

GLOSSARY OF TERMS USED IN DIVORCE



Divorce can seem to have its own unique language. To help you navigate this unfamiliar process of divorce, here are a few terms that you may have heard, but need a definition.

Alimony

Financial payments made to help support a spouse or former spouse during separation or following a divorce. Another term for this is spousal support or spousal maintenance.

Alternative dispute resolution (ADR)

Methods of resolving legal disputes without going to trial, in a less adversarial manner, such as mediation or arbitration.

Arbitration

Unlike mediation where the negotiations are between the parties to reach an agreement, arbitration is where there is a neutral party who listens to each side present evidence and arguments and then will issue a binding decision that is submitted to the Court to be the final order in the parties' case.

Child support guidelines

Depending on the state guidelines, the court will usually factor in the net or the gross income of both parents. Using a formula, the courts apply the state child support guidelines to these factors.

Default

Failing to answer a petition or complaint in divorce. Failing to file an answer or appear in court as required can result in the court awarding everything requested by the filing spouse.

Defendant

The person who receives the legal papers asking for the divorce, also sometimes referred to as the respondent.

Deposition

Part of the *discovery* or information-exchanging process of a legal proceeding, in which the attorney for the other party asks you questions and you answer with your attorney present, and a transcript of the proceedings is prepared.

Discovery

Discovery is a critical part of the divorce process making sure that you have a complete understanding of all the facts. Each side obtains evidence and information from the other side, so that both parties have the same information to negotiate a fair agreement.

Dissolution

Another word for *divorce*, which is the legal termination of a marriage relationship.

Domestic violence

Physical abuse or threats of abuse occurring between members of the same household.

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Equitable distribution

A division of marital property that is fair in view of the circumstances. However, equitable does not necessarily mean equal.

Interrogatories

Written questions served by the opposing party that must be answered in writing as part of the *discovery* process.

Joint legal custody

The sharing, by both parents, of the right to make important decisions about a child's welfare.

Joint physical custody

The sharing, by both parents, of the actual physical care and custody of a child.

Late Case Evaluations

When the expectations and demands of divorcing parties are miles apart and mediation has failed, late case evaluation is a tool that can help bridge the gap. Sometimes ordered by the court, this strategy serves as a reality check for one or both parties before they incur the considerable financial and emotional time and expense of a trial.

Legal custody

The right to make important decisions about the raising of your child, on issues such as health care, religious upbringing, education, etc.

Marital property

Generally, all property acquired during the marriage.

Mediation

A form of *alternative dispute resolution* for resolving legal disputes without going to trial, using a trained and impartial third party who attempts to bring the parties together in mutual agreement.

Non-custodial parent

The parent who does not have physical custody of the minor children.

Non-marital property

Generally, property owned prior to the marriage, such as gifts or inheritance. There are rules around keeping the inheritance separate from the marital property.

Physical custody

The day-to-day rights and responsibilities associated with having your child in your home and being responsible for his or her care and upbringing.

Plaintiff

The person who initiates legal proceedings, often called the *petitioner* in family law matters.

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Prenuptial agreement

An agreement entered before marriage that sets forth each party's rights and responsibilities should the marriage terminate by death or divorce. Also called a *premarital agreement*.

Qualified Domestic Relations Order (QDRO)

Pronounced "kwah-dro," an order issued by the court to divide retirement benefits.

Respondent

The person who answers a petition in a legal proceeding, sometimes also referred to as the *defendant*.

Restraining order

An order issued by the court requiring the subject of the order to refrain from doing something, often issued in conjunction with *domestic violence* or *custody* disputes.

Settlement conference

A meeting at which the parties and their lawyers attempt to settle the case before trial, often ordered by the court.

Split custody

A form of custody in which some or one of the children is/are in the custody of one parent and the remaining child(ren) is/are in the custody of the other parent.

Spousal support or maintenance

Financial payments made to help support a spouse or former spouse during separation or following divorce. Also called *alimony*.



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