



MEN'S DIVORCE
L A W F I R M

What to Expect During Your Divorce

Created for:

INTRODUCTION

At the Men's Divorce Law Firm we understand that going through a divorce can be a painful and difficult process. By informing you of the complexities of the legal system, we believe the process will become a little bit more tolerable. This information packet will hopefully be able to help you more easily understand the process and get you through your divorce with realistic goals and ideas.

LIMITATIONS

Florida's divorce system runs on a "no-fault" principle which means that regardless of the reason, a divorce will be granted should either party believe the marriage is over. More often than not, the reason for the divorce is not an issue that is to be set forth before the court; all that matters is that the marriage is "irretrievably broken."

It is understandable that through this process many emotions will arise between both parties. Please try to understand that the legal system is not a tool in which you can use to gain revenge against the other person. The Court must decide the outcome of your case based on facts and evidence. In the majority of family law cases, the Court will not compensate you or anyone else for the other parties' misconduct.

We know it is difficult, but you will want to do your best to keep emotions out of the case. The feelings of anger, pain, or betrayal are understandable; however, expressing them inappropriately, especially in court, could possibly interfere with the ability to provide the Court the proper information it may require.

ADMINISTRATIVE ORDERS

When a Petition for Dissolution of Marriage is filed, both parties will receive an Administrative Order that is specific for each county¹. The Administrative Order is a guideline of certain things you can and cannot change during the divorce process. Examples of this are changing your health insurance policy or moving a certain distance away. Be sure to carefully read the Administrative Order that is given to you to be sure not to make any sudden changes that can negatively affect your case.

¹ Not all counties currently have an Administrative Order.

SETTLEMENT

The Men's Divorce Law Firm works with alternative dispute resolutions such as Mediation and settlement conferences to help the painful process conclude more quickly. Through compromise and cooperation, a settlement can save you an immense amount of stress. In many cases, negotiations toward settlement can be more productive and much less expensive than going to trial.

If negotiating fails and you must go to trial, the Court will make permanent rulings that may affect you and any children that may be involved. The Court's decision; however, rests solely on the presented facts and evidence which may be limited. Settlement negotiations offer a wider range of options and possible future outcomes.

VARIATIONS

No one's divorce is quite the same. Although you may have friends or family members who have gone through similar issues, or even some of the same issues, no one will be able to properly advise you other than your Attorney. Generally, friends and family do not have a proper grasp on the law; they only know what worked for them. Be cautious when receiving advice from anyone other than your lawyer as sometimes accepting their advice may hinder you more in the long run.

FINANCES

The Men's Divorce Law Firm understands that these are trying times and every dollar counts. Unless your case is settled, it will be up to the Court to properly distribute any and all assets or liabilities that were accumulated during the marriage. To do this both parties must have filed a Financial Affidavit (included in this packet).

The Financial Affidavit is one of the most important documents you will review when going through your divorce. Every line, detail, and dollar spent will determine the amount you may have to pay for child support and/or alimony.

If you are considering a particular settlement offer, keep in mind the costs and fees that would be associated with going to trial. Fees and costs in contested trial cases can become quite high, therefore, you will want to carefully examine all settlement offers as reaching a settlement may save you quite a bit of time and attorney's fees.

FINANCIAL AFFIDAVIT AND SUPPORTING DOCUMENTS

In most cases, forty-five (45) days after the Respondent has been served, there is something called “Mandatory Disclosure” that will be due to the Court and the Opposing Counsel. This can be one of the most important parts of your case. Financial Affidavits are always required during divorce proceedings, and generally are required to have certain documents supplementing the amounts listed on the Financial Affidavit. Examples of these documents would be taxes, bank statements, paystubs, retirement account information, warranty deeds, credit card statements, etc. You can refer to the “Mandatory Disclosure Checklist” that has been provided to you to see a complete list of what may be required from you during this process. The Mandatory Disclosure documents in conjunction with the Financial Affidavit will be the key source for determining alimony, child support, etc.

ISSUES

There are generally four (4) major issues when going through a divorce: child timesharing (custody) and visitation, child support, alimony, and a division of assets and liabilities. An injunction is also a common issue when going through divorce, especially if one party is angry with the other. It is important that you understand each issue as these will be the ultimate decisions of your case. It is also important to understand that any and all of the above-referenced issues may be modified if the Court is asked to do so.

CHILD TIMESHARING (CUSTODY)

Florida child custody laws underwent significant changes on October 1, 2008. Prior to the change, the Florida child custody system designated one parent as the “primary custodial parent” and the other “secondary custodial parent.” Clearly, this system presumed that one parent was more influential in a child’s life with the other being less so. The primary residential parent often understood the word primary to mean “more important” and “more authorized.” Frequently, this left the secondary custodial parent disenfranchised from the lives of their children. Historically, the mother was deemed best suited for custodial parent and the father contributed little in decision-making. Instead, the father was merely awarded “standard visitation,” usually every other weekend and dinner once a week.

Florida custody laws took a positive change for Fathers this past October when a new statute was enacted that removed the words custody, visitation, and primary and secondary parent from Florida law. The new designation for both the Mother and Father is "parent," a change that our firm views as a long overdue attempt at equalizing the parents in a divorce. Additionally, the new law requires that divorced, separated, or never-married parents develop a detailed parenting plan for raising and sharing time with their children. The plan is to specify when each parent will spend time with the children as well as outline how decisions that affect the children's lives are to be made. The parenting plan requirement eliminates interpretation and should minimize disputes among parents allowing both a more meaningful role in their children's lives.

