alabama

Alabama is an equitable distribution state.

The Code of Alabama does not provide specific factors to consider in making an equitable distribution of the marital estate. Courts thus have significant discretion in Alabama property division cases. According to the Alabama Court of Civil Appeals, factors that a court **may consider** include:

- The earning capacity of each party
- The future prospects of each party
- The age and health of each party
- The length of the marriage
- The value and type of property involved
- The conduct of the parties regarding the cause of the divorce

A statute provides specific rules for allocating **retirement benefits** during the equitable distribution process.

Alaska

Alaska is generally an equitable distribution state, but spouses can opt into a community property system.

The equitable distribution system in Alaska allows a court to provide for the division between the parties of their property acquired during the marriage in a just manner and without regard to which of the parties is at fault. **Alaska property division law** states that the division of property must fairly allocate the economic effect of divorce by being based on a consideration of the following factors:

- The length of the marriage and the station in life of the parties during the marriage
- The age and health of the parties
- The earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from the job market, and custodial responsibilities for children during the marriage
- The financial condition of the parties, including the availability and cost of health insurance
- The conduct of the parties, including whether there has been unreasonable depletion of marital assets

- The desirability of awarding the family home or the right to live in it for a reasonable period of time to the party who has primary physical custody of children
- The circumstances and necessities of each party
- The time and manner of acquisition of the property in question
- The income-producing capacity of the property and the value of the property at the time of division

In making the division, the court may invade the property of either spouse acquired before the marriage when the balancing of the equities between the parties requires it.

Meanwhile, the **Alaska Community Property Act** provides that property of spouses may be community property to the extent provided in a community property agreement or a community property trust. A **community property agreement** must be contained in a written document signed by both spouses and classify some or all of the property of the spouses as community property. Creating a **community property trust** involves transferring property to a trust that declares that some or all of the property transferred is community property, among other requirements. The trust must be signed by both spouses, and both spouses or either spouse may be a trustee.

Arizona

Arizona is a community property state.

Arizona law **defines community property** as all property acquired by either spouse during the marriage, except for property that is acquired by gift, devise, or descent, or property that is acquired after service of a divorce petition that results in a divorce decree. In a divorce proceeding, a court will assign the sole and separate property of each spouse to that spouse. **Arizona property division law** then provides that the court will divide the community, joint tenancy, and other property held in common equitably without regard to marital misconduct. Property acquired by either spouse outside Arizona is considered to be community property if it would have been community property had it been acquired in Arizona. In dividing property, a court may consider the debts and obligations that are related to the property.

The Arizona Supreme Court **has explained** that an equal distribution of joint property will be the most equitable result in most cases. In other words, all marital joint property should be divided substantially equally unless sound reason exists to divide the property otherwise.

Arkansas

Arkansas is an equitable distribution state.

Although Arkansas is an equitable distribution state, **Arkansas property division law** provides that marital property (as defined by statute) must be distributed 50/50 between the parties unless the court finds this division to be inequitable. If the court makes a division other than a 50/50 split, it must consider certain factors:

- The length of the marriage
- The age, health, and station in life of each party
- The occupation of each party
- The amount and sources of income of each party
- The vocational skills and employability of each party
- The estate, liabilities, and needs of each party and their opportunities for further acquisition of income and assets
- The contribution of each party in the acquisition, preservation, or appreciation of marital property, including any services provided as a homemaker
- Federal income tax consequences

A court that uses these factors to make a division other than a 50/50 split must include in the order the reasons for not

dividing the marital property equally. Non-marital property must be returned to the party who owned it before the marriage, unless the court finds that a different division would be equitable, considering the factors listed above. If the court reaches this conclusion, it must state its reasons for not returning the property to the party who owned it at the time of the marriage.

California

California is a community property state.

California law generally provides that all property, wherever it is located, is **community property** when it is acquired by a married person during the marriage while domiciled in California. In a divorce proceeding, **California property division law** generally requires that a court must divide the community estate of the parties equally, unless the parties have a written agreement to the contrary. For this purpose, the court generally must value the assets and liabilities as near as practicable to the time of trial. When the economic circumstances warrant, the court may award an asset of the community estate to a party on such conditions as the court finds proper to effect a substantially equal division of the community estate.

Colorado

Colorado is an equitable distribution state.

Colorado property division law provides that a court will divide the marital property, as defined by statute, without accounting for marital misconduct. The marital property must be divided in such proportions as the court deems just after considering all of the relevant factors. These include:

- The contribution of each spouse to the acquisition of the marital property, including any contributions as a homemaker
- The value of the property set apart to each spouse
- The economic circumstances of each spouse when the property division takes effect; this includes the desirability of awarding the family home or the right to live there for reasonable periods to a spouse with whom children reside for the majority of the time
- Any increases or decreases in the value of the separate property of a spouse during the marriage or the depletion of the separate property for marital purposes

There is generally a rebuttable presumption that property acquired by either spouse after the marriage and prior to a decree of legal separation is marital property, regardless of

how title is held. An asset of a spouse that was acquired before the marriage generally will be considered marital property to the extent that its present value exceeds its value at the time of the marriage.

Connecticut

Connecticut is an equitable distribution state.

Unlike some equitable distribution states, Connecticut does not distinguish between marital and separate property. Instead, **Connecticut property division law** provides that a court may assign to either spouse all or any part of the estate of the other spouse when entering a decree of divorce, annulment, or legal separation. In determining the nature and value of the property to be assigned, the court will consider certain factors:

- The length of the marriage
- The causes for the end of the marriage
- The age, health, station, and occupation of each party
- The amount and sources of income of each party, as well as their earning capacity, vocational skills, education, and employability
- The estate, liabilities, and needs of each party and the opportunity of each party for future acquisition of

capital assets and income

- The contribution of each party to the acquisition, preservation, or appreciation in value of their respective estates

If a court finds that it would be appropriate, it may pass title to real property to either party or a third party, or it may order the sale of the real property.

Delaware

Delaware is an equitable distribution state.

