



# **A GUIDE TO FAMILY LAW IN PENNSYLVANIA**

**FOURTH EDITION**

**THE EMOTIONAL AND LEGAL ASPECTS OF:**

RELATIONSHIP DIFFICULTIES

SEPARATION

DIVORCE

MEDIATION

CHILD CUSTODY & SUPPORT

DOMESTIC VIOLENCE

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The information in this handbook is not intended to replace advice obtained directly from an attorney. Frequent changes to rules and regulations pertaining to Family Law in Pennsylvania may affect the validity of the information we have collected. The Women's Resource Center and the Co-Editors are not responsible for any inaccuracies that may appear in this guide. Laws and regulations do change frequently and you are strongly encouraged to consult an attorney with questions about your specific case.

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## INTRODUCTION

The fourth edition of “A Guide to Family Law in Pennsylvania” is designed to provide support strategies and basic legal information regarding divorce proceedings, negotiation of child support and custody, mediation, and domestic violence. While we hope that this information helps you better understand the legal process, this handbook is not intended to be a substitute for the legal advice and representation provided by an attorney. Though this guide contains an overview of Family Law in Pennsylvania, it does not have specific information about each individual county’s rules, practices and procedures. An attorney who knows the specifics of your case will be able to better advise you on the procedures in your county.

While we remind you throughout this handbook to talk things over with experts, family members and friends, the final decision on how to proceed is ultimately yours. Many people may not understand what you are going through during this life changing process, and it is important to consider getting help from a professional or social support service. Talking with someone may help you to slow down and separate the emotional aspects of your situation from any legal or financial issues you may face.

Separating your emotional worries from your legal and financial needs is often difficult to do. Family and personal stress levels can be greatly magnified if things move too quickly. If your situation permits, take your time and be patient when making your decisions. Be sure to research and discuss your options and have a plan of action to which you can refer. Legal consultation and access to legal information will help you decide which course of action is appropriate for your situation. Similarly, a therapist can help you sort out how you are feeling, and can help you if you are overwhelmed. For your benefit, there is an appendix in this handbook that includes a glossary of common legal terms, phone numbers of area legal resources, and sample legal forms.

Each Family Law situation is unique, and needs to be looked at in depth. Attorneys and experts can help you answer questions about your specific situation. For example, you can address some of your questions by attending the Legal Consultation program of the Women’s Resource Center. Volunteer attorneys are available to meet with you privately to review your situation and to give you legal advice. Call the Center for more information about these and other programs.

The Women’s Resource Center supports women, strengthens families, and builds communities through information and referrals and legal and educational services. Our programs and services empower women to make informed decisions and achieve personal growth during life transitions in a safe, caring and supportive environment. We are dedicated to maintaining the highest ethical standards in serving women and their families with compassion, confidentiality, care and respect.

The staff and volunteers of the Women’s Resource Center hope that you find this guide helpful.

# Chapter 1: Relationship Difficulties

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# CHAPTER 1: RELATIONSHIP DIFFICULTIES

## *CHOICES TO EXPLORE*

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### **1.1 What can I do if I am unhappy with my relationship?**

If you are having relationship difficulties, you have several choices:

1. **Leave the relationship “as-is.”** The least confrontational choice, taking no action at all, will not help you to resolve the problems in your relationship.
2. **Seek help in the community.** While friends and family can offer good advice, it is often helpful to speak with a therapist or counselor about your relationship difficulties. Individual or couples counseling can help you figure out what’s going wrong.
3. **End the relationship.** Sometimes the best thing to do is end the relationship. When making this decision a therapist or counselor can be helpful, and an attorney can give you any legal advice you require.

If you are seriously unhappy, but have chosen to stay in your relationship, it is important to consider getting professional help, especially if you have children. Chronic conflict between partners can be harmful to a child’s social and emotional development. Watching you and your partner fight may teach your child poor relationship and/or communication skills and problem solving habits.

