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How are Property and Debts Divided in a Divorce?

I want to get a divorce. How will the court divide our property?

The court will generally divide the marital property in half, and each spouse will get one half of the total property. This doesn't mean each item will be split in half; one spouse might get the car and the other spouse might get the furniture. The court can give one spouse more property than the other spouse if the court has a good reason to do so.

What is marital property?

In general, all property owned by either spouse is marital property. It can be property one of you got before or after you were married. It includes all kinds of property: personal property, homes and land, bank accounts, retirement accounts, etc.

I bought a car after I filed for divorce; is this car going to be “marital property?”

No. After the divorce is filed, things you or your spouse buy are not considered marital property.

When might a court give one spouse more property than the other spouse?

The court can consider many factors when making this decision, including:

- The contribution of each spouse to the property.
- Whether one spouse got the property before the marriage or by inheritance or gift.
- The economic circumstances of each spouse at the time of the divorce.
- Whether the spouse who is getting custody of the children should stay in the marital home.
- The conduct of the parties related to the property (for example, has one spouse destroyed or wasted property).
- The earnings or earnings ability of each of the parties.

I owned my house before I got married. Will my spouse get half of the house if we divorce?

Maybe. All property of the husband and wife is considered “marital property.” This means that even property brought into the marriage by one person becomes marital property that will be split in half in a divorce. However, the court does not have to give each spouse one half of the

property. If one spouse owned the house before the marriage, and the other spouse has not contributed to the house (such as making payments or repairs), the court might decide that the house should not be split between the two spouses.

What if my husband and I agree on dividing the property, but it is not split half and half. Will the court allow this?

Yes, the court will probably approve your agreement. The court will generally approve an agreement on property settlement, even if it is not an even split. However, you may want to state in your agreement the reason why the two of you agree to an uneven split of the property.

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