Delaware property division law provides that a court must equitably divide, distribute, and assign the marital property (as defined by statute) between the parties in the proportions that the court finds just. The court must not consider marital misconduct during this process. Instead, it must consider all relevant factors, such as:

- The length of the marriage
- Any prior marriage of a party
- The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each party
- Whether the property award is instead of or in addition

to alimony

- The opportunity of each spouse for future acquisitions of capital assets and income
- The contribution or dissipation of each party in the acquisition, preservation, depreciation, or appreciation of the marital property, including any contribution of a party as homemaker, husband, or wife
- The value of the property set apart to each party
- The economic circumstances of each party at the time that the division of property will take effect; this includes the desirability of awarding the family home or the right to live there for reasonable periods to the party with whom any children of the marriage will live
- Whether the property was acquired by gift (with exceptions)
- The debts of the parties
- Tax consequences

There is a rebuttable presumption that property acquired by either party after the marriage is marital property, regardless of how title is held. The statute also contains specific provisions for determining the ownership of a companion animal that is considered marital property.

Florida

Florida is generally an equitable distribution state, but spouses can opt into a community property system.

The equitable distribution system in Florida requires a court to set apart to each spouse their non-marital assets and liabilities before distributing the marital assets and liabilities between the parties. **Florida property division law** directs a court to begin with the premise that the distribution should be equal, unless there is a justification for an unequal distribution based on all of the relevant factors. These include:

- The contribution to the marriage by each spouse, including contributions to the care and education of the children and services as homemaker
- The economic circumstances of the parties
- The duration of the marriage
- Any interruption of personal careers or educational opportunities of either party
- The contribution of one spouse to the personal career or educational opportunity of the other spouse
- The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference

by the other party

- The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities to, both the marital assets and the non-marital assets of the parties
- The desirability of retaining the marital home as a residence for any dependent child of the marriage, or any other party, when it would be equitable to do so, it is in the best interest of the child or that party, and it is financially feasible for the parties to maintain the residence until the child is emancipated or until exclusive possession is otherwise terminated by a court
- The intentional dissipation, waste, depletion, or destruction of marital assets after the filing of the petition or within two years prior to the filing of the petition
- Any other factors necessary to do equity and justice between the parties

Meanwhile, the **Florida Community Property Trust Act** provides that the property owned by a community property trust pursuant to this law and the appreciation of and income from such property will be considered community property for the purposes of general law. Creating a **community**

property trust involves transferring property to a trust that declares that the trust is a community property trust. The trust must have at least one trustee who is a qualified trustee, must be signed by both settlor spouses consistent with the formalities required for the execution of a trust, and must contain certain statutorily required language.

Georgia

Georgia is an equitable distribution state.

The Georgia Code does not provide specific factors to consider in making an equitable distribution of property. A court thus has broad discretion in a Georgia property division case. The Georgia Supreme Court **has approved** instructions that asked a jury to consider the following factors:

- The duration of the marriage and any prior marriage of either party
- The age, health, occupation, vocational skills, and employability of each party
- The contribution or services of each spouse to the family unit
- The amount and source of income of each party
- The estate, debts, liabilities, and needs of each party

- The debts against the property
- The opportunity of each spouse for future acquisition of assets and income
- The intent of the parties related to the ownership of any particular item of property
- Which party furnished all or a portion of the purchase money for any items in question
- The source from which the property in question was acquired

However, this list is not exhaustive, and any other relevant fact or circumstance may be considered.

Hawaii

Hawaii is an equitable distribution state.

Under **Hawaii property division law**, a court may make orders that are just and equitable in dividing and distributing the estate of the parties, whether community, joint, or separate. A court also may allocate between the parties the responsibility for the payment of the debts of the parties, whether community, joint, or separate. In making these orders and others related to a divorce, a court must consider factors such as:

- The respective merits of the parties
- The relative abilities of the parties
- The condition in which each party will be left by the divorce
- The burdens imposed on either party for the benefit of the children of the parties
- Any concealment of or failure to disclose income or an asset
- Any violation of a restraining order by either party

Any divorce decree that does not specifically state that the final division of the property of the parties is reserved for further hearing, decision, and orders will finally divide the property of the parties.

Idaho

Idaho is a community property state.

Idaho law **defines separate property** as all property of a spouse owned by them before the marriage, as well as property acquired afterward by gift, bequest, devise, or descent and property acquired with the proceeds of separate property. All other property acquired after the marriage by either spouse is community property. **Idaho property division law** provides that a court must assign community

property in a divorce in proportions that the court finds just, considering all the facts of the case and the condition of the parties. Unless there are compelling reasons otherwise, there must be a substantially equal division in value, considering debts. Factors that may affect whether a division should be equal or the manner of division include:

- The duration of the marriage
- Any prenuptial agreement of the parties
- The age, health, occupation, amount and source of income, vocational skills, employability, and liabilities of each spouse
- The needs of each spouse
- Whether the apportionment is instead of or in addition to maintenance
- The present and potential earning capability of each party
- Retirement benefits

If a homestead has been selected from the community property, it may be assigned to either party. The assignment may be absolute if it is considered in the distribution of the community property, or it may be for a limited period, subject to the future disposition of the court. The homestead also may be divided, or it may be sold and the proceeds

divided.

Illinois

Illinois is an equitable distribution state.

In a divorce proceeding, an Illinois court will assign the non-marital property of each spouse to that spouse. **Illinois property division law** provides that the court will divide the marital property without regard to marital misconduct in just proportions, considering factors such as:

- Each party's contribution to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property
- The dissipation of each party of the marital property, subject to certain conditions
- The value of the property assigned to each spouse
- The duration of the marriage
- The relevant economic circumstances of each spouse when the property division will take effect, including the desirability of awarding the family home or the right to live there for reasonable periods to the spouse having the primary residence of the children
- Any obligations and rights arising from a prior marriage of either party

- Any prenuptial or postnuptial agreement of the parties
- The age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each party
- Custodial provisions for any children
- Whether the apportionment is instead of or in addition to maintenance
- The reasonable opportunity of each spouse for future acquisition of capital assets and income
- The tax consequences of the property division on the respective economic circumstances of the parties

A court also may consider any other factors that may be relevant. Each spouse has a species of common ownership in the marital property that vests when divorce proceedings are commenced and continues during the duration of the action.

Indiana

Indiana is an equitable distribution state.