## *THERAPISTS*

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### **1.2 How can a therapist help me?**

Ending a relationship can create changes in many areas of your life. A therapist can help you with the processes of separation, divorce, and re-building. Therapists work to help people improve the quality of their lives, their communication skills, and their coping skills. By helping you to identify and change negative thinking, habits, and relationship behavior patterns, therapists can help you define the reasons for leaving (or staying in) your relationship

Couples therapy is also helpful in achieving positive change within relationships. Therapists offer emotional support and a neutral place to think things out as you make your decisions.

Group counseling in combination with (or instead of) individual therapy may also be beneficial. Group programs that combine educational information with social support can be very effective for people who are going through a transition. There are professionally led groups for people who are thinking about separation and groups for couples who want to address relationship difficulties. You can call your local mental health center and other community agencies such as Women’s Resource Center to see what is available in your area.

### **1.3 How do I find a therapist?**

There are many ways to find a capable therapist. The easiest way to begin is to call your insurance provider and request a list of therapists they reimburse. Insurance providers can give you specific types of therapists (i.e. licensed social workers, psychiatrists or clinical psychologists) that are covered under your plan. If a therapist has been recommended to you but is not listed on your insurance plan, call that therapist and ask if he/she accepts your insurance carrier. If he/she does not, ask for a referral of a therapist on the list from your insurance company.

If you do not have insurance, or your insurance provider does not cover the cost of therapy, ask friends, family, or your family doctor to recommend a good therapist. Assistance programs may also be available through your work or school.

Community agencies and churches may also be able to recommend a therapist to you. Some agencies maintain a list of therapists in the area and may also have a database of community resources. These resources will have information about therapists, their specialties, services, orientation, fees, office hours and other practical details. Visit or call Women's Resource Center to review our list of Affiliate Therapists. Counseling is also offered at the Women's Resource Center through the Resource Coordination Program, which is a combination of counseling and case management. Fees are based on a sliding scale.

Another way to find a therapist is on the website, [www.psychologytoday.com](http://www.psychologytoday.com). When you click on Therapist Finder, then enter your zip code, the name of therapists in your area will come up. You can also contact Council for Relationships which has an extensive network of offices and works on a sliding scale. You should make sure that any mental health professional you choose is licensed or certified. Licensed psychiatrists and psychologists generally have greater educational and training requirements than professional counselors, pastoral counselors, or psychiatric nurses.

### **1.4 Should I interview a therapist?**

It is always a good idea to interview a therapist before entering into a professional relationship. Any therapist should be willing to talk with you briefly on the telephone so that you can decide if you want to continue a professional relationship.

It may be necessary to talk with several therapists until you find one with whom you feel comfortable. An effective therapeutic relationship involves building trust, feeling free to discuss inner thoughts, and feeling that the therapist is genuinely interested in your situation. Inform the therapist that you are interviewing to decide on a practitioner.

The American Psychological Association and the National Association of Social Workers recommend asking basic questions when you first consult with a therapist by phone or in person.

Ask the therapist questions like:

- Are you licensed?
- How many years have you been practicing?
- I have been feeling (sad, depressed, lonely, worried, etc) and I'm having problems with (my relationship, my job, sleeping, etc.). What experience do you have helping people with these types of problems?
- What is your area of expertise?
- How would you decide on how to provide treatment for me?
- What types of insurance do you accept?

- Would you accept direct billing to my insurance company?
- Are you affiliated with any managed care organizations?
- Do you accept Medicaid/Medicare? (If applicable)

At the first appointment, try to talk freely about your concerns, your situation, and your reasons for seeking help.

After the interview appointment, think about everything you have learned about the therapist and your reactions. Only you can decide if you feel comfortable and want to continue with this therapist. Always remember that you can change therapists after a few sessions if you want to.