At the Men's Divorce Law Firm, we view this change as a gateway in the Courtroom to give father's equal rights to their children. Because there is no longer a legal requirement to name one parent primary, the logical starting point is equal time and rights for both parents – a dramatic step in the right direction for fathers who have historically been awarded "standard visitation." To our firm, this change is an opportunity to deviate from the norm of the "every other weekend" father and afford children sufficient and meaningful time with both parents. Obviously, if a specific case is not suited for shared and equal parental responsibility, the law still affords the option for sole parental responsibility or less than equal timesharing and authority for one parent.

These changes in the law began over a decade ago when the Family Law Section of The Florida Bar began considering new vernacular that would recognize that a child's relationship with both parents must be protected. The new parenting plan requirement allows decisions to be made collaboratively as it eliminates the notion that one parent is inherently better suited to do so. This move towards equal footing is long over due. However, as with any change in the law, it will be years before the judicial system fully adjusts to this revision. For the next several years, the judiciary will contemplate the application of this rewrite to their cases while attorneys will argue on what the correct interpretation will be. At the Men's Divorce Law Firm, we will utilize these changes towards affording our clients the rights to which they are inherently entitled.

RELOCATION WITH CHILDREN

During the divorce process, neither party is at liberty to move the children further than 50 miles away without doing a “Notice of Intent to Relocate.” The party filing the notice must then get approval from the Court to do so. Although the general guideline is 50 miles, there may be extenuating circumstances such as the school district or the ordered time sharing schedule that may affect the rule. Be sure to discuss this with your Attorney to find out exactly what needs to be done should this issue arise.

CHILD SUPPORT

Aside from loving and seeing your children after the divorce, there is no higher obligation as a parent other than providing the proper support. Child support is more important than any other debt or financial obligation. The Court does not take unpaid child support lightly. You should always do your best to make your full payments and make them on time. Modifications can be requested if you are unable to make those payments; however, you should make it a priority. The Court is required to follow certain guidelines in determining child support. Guidelines such as: your income, your spouse’s income, health insurance deductions, and the needs of your children as established by the State.

ALIMONY

The Court will sometimes find it necessary to award alimony, or spousal support, to one party or the other, in many cases. Alimony is determined similarly to child support in that the Court considers two factors: the requesting party’s need for it and the other party’s ability to pay for it. These factors must be proven by the party who is requesting to receive the alimony. They will use the numbers provided on the Financial Affidavits and cross-reference them with the Mandatory Disclosure documents that have been provided. It is imperative that the amounts listed on the Financial Affidavit are as accurate as possible to ensure that no mistakes are made and one party ends up paying alimony that shouldn’t be. Alimony might be awarded to *either* a husband *or* a wife and, depending on the length of the marriage and other factors, the alimony may be awarded permanently or for only a short duration of time.

PROPERTY DIVISION

Under Florida law, the Court must try to make an “equitable distribution” of marital assets and liabilities. Generally this will begin by equally dividing things up between the parties; however, “equitable” does not always mean “equal.” Many factors including child support, alimony, custody, and others can cause the Court to unequally distribute assets and liabilities. Property that has been acquired outside of the marriage (i.e. inheritance received before marriage, a house bought prior to the marriage, etc.) is usually not factored in as long as it has not been used for marital purposes.

INJUNCTIONS

In some cases, the Court may order you or spouse to do, or not do, certain things. The Court may order one party not to telephone the other, not to go to the other’s place of business, not to interfere with the other’s activities, grant exclusive use of the home to the other, and the like.

ATTORNEYS’ FEES

The Court has the ability to order one party to pay for some or all of the other’s Attorney’s Fees. This is done to be sure that each party has equal access to competent counsel. This is also determined based on one party’s ability to pay for the other’s fees, and in some cases can be considered a portion of early equitable distribution. You can never be certain that the court will award fees. For this reason, everyone involved should try to resolve the divorce as economically as possible.

DO'S AND DON'TS

Everyone knows that going through a divorce is not an easy process, but rather a painful and difficult span of time during which many emotions will rise to the surface. Here some tips that will hopefully help you manage through these rough times:

Have Reasonable Expectations

In family law cases, you should never expect to “win” on every issue. Rarely is either party happy about every ruling in a case. Even some of the best rulings can leave both parties slightly dissatisfied. At the Men’s Divorce Law Firm, we are sure to keep open communication with you throughout the process and discuss the realistic outcomes so as nothing is misunderstood or expected.

Keep Communication Open with Your Spouse/Ex-Spouse

Although it can be difficult, if there are children involved, you and your (ex-) spouse will have to work together. Children are generally the ones who suffer the most throughout the divorce process and it is important for them to see that their parents are able to work together in a peaceful and cooperative way. Communicating with each other to come to an understanding and hopefully a settlement will save you both time and money in Court and Attorney’s fees.

Get Professional Help to Deal with Your Emotions

If you are having trouble dealing with emotions such as anger, hostility, depression, or defeat, don’t hesitate to get help through counseling and therapy to help you through it. It is important if you need to vent those frustrations to go to a professional as opposed to relaying your emotions in Court or toward your Attorney. A good counselor will be able to help you, and your children, get through this difficult time. We at the Men’s Divorce Law Firm have the resources to guide you to a good counselor should you feel the need arise.

Encourage and Support Visitation

The Court does not look highly upon parental alienation. If you end up as the parent with the majority of the timesharing (even if temporary) it is important that you strongly encourage visitation with the other parent. You must do more than just stay out of the way or leave the choice up to your children. If you show the initiative to encourage your children to spend time with your (ex-) spouse it just may reflect in the Judge’s ruling on certain issues with children.