Although Indiana is an equitable distribution state, a court must presume that an equal division of the marital property between the parties is just and reasonable. **Indiana property division law** provides that a party may rebut this presumption if they present relevant evidence that an equal

division would not be just and reasonable. This evidence should include evidence concerning the following factors:

- The contribution of each spouse to the acquisition of the property, including contributions that were not income-producing
- The extent to which the property was acquired by each spouse before the marriage, or through inheritance or gift
- The economic circumstances of each spouse at the time when the disposition of the property will take effect; this includes the desirability of awarding the family residence or the right to live there for such periods as the court considers just to the spouse who has custody of any children
- The conduct of the parties during the marriage related to the disposition or dissipation of their property
- The earnings or earning ability of the parties related to a final division of property and a final determination of property rights

A court will divide the property of the parties whether it was owned by either spouse before the marriage, acquired by either spouse in their own right after the marriage and before the final separation, or acquired by their joint efforts.

Moreover, in determining what is just and reasonable in dividing property, a court will consider the tax consequences of the property disposition with respect to the present and future economic circumstances of each party. If there is little or no marital property, a court may award either spouse a money judgment not limited to the property existing at the time of final separation for the financial contribution of that spouse toward tuition, books, and laboratory fees for the post-secondary education of the other spouse.

Iowa

Iowa is an equitable distribution state.

A court resolving a divorce in Iowa must divide all property equitably between the parties, except for inherited property or gifts received or expected by one party. **Iowa property division law** requires a court to consider all of the following factors in dividing property:

- The length of the marriage
- The property brought to the marriage by each party
- The contribution of each party to the marriage, giving appropriate economic value to each party's contribution to homemaking and child care
- The age and physical and emotional health of the

parties

- The contribution by one party to the education, training, or increased earning power of the other party
- The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children, and the time and expense needed to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage
- The desirability of awarding the family home or the right to live there for a reasonable period to the party having custody of the children, or having physical care of the children if the parties have joint legal custody
- The amount and duration of an order granting support payments to either party and whether the property division should be instead of these payments
- Other economic circumstances of each party, including pension benefits; future interests may be considered
- Tax consequences to each party
- Any written agreement between the parties concerning property distribution
- The provisions of an antenuptial (prenuptial) agreement

- Other factors that the court may determine to be relevant

Property inherited or gifts received by either party before or during the marriage are not subject to property division, unless a refusal to divide that property would be inequitable to the other party or the children of the marriage.

Kansas

Kansas is an equitable distribution state.

A divorce decree in Kansas will divide the property of the parties, including any retirement and pension plans, whether it was owned by either spouse before the marriage, acquired by either spouse in their own right after marriage, or acquired by the joint efforts of the spouses. **Kansas property division law** provides that the court must consider the following factors:

- The age of the parties
- The duration of the marriage
- The property owned by the parties
- The present and future earning capacities of the parties
- The time, source, and manner of the acquisition of property

- Family ties and obligations
- The allowance of maintenance (or the lack of maintenance)
- Any dissipation of assets
- Tax consequences of the property division on the economic circumstances of each party
- Other factors that the court considers necessary to make a just and reasonable division of property

Upon request, the court will set a valuation date to be used for all assets, which may be the date of separation, filing, or trial. However, the court may consider evidence regarding changes in the value of various assets before and after the valuation date.

Kentucky

Kentucky is generally an equitable distribution state, but spouses can opt into a community property system.

The equitable distribution system in Kentucky requires a court to assign each spouse's property to them. **Kentucky property division law** provides that the court then will divide the marital property without regard to marital misconduct in just proportions, considering all relevant

factors. These include:

- Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker
- Value of the property set apart to each spouse
- Duration of the marriage
- Economic circumstances of each spouse when the property division will take effect, including the desirability of awarding the family home or the right to live there for reasonable periods to the spouse having custody of any children

Meanwhile, the Kentucky Community Property Trust Act provides that spouses may classify any or all of their property as community property by transferring property to a community property trust and providing in the trust that the property is community property. Creating a **community property trust** involves transferring property to a trust that declares that the trust is a Kentucky community property trust that meets statutory requirements. The trust must have at least one qualified trustee, must be signed by both spouses, and must contain certain required language.

Louisiana

Louisiana is a community property state.

Louisiana law **defines community property** as property acquired during the marriage through the effort, skill, or industry of either spouse. It also includes:

- Property acquired with community things or with community and separate things, unless classified as **separate property**
- Property donated to the spouses jointly
- Natural and civil fruits of community property
- Damages awarded for loss or injury to a thing belonging to the community
- All other property not classified by law as separate property

Louisiana property division law provides that a court will divide the community assets and liabilities so that each spouse receives property of an equal net value. In allocating assets and liabilities, the court may divide a particular asset or liability equally or unequally, or it may allocate it in its entirety to a spouse, considering the nature and source of the asset or liability, the economic condition of each spouse, and any other circumstances that the court finds relevant. If the allocation of assets and liabilities results in an unequal net distribution, the court will order the payment of an equalizing

sum of money. If the allocation of an asset, in whole or in part, would be inequitable to a party, the court may order the parties to draw lots for the asset or may order the private sale of the asset on terms and conditions that the court finds proper.

Maine

Maine is an equitable distribution state.

Maine property division law provides that a court will divide the marital property, as defined by statute, in proportions that the court finds just after considering all of the relevant factors. These include:

- The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as a homemaker
- The value of the property set apart to each spouse
- The economic circumstances of each spouse at the time when the property division will take effect; this includes the desirability of awarding the family home or the right to live there for reasonable periods to the spouse who has custody of the children
- Economic abuse by a spouse

There is a rebuttable presumption that property acquired by either spouse after the marriage and before a decree of legal separation is marital property, regardless of how title is held.

Maryland

Maryland is an equitable distribution state.

After a Maryland court determines which property is marital property and values the marital property, the court may transfer ownership of an interest in certain property described by statute, grant a monetary award, or both as an adjustment of the equities and rights of the parties concerning marital property, regardless of whether alimony is awarded. **Maryland property division law** provides that a court must consider certain factors in determining the amount and the method of payment of a monetary award, or the terms of the transfer of the interest in property, or both:

- The contributions (monetary and non-monetary) of each party to the well-being of the family
- The value of all property interests of each party
- The economic circumstances of each party at the time that the award is to be made
- The circumstances that contributed to the estrangement of the parties

- The duration of the marriage
- The age of each party
- The physical and mental condition of each party
- How and when specific marital property or interest in property was acquired, including the effort expended by each party in accumulating the marital property or interest in property
- The contribution by either party of non-marital property to the acquisition of real property held by the parties as tenants in the entirety
- Any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home
- Any other factor that the court considers necessary or appropriate to consider to arrive at a fair and equitable monetary award or transfer of an interest in property, or both

Several additional statutory provisions apply specifically to the family home and family use personal property.

