

# BowTieLawyer

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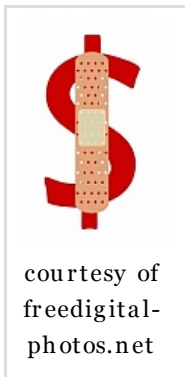
## Separation Preparation...

First of all, there is no such thing as “Legal Separation” in Mississippi. The closest equivalent is a Temporary Order. This Order can either be the result of a temporary hearing or due to an agreement of the parties reduced to writing and approved by the Court. A temporary hearing and resulting Order, or Agreed Order, are usually done when a fault based divorce is on file with the Court.

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A Temporary Order deals with short-term financial and custody /visitation issues, pending a final hearing. This is intended to be a “band-aid” on the situation and to maintain the *status quo* while trial preparations are happening.

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A “Legal Separation,” while not recognized in MS law, is typically a different animal than a Temp. Order. Parties can separate in Mississippi, though not “officially”.

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The thought behind the a Separation is to allow a cooling off period or a trial-run at no longer living as husband and wife and seeing how that works.

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The problem with attempting it in MS is that it requires a great deal of trust between the parties as there is no Order, or teeth, if one party reneges on their agreement with regards to finances or custody. And typically there is not a great deal of trust between separating parties. However, a separation is a viable option in the tool belt of bringing calm to highly emotional domestic situations and can even lead to reconciliation in some circumstances.

What needs to be considered for separating, be it agreed or Court ordered?

- **The Children.** What is the custody and visitation schedule? A Court would use the *Albright factors* to make a determination. If by agreement, the parties have a lot of leeway in what the arrangement is.

- **Financial Support.** How much child support? How much spousal support? The Court requires each party to complete a financial statement and exchange it with the other party. Support awards are based on adjusted gross income and reasonable needs of the parties.
- **The House.** Who stays in the home? Typically it's the spouse that has the children, but regardless of who gets the house on a temporary basis, it does not mean that is how it will be at a final hearing.
- **The Bills.** Who pays what? The house, utilities, school, cars, credit cards, etc... This is always a bone of contention.
- **Conduct During Separation.** In Mississippi you are married until you are divorced. Even if you and your spouse have an "agreement" your spouse could still get grounds for divorce against you during a separation.
- **How Long is the Separation?** When do you decide to try something else? This will be based on your specific facts and circumstances.

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