Massachusetts

Massachusetts is an equitable distribution state.

In addition to or instead of a judgment to pay alimony, a

court in Massachusetts may assign to either party all or any part of the estate of the other. **Massachusetts property division law** provides that this includes vested and non-vested benefits, rights, and funds accrued during the marriage. In determining the nature and value of the property to be assigned, the court will consider the following factors:

- The length of the marriage
- The conduct of the parties during the marriage
- The age, health, station, and occupation of each party
- The amount and sources of income, vocational skills, and employability of each party
- The estate, liabilities, and needs of each party
- The opportunity of each party for future acquisition of capital assets and income
- The amount and duration of alimony, if any
- The present and future needs of any dependent children of the marriage

In addition, the court may consider the contribution of each party in the acquisition, preservation, or appreciation in value of their respective estates and the contribution of each party as a homemaker to the family unit.

Michigan

Michigan is an equitable distribution state.

Michigan statutes do not provide specific factors that courts must consider in determining an equitable distribution during a divorce. However, the Michigan Supreme Court **has ruled** that certain factors must be considered in a Michigan property division case when they are relevant to the circumstances of the particular case:

- The duration of the marriage
- The contributions of each party to the marital estate
- The age of each party
- The health of each party
- The life status of each party
- The necessities and circumstances of each party
- The earning ability of each party
- The past relations and conduct of each party
- General principles of equity

Additional factors may be relevant to a particular case, such as any interruption to the personal career or education of either party.

Minnesota

Minnesota is an equitable distribution state.

Minnesota property division law requires a court to make a just and equitable division of the marital property of the parties without regard to marital misconduct. The court must base its findings on all relevant factors, including:

- The length of the marriage
- Any prior marriage of a party
- The age, health, station, and occupation of each party
- The amount and sources of income of each party
- The vocational skills and employability of each party
- The estate, liabilities, and needs of each party
- The opportunity for future acquisition of capital assets and income of each party
- The contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker

It is conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while the spouses were living together.

Mississippi

Mississippi is an equitable distribution state.

The Mississippi Code does not provide specific factors that a court must consider in a Mississippi property division case. However, the Mississippi Supreme Court **has directed** courts to evaluate the division of marital assets by considering certain factors:

- Substantial contribution to the accumulation of the property
- The degree to which each spouse has expended, withdrawn, or otherwise disposed of marital assets and any prior distribution of such assets by agreement, decree, or otherwise
- The market value and emotional value of the assets subject to distribution
- The value of assets not ordinarily subject to such distribution, without equitable factors to the contrary, such as property brought to the marriage by the parties and property acquired by inheritance or inter vivos gift by or to an individual spouse
- Tax and other economic consequences, as well as contractual or legal consequences to third parties
- The extent to which property division may, with equity to both parties, be utilized to eliminate periodic

payments and other potential sources of future friction between the parties

- The needs of the parties for financial security with due regard to the combination of assets, income, and earning capacity
- Any other factor that in equity should be considered

Expert testimony may be essential to establish valuation sufficient to equitably divide property, especially when the assets are diverse.

Missouri

Missouri is an equitable distribution state.

Missouri property division law provides that a court must set apart to each spouse their non-marital property and divide the marital property, as defined by statute, in proportions that the court deems just after considering all of the relevant factors. These include:

- The economic circumstances of each spouse at the time that the division of property will take effect; this includes the desirability of awarding the family home or the right to live there for reasonable periods to the spouse having custody of any children

- The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as a homemaker
- The value of the non-marital property set apart to each spouse
- The conduct of the parties during the marriage
- Custodial arrangements for any minor children

There is a rebuttable presumption that property acquired by either spouse after the marriage and before a decree of legal separation or dissolution of marriage is marital property, regardless of how title is held. Property that otherwise would be non-marital property does not become marital property solely because it may have become commingled with marital property.

Montana

Montana is an equitable distribution state.

Montana property division law provides that a court will equitably apportion between the parties the property and assets belonging to either or both of them, however and whenever they were acquired and regardless of whether the title to the property and assets is in the name of either spouse or both. Property division will be conducted without regard to

marital misconduct. In making its distribution, the court will consider:

- The duration of the marriage and any prior marriage of either party
- The age, health, station, and occupation of each party
- The amount and sources of income of each party
- The vocational skills and employability of each party
- The estate, liabilities, and needs of each party
- Custodial provisions
- Whether the property division is instead of or in addition to maintenance
- The opportunity of each spouse for future acquisition of capital assets and income
- The contribution or dissipation of value of the respective estates
- The contribution of a spouse as a homemaker or to the family unit

In dividing property that was acquired before the marriage, property acquired by gift, bequest, devise, or descent, or property acquired in exchange for these types of property, as well as the increased value of property acquired prior to the marriage and property acquired by a spouse after a decree of legal separation, a court will consider those contributions of

the other spouse to the marriage. These include the non-monetary contribution of a homemaker, the extent to which the contributions have facilitated the maintenance of the property, and whether the property division serves as an alternative to maintenance arrangements.

Nebraska

Nebraska is an equitable distribution state.

Nebraska statutes direct courts to conduct a similar process when determining property division as when calculating alimony payments. **Nebraska property division law** provides that a court may order a reasonable division of property or alimony, having regard for the following factors:

- The circumstances of the parties
- The duration of the marriage
- A history of the contributions to the marriage by each party, including contributions to the care and education of any children
- Any interruption of personal careers or educational opportunities
- The ability of the supported party to engage in gainful employment without interfering with the interests of any minor children in their custody

While the criteria for property division and alimony may overlap, the statute notes that these processes serve different purposes and should be considered separately. The purpose of property division is to distribute the marital assets equitably between the parties.

Nevada

Nevada is a community property state.

The general rule in Nevada is that property acquired after marriage by either spouse or both spouses is **community property**, except for property that one spouse acquired after the marriage by gift, bequest, devise, or descent or by an award for personal injury damages, as well as the rents, issues, and profits of that property. **Nevada property division law** provides that a court granting a divorce must make an equal disposition of the community property of the parties to the extent practicable. However, the court may make an unequal disposition of the community property in proportions that it finds just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

New Hampshire

New Hampshire is an equitable distribution state.

Although New Hampshire is an equitable distribution state, **New Hampshire property division law** provides that a court will presume that an equal division is an equitable distribution, unless the court decides that an equal division would not be appropriate or equitable. In reaching that determination, a court may consider the following factors:

- The duration of the marriage
- The age, health, social or economic status, and occupation of each party
- The vocational skills, employability, and separate property of each party
- The amount and sources of income, needs, and liabilities of each party
- The opportunity of each party for future acquisition of capital assets and income
- The ability of any custodial parent to engage in gainful employment without substantially interfering with the interests of any minor children in their custody
- The need of any custodial parent to occupy or own the marital residence and to use or own its household effects
- The actions of either party during the marriage that

contributed to the growth or diminution in value of property owned by either or both of the parties

- Significant disparity between the parties in relation to contributions to the marriage, including contributions to the care and education of the children and the care and management of the home
- Any direct or indirect contribution made by one party to help educate or develop the career or employability of the other party, and any interruption of either party's educational or personal career opportunities for the benefit of the other's career or for the benefit of the parties' marriage or children
- The expectation of pension or retirement rights acquired prior to or during the marriage
- The tax consequences for each party
- The value of property allocated by a valid prenuptial contract made in good faith by the parties
- The fault of either party if this caused the breakdown of the marriage and caused substantial physical or mental pain and suffering or resulted in substantial economic loss to the marital estate or the injured party
- The value of any property acquired prior to the marriage and property acquired in exchange for this property
- The value of any property acquired by gift, devise, or

descent

In addition, a court may consider any other factor that it deems relevant. The statute provides that the property settlement must address the care and ownership of the parties' animals, considering their wellbeing.

New Jersey

New Jersey is an equitable distribution state.

New Jersey property division law provides numerous factors that a court must consider in dividing property. These include:

- The duration of the marriage
- The age and physical and emotional health of the parties
- The income or property brought to the marriage by each party
- The standard of living established during the marriage
- Any written agreement made by the parties before or during the marriage concerning property distribution
- The economic circumstances of each party when the property division takes effect
- The income and earning capacity of each party,

including numerous sub-factors

- The contribution by each party to the education, training, or earning power of the other party
- The contribution of each party to the acquisition, dissipation, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a party as a homemaker
- The tax consequences for each party
- The present value of the property
- The need of a parent who has physical custody of a child to own or occupy the marital residence and to use or own the household effects
- The debts and liabilities of the parties
- The need for creation of a trust fund to secure reasonably foreseeable medical or educational costs for a spouse or children
- The extent to which a party deferred achieving their career goals.

A court also may consider other factors that it may find relevant. There is a rebuttable presumption that each party made a substantial financial or non-financial contribution to the acquisition of income and property while the party was married.

New Mexico

New Mexico is a community property state.

Under New Mexico law, community property generally means property acquired by either or both spouses during the marriage that is not **defined by statute** as separate property. Property acquired by the spouses by an instrument in writing is presumed to be held as community property unless it meets the definition of separate property. The New Mexico Supreme Court **has ruled** that it is the duty of a court in a New Mexico property division case to divide equally the property of the community.

New York

New York is an equitable distribution state.

While separate property will remain separate in a New York divorce, marital property will be distributed equitably between the parties, considering the circumstances of the case and the respective parties. **New York property division law** provides that a court must consider the following factors:

- The income and property of each party at the time of the marriage and at the time of the commencement of

the action

- The duration of the marriage and the age and health of both parties
- The need of a custodial parent to occupy or own the marital residence and to use or own its household effects
- The loss of inheritance and pension rights upon dissolution of the marriage as of the date of dissolution
- The loss of health insurance benefits upon dissolution of the marriage
- Any award of maintenance
- Any equitable claim to, interest in, or contribution made to the acquisition of marital property by the party not having title, such as joint efforts or expenditures and contributions and services as a spouse, parent, wage earner, and homemaker, and to the career or career potential of the other party
- The liquid or non-liquid character of all marital property
- The probable future financial circumstances of each party
- The impossibility or difficulty of evaluating any component asset or any interest in a business, corporation, or profession, and the economic desirability of retaining such an asset or interest intact

and free from any claim or interference by the other party

- The tax consequences to each party
- The wasteful dissipation of assets by either spouse
- Any transfer or encumbrance made in contemplation of a matrimonial action without fair consideration
- Whether either party has committed domestic violence against the other party and the nature, extent, duration, and impact of any domestic violence
- The best interest of a companion animal in awarding possession of that animal

A court also may consider any other factor that it expressly finds to be just and proper. If the court determines that an equitable distribution is appropriate but would be impractical or burdensome, the court instead will make a distributive award to achieve equity between the parties. The court also has the discretion to make a distributive award to supplement, facilitate, or effectuate a distribution of marital property.

North Carolina

North Carolina is an equitable distribution state.

Although North Carolina is an equitable distribution state, a

court will order an equal division by using the net value of marital property and the net value of divisible property unless the court determines that an equal division is not equitable. In that situation, **North Carolina property division law** provides that the court will consider all of the following factors in dividing property:

- The income, property, and liabilities of each party when the division of property takes effect
- Any obligation for support arising out of a prior marriage
- The duration of the marriage and the age and physical and mental health of both parties
- The need of a parent with custody of a child of the marriage to occupy or own the marital residence and use or own its household effects
- The expectation of pension, retirement, or other deferred compensation rights that are not marital property
- Any equitable claim to, interest in, or contribution made to the acquisition of marital property by the party not having title, including joint efforts or expenditures and contributions and services as a spouse, parent, wage earner, or homemaker
- Any contribution made by one spouse to help educate

- or develop the career potential of the other spouse
- Any direct contribution to an increase in value of separate property that occurs during the course of the marriage
 - The liquid or non-liquid character of all marital property and divisible property
 - The difficulty of evaluating any component asset or any interest in a business, corporation, or profession, and the economic desirability of retaining the asset or interest, intact and free from any claim or interference by the other party
 - The tax consequences to each party
 - Acts of either party to maintain, preserve, develop, or expand the marital property or divisible property, or to waste, neglect, devalue, or convert the marital property or divisible property between the separation of the parties and the time of distribution

A court also may consider any other factor that it finds to be just and proper. A court will provide for an equitable distribution without considering alimony or child support.

North Dakota

North Dakota is an equitable distribution state.

North Dakota property division law provides that a court must make an equitable distribution of the property and debts of the parties when a divorce is granted. The North Dakota Supreme Court **has outlined** the factors to consider during this process:

- The respective ages of each party
- The earning ability of each party
- The duration of the marriage and the conduct of each party during the marriage
- The station of each party in life
- The circumstances and necessities of each party
- The health and physical condition of each party
- The financial circumstances of each party as shown by the property owned at the time, its value at the time, and its income-producing capacity, whether accumulated before or after the marriage
- Other matters that may be material

Although the distribution does not need to be equal, a substantial disparity must be explained.

Ohio

Ohio is an equitable distribution state.

Although Ohio is an equitable distribution state, **Ohio property division law** provides that the division of marital property generally will be equal. However, if an equal division of marital property would be inequitable, a court will divide the marital property between the spouses in the manner that it determines to be equitable. In making a division of marital property, a court must consider all of the relevant factors, including:

- The duration of the marriage
- The assets and liabilities of the spouses
- The desirability of awarding the family home, or the right to reside in the family home for reasonable periods of time, to the spouse with custody of the children of the marriage
- The liquidity of the property to be distributed
- The economic desirability of retaining intact an asset or an interest in an asset
- The tax consequences of the property division on the respective awards to be made to each spouse
- The costs of sale, if it is necessary that an asset be sold to effectuate an equitable distribution of property
- Any division or disbursement of property made in a separation agreement into which the spouses voluntarily entered

- Any retirement benefits of the spouses, generally excluding Social Security benefits

A court also may consider any other factor that it expressly finds to be relevant and equitable. The holding of title to property by one spouse individually or by both spouses in a form of co-ownership generally does not determine whether that property is marital or separate.

Oklahoma

Oklahoma is an equitable distribution state.

Oklahoma property division law provides that a court will divide property that has been acquired by the parties jointly during their marriage between the parties in a way that appears just and reasonable. However, the statute does not provide a specific list of factors for courts to consider. Courts thus have substantial discretion in dividing property. The Oklahoma Supreme Court **has ruled** that the duty of a court primarily involves the determination, upon equitable grounds, of the extent of each party's rights in the property in view of their respective conduct and efforts as the contributing factors. The question of need is not relevant, and the matter of personal conduct is material only to the extent that it may reflect the existence or non-existence of that

endeavor that contributed to the creation of the estate.

Oregon

Oregon is an equitable distribution state.

Oregon property division law states that a court may provide in a divorce judgment for a division or other disposition between the parties of the property of either or both of the parties that is just and proper in all the circumstances. A retirement plan or pension is considered property. A court must consider the contribution of a party as a homemaker as a contribution to the acquisition of marital assets. There is generally a rebuttable presumption that both parties have contributed equally to the acquisition of property during the marriage, regardless of whether this property is jointly or separately held. (Property acquired by gift to one party during the marriage and separately held by that party since then is not subject to the presumption.) In arriving at a just and proper division of property, the court must consider reasonable costs of sale of assets, taxes, and any other costs reasonably anticipated by the parties.

The Oregon Supreme Court **has found** that an inquiry into a just and proper division must take into account the social and financial objectives of the dissolution, as well as any other

considerations that bear on the question of what division of the marital property is equitable. These equitable considerations may include:

- The preservation of assets
- The achievement of economic self-sufficiency for both spouses
- The particular needs of the parties and their children
- The extent to which a party has integrated a separately acquired asset into the common financial affairs of the marital partnership through commingling

However, these considerations will vary according to the individual circumstances of the parties, and a trial court's ultimate determination as to what property division is just and proper in all the circumstances is a matter of discretion.

Pennsylvania

Pennsylvania is an equitable distribution state.

A Pennsylvania court will equitably divide, distribute, or assign the marital property between the parties without regard to marital misconduct in such percentages and in such manner as the court deems just after considering all of the relevant factors. **Pennsylvania property division law**

provides that factors relevant to an equitable division of marital property include:

- The length of the marriage
- Any prior marriage of either party
- The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each party
- Any contribution by one party to the education, training, or increased earning power of the other party
- The opportunity of each party for future acquisitions of capital assets and income
- The sources of income of both parties, including medical, retirement, insurance, or other benefits
- 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 homemaker
- The value of the property set apart to each party
- The standard of living of the parties established during the marriage
- The economic circumstances of each party when the property division takes effect
- The tax ramifications associated with each asset to be divided, distributed, or assigned

- The expense of sale, transfer, or liquidation associated with a particular asset
- Whether a party will be serving as the custodian of any dependent minor children

A court may award the right to reside in the marital residence to one or both of the parties.

Rhode Island

Rhode Island is an equitable distribution state.

In addition to or instead of an order to pay spousal support related to a divorce, a Rhode Island court may assign to either spouse a portion of the estate of the other spouse.

Rhode Island property division law provides that a court must consider the following factors in determining the nature and value of the property to be assigned:

- The length of the marriage
- The conduct of the parties during the marriage
- The contribution of each of the parties during the marriage in the acquisition, preservation, or appreciation in value of their respective estates
- The contribution and services of either party as a homemaker

- The health and age of each of the parties
- The amount and sources of income of each of the parties
- The occupation and employability of each of the parties
- The opportunity of each party for future acquisition of capital assets and income
- The contribution by one party to the education, training, licensure, business, or increased earning power of the other party
- The need of the custodial parent to occupy or own the marital residence and to use or own its household effects, taking into account the best interests of the children of the marriage
- Either party's wasteful dissipation of assets or any transfer or encumbrance of assets made in contemplation of divorce without fair consideration
- Any factor that the court expressly finds to be just and proper

The court must not assign property held in the name of one of the parties if the property was held by the party prior to the marriage, but it may assign income that has been derived from the property during the term of the marriage. The court also may assign the appreciation of value from the date of the marriage of property that was held in the name of one party

prior to the marriage but increased in value as a result of the efforts of either spouse during the marriage. Property transferred to one of the parties by inheritance or by a gift from a third party before, during, or after the term of the marriage must not be assigned. Any assignment of property must precede an alimony award.

South Carolina

South Carolina is an equitable distribution state.

In a divorce proceeding, a South Carolina court will make a final equitable apportionment between the parties of their marital property. **South Carolina property division law** provides that the court must give weight in the proportion that it finds appropriate to all of the following factors:

- The duration of the marriage, together with the ages of the parties at the time of the marriage and the time of the divorce
- Marital misconduct or fault of either or both parties, regardless of whether it is used as a basis for the divorce, if this has affected the economic circumstances of the parties or contributed to the breakup of the marriage
- The value of the marital property and the contribution

of each spouse to the acquisition, preservation, depreciation, or appreciation in value of the marital property, including the contribution of a spouse as homemaker

- The income of each spouse, the earning potential of each spouse, and the opportunity for future acquisition of capital assets
- The physical and emotional health of each spouse
- The need of either spouse for additional training or education to achieve their income potential
- The non-marital property of each spouse
- The existence or non-existence of vested retirement benefits for either spouse
- Whether separate maintenance or alimony has been awarded
- The desirability of awarding the family home as part of equitable distribution or the right to live there for reasonable periods to the spouse having custody of any children
- The tax consequences to each or either party as a result of any particular form of equitable apportionment
- The existence and extent of any support obligations of either party
- Liens and any other encumbrances on the marital property, which themselves must be equitably divided,

or upon the separate property of either of the parties, and any other existing debts incurred by the parties or either of them during the course of the marriage

- Child custody arrangements and obligations at the time of the entry of the order

A court also may consider any other relevant factors that it expressly enumerates in its order.

South Dakota

South Dakota is generally an equitable distribution state, but spouses can opt into a community property system.

The equitable distribution system in South Dakota provides that a court may make an equitable division of the property belonging to either or both spouses, regardless of which spouse holds the title to the property. **South Dakota property division law** requires a court making a division of property to have regard for equity and the circumstances of the parties. The South Dakota Supreme Court **has found** that factors to guide a court in classifying and dividing property include:

- The duration of the marriage

- The value of the property owned by the parties
- The ages of the parties
- The health of the parties
- The competency of the parties to earn a living
- The contribution of each party to the accumulation of the property
- The income-producing capacity of the parties' assets

Meanwhile, a South Dakota law on **special spousal trusts** provides that spouses may classify all or any of their property as special spousal property by transferring property to a South Dakota special spousal trust and expressly declaring in the trust that the property is community property. The trust must be signed by both spouses, and it must contain certain language required by statute.

Tennessee

Tennessee is generally an equitable distribution state, but spouses can opt into a community property system.

The equitable distribution system in Tennessee provides that a court may equitably divide, distribute, or assign the marital property between the parties, without regard to marital fault, in proportions that the court finds just. **Tennessee**

property division law requires a court to consider all of the relevant factors, including:

- The duration of the marriage
- The age, physical and mental health, vocational skills, employability, earning capacity, estate, financial liabilities, and financial needs of each of the parties
- The tangible or intangible contribution by one party to the education, training, or increased earning power of the other party
- The relative ability of each party for future acquisitions of capital assets and income
- The contribution of each party to the acquisition, preservation, appreciation, depreciation, or dissipation of the marital or separate property
- The value of the separate property of each party
- The estate of each party at the time of the marriage
- The economic circumstances of each party at the time when the property division will become effective
- The tax consequences to each party, costs associated with the reasonably foreseeable sale of the asset, and other reasonably foreseeable expenses associated with the asset
- Certain considerations related to an interest in a closely held business or similar asset

- The amount of Social Security benefits available to each spouse
- Other factors that are necessary to consider the equities between the parties
- Various issues related to the attorney fees and expenses paid by each party in connection with the proceedings

A court may award the family home and household effects, or the right to live in the family home and use the household effects for a reasonable period, to either party, but it must give special consideration to a spouse having physical custody of a child or children of the marriage. The statute also specifies certain factors that should be considered when allocating responsibility for the payment of marital debt and the payment of unpaid attorney fees and expenses.

Meanwhile, the **Tennessee Community Property Trust Act** provides that spouses may classify any or all of their property as community property by transferring property to a community property trust and providing in the trust that the property is community property. Creating a community property trust requires transferring property to a trust that expressly declares that the trust is a Tennessee **community property trust**. The trust must have at least one qualified trustee, must be signed by both spouses, and must contain certain required language.

Texas

Texas is a community property state.

Under Texas law, **community property** consists of property acquired by either spouse during the marriage, other than separate property. **Separate property** is defined as the property owned or claimed by the spouse before the marriage, the property acquired by the spouse during the marriage by gift, devise, or descent, and the recovery for personal injuries sustained by the spouse during the marriage, except any recovery for loss of earning capacity during the marriage.

Texas property division law provides that a court must order a division of the estate of the parties in a manner that the court finds just and right, having due regard for the rights of each party and any children of the marriage. In other words, community property does not need to be equally divided. The Texas Supreme Court **has explained** that a trial court may consider factors such as:

- The spouses' capacities and abilities
- Benefits that the party not at fault would have derived from continuation of the marriage
- Business opportunities

- Education
- Relative physical conditions
- Relative financial conditions and obligations
- Disparity of ages
- Size of separate estates
- The nature of the property
- Disparity in earning capacities or incomes

In exercising its discretion, the trial court may consider many factors, and an appellate court will presume that the trial court exercised its discretion properly.

Utah

Utah is an equitable distribution state.

Utah property division law provides that a court rendering a divorce decree may include equitable orders related to the property and debts or obligations of the parties, among other matters. Every divorce decree must include an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during the marriage. However, Utah statutes do not provide specific factors that courts must consider in making an equitable distribution.

Instead, the Utah Supreme Court **has provided** a list of factors that courts generally should consider in dividing property:

- The amount and kind of property to be divided
- Whether the property was acquired before or during the marriage
- The source of the property
- The health of the parties
- The parties' standard of living and their respective financial conditions, needs, and earning capacities
- The duration of the marriage
- Any children of the marriage
- The parties' ages at the time of marriage and the time of divorce
- What the parties gave up by the marriage
- The necessary relationship of the property division with the amount of alimony and child support to be awarded

In appropriate circumstances, equity will require that each party retain the separate property brought to the marriage, but this rule is not invariable. Courts must consider all of the pertinent circumstances.

Vermont

Vermont is an equitable distribution state.

A Vermont court will settle the rights of the parties in a divorce to their property by including in its judgment provisions that equitably divide and assign the property. All of the property owned by either or both of the parties, regardless of how and when it was acquired, is subject to this division. **Vermont property division law** provides that a court may consider all of the relevant factors, including:

- The length of the marriage
- The age and health of each party
- The occupation and source and amount of income of each party
- Vocational skills and employability
- The contribution by one spouse to the education, training, or increased earning power of the other
- The value of all property interests, liabilities, and needs of each party
- Whether the property settlement is instead of or in addition to maintenance
- The opportunity of each spouse for future acquisition of capital assets and income
- The desirability of awarding the family home or the right to live there for reasonable periods to the spouse

having custody of the children

- The party through whom the property was acquired
- The contribution of each spouse in the acquisition, preservation, and depreciation or appreciation in value of the respective estates, including the non-monetary contribution of a spouse as a homemaker
- The respective merits of the parties

Title to the property is immaterial, unless an equitable distribution can be made without disturbing separate property.

Virginia

Virginia is an equitable distribution state.

A Virginia court generally will have no authority to order the division or transfer of separate property or marital property (or separate or marital debt) that is not jointly owned or owed. However, **Virginia property division law** provides that a court may divide or transfer jointly owned marital property or jointly owed marital debt, based on the following factors:

- The monetary and non-monetary contributions of each party to the well-being of the family

- The monetary and non-monetary contributions of each party in the acquisition and care and maintenance of the marital property of the parties
- The duration of the marriage
- The ages and physical and mental conditions of the parties
- The circumstances and factors that contributed to the dissolution of the marriage
- How and when specific items of marital property were acquired
- The debts and liabilities of each spouse, the basis for the debts and liabilities, and the property that may serve as security for them
- The liquid or non-liquid character of all marital property
- The tax consequences to each party
- The use or expenditure of marital property by either party for a non-marital separate purpose or the dissipation of such funds when this was done in anticipation of divorce or separation or after the last separation of the parties

Upon a finding that separate property of one party is in the possession or control of the other party, the court may order that the property be transferred to the party whose separate

property it is.

Washington

Washington is a community property state.

Under **Washington law**, property that does not meet the definition of separate property and is acquired after marriage by either spouse or both spouses is considered community property. (**Separate property** is defined as the property and pecuniary rights owned by a spouse before marriage and those acquired by them afterward by gift, bequest, devise, descent, or inheritance, as well as the rents, issues, and profits thereof.)

Washington property division law provides that a court must make a disposition of the property and liabilities of the parties, either community or separate, that appears just and equitable. This involves considering factors such as:

- The nature and extent of the community property
- The nature and extent of the separate property
- The duration of the marriage
- The economic circumstances of each spouse when the property division will take effect, including the desirability of awarding the family home or the right to

live there for reasonable periods to a spouse with whom the children reside the majority of the time

A court also may consider any other relevant factors, although it cannot consider misconduct by a spouse.

Washington D.C.

Washington, D.C. is an equitable distribution jurisdiction.

If there is no valid prenuptial or postnuptial agreement resolving all issues related to property, a court entering a final divorce decree will assign to each party their sole and separate property. The court also will value and distribute all other property and debt accumulated during the marriage that has not been addressed in a valid prenuptial or postnuptial agreement or a decree of legal separation in a manner that is equitable, just, and reasonable.

Washington, D.C. property division law requires a court to consider the following factors:

- The duration of the marriage
- The age, health, occupation, amount and sources of income, vocational skills, employability, assets, debts, and needs of each party

- Provisions for the custody of minor children
- Whether the distribution is instead of or in addition to alimony
- Each party's obligation from a prior marriage, a prior domestic partnership, or for other children
- The opportunity of each party for future acquisition of assets and income
- Each party's contribution as a homemaker or otherwise to the family unit
- Each party's contribution to the education of the other party that enhanced the other party's earning ability
- Each party's increase or decrease in income as a result of the marriage or duties of homemaking and child care
- Each party's contribution to the acquisition, preservation, appreciation, dissipation, or depreciation in value of the assets that are subject to distribution, the taxability of these assets, and whether the asset was acquired or the debt incurred after separation
- The effects of taxation on the value of the assets subject to distribution
- The circumstances that contributed to the estrangement of the parties

A court also may consider any other relevant factors. Marital property is subject to distribution regardless of whether title

is held individually or jointly. The statute also contains certain provisions involving the care and ownership of pets.

West Virginia

West Virginia is an equitable distribution state.

Although West Virginia is an equitable distribution state, **West Virginia property division law** provides that a court must presume that all marital property should be divided equally between the parties in the absence of a valid agreement. However, a court may alter this distribution after a consideration of the following factors:

- The extent to which each party has contributed to the acquisition, preservation and maintenance, or increase in value of marital property by monetary contributions
- The extent to which each party has contributed to the acquisition, preservation and maintenance, or increase in value of marital property by non-monetary contributions
- The extent to which each party expended their efforts during the marriage in a manner that limited or decreased their income-earning ability or increased the income-earning ability of the other party
- The extent to which each party, during the marriage,

conducted themselves so as to dissipate or depreciate the value of the marital property

Except for a consideration of the economic consequences of conduct, fault or marital misconduct will not be considered in determining the proper distribution of marital property.

Wisconsin

Wisconsin is a community property state.

In Wisconsin, **all property** of spouses that was acquired during the marriage is marital property unless it is classified otherwise by statute. **Wisconsin property division law** excludes certain types of property from division in a divorce, but a court must presume that property not excluded should be divided equally between the parties. However, a court may alter this distribution without regard to marital misconduct after considering the following factors:

- The length of the marriage
- The property brought to the marriage by each party
- Whether one of the parties has substantial assets not subject to division by the court
- The contribution of each party to the marriage, giving appropriate economic value to each party's contribution

in homemaking and child care services

- The age and physical and emotional health of the parties
- The contribution by one party to the education, training, or increased earning power of the other
- The earning capacity of each party
- The desirability of awarding the family home or the right to live there for a reasonable period to the party having physical placement for the greater period of time
- The amount and duration of an order granting maintenance payments to either party, any order for periodic family support payments, and whether the property division is instead of such payments
- Other economic circumstances of each party, including pension benefits and future interests
- The tax consequences to each party
- Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution

A court also may consider other factors that it determines to be relevant in an individual case. Property that is not normally subject to division may be divided if the court finds that refusing to divide the property will create a hardship on the other party or the children of the marriage.

Wyoming

Wyoming is an equitable distribution state.

Wyoming property division law provides that a court granting a divorce will make a disposition of the property of the parties that appears just and equitable. A court must take into account the following factors:

- The respective merits of the parties
- The condition in which they will be left by the divorce
- The party through whom the property was acquired
- The burdens imposed on the property for the benefit of either party and children

A specific provision in the statute prevents a court from taking certain actions involving veterans in divorce. The Wyoming Supreme Court **has stated** that a just and equitable distribution is as likely as not to be unequal.

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