## **1.5 How much will therapy cost?**

Therapists' fees vary greatly. Generally, psychiatrists' consultations are the most expensive. Psychologists' fees are slightly less expensive than psychiatrists' fees, and social workers and counselors fees are often the least expensive. It is best to call and ask about fees. If money is a problem, ask the therapist if he/she has a sliding scale fee (a fee based on your ability to pay). If you have insurance, it may pay all or some of the fee, but you may need prior approval from your insurance or managed care company before payment begins. To be sure, call your provider and ask about their mental health reimbursement policies.

## ***OTHER QUESTIONS ABOUT COUNSELING***

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### **1.6 How can I be sure I've chosen a good therapist?**

Good counselors will not tell you what to do. They can listen, provide support, ask questions, and help you sort through your feelings to make decisions. They should not pressure you to take a certain action, but should help you look at different possibilities. Counseling should be for your benefit. If you feel uncomfortable with your counselor, or you don't think therapy is helping, you are probably right.

### **1.7 Can my partner and I see a therapist together?**

Many therapists have experience counseling couples. It is usually helpful to give the counselor a brief outline of the difficulties you're having and some questions you wish to address. Usually, you and your partner will come in together at the beginning of your counseling session and discuss your problems. It may also be helpful for each of you to meet with the therapist individually. Counselors can help you both work through your feelings, learn to communicate better, and work towards understanding each other. Even if you decide to end your relationship, counseling may help you and your partner accept the end of the relationship, and feel that you have done the best you could.

### **1.8 Where else can I find support if I'm having relationship difficulties?**

In addition to a therapist, you may need a larger support system. During a serious life transition, having an active social support system in the community helps people make positive adjustments. Friends and family who listen and care can be a great source of comfort.

If you decide to separate or are considering separation, you may want to join a support group for people who are also going through a break-up. You can find a support group by searching the Internet for groups in your area. There are also many books available that can give guidance and support about break-ups and divorce. Check your local library or search online.

### **1.9 Where can I find support if alcohol or drug abuse has caused problems in my relationship?**

If you need help with an addiction, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) are support groups for people trying to stay clean and sober.

If your partner is an addict, Al-Anon is a support group for anyone who has been affected by another person's drinking. You will find many partners and former partners of alcoholics in Al-Anon. There are also Al-Anon groups for older children and teenagers. Adult Children of Alcoholics (ACOA) is a support group for adults who grew up with an alcoholic parent. If drug abuse is a problem in the marriage, there are Narcotics Anonymous groups for drug addicts and Nar-Anon for people affected by someone else's drug problems.

These meetings are strictly confidential. Call and ask to attend a meeting to see what it's like. You might need to try several group meetings to find one that is comfortable for you.

## Chapter 2: Separation

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*SEPARATION AT YOUR DOORSTEP*

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**2.1 What should I do if I think I want to separate from my spouse?**

You should take all steps necessary to protect your interests, even if you still hold out some hope that you and your spouse may get back together.

First and foremost, it is a good idea to protect yourself and your interests by talking to a family law attorney before you separate. An attorney can advise you of anything that could jeopardize your standing in a divorce action should your marriage end.

The key is to be prepared. Gather and photocopy all the important papers you can find relating to your marriage, home, property, or finances. If you can't locate these documents and your spouse will not give you copies, there are other methods available to obtain them. These papers might include:

- Your marriage certificate
- Birth certificates of your children
- Prenuptial agreements
- Wills and any other estate planning documents
- IRS returns for the last five years, including all schedules and W-2 and 1099 forms, as well as any documents concerning state, county, or city taxes
- Deeds to any real estate you and/or your spouse own
- Titles to any cars or other vehicles you own
- Account numbers for any checking, savings, money market or mutual fund accounts
- Brokerage account statements
- IRA, 401 (k), 403 (b) and other retirement and pension statements for both you and your spouse
- Credit card statements
- Insurance policies
- Health insurance cards
- Records concerning your spouse's employment or business
- Loan applications
- Credit reports
- Other loans and debts
- Mortgages, lines of credit, home-equity loans

The month of January is a good month to collect financial papers because that is when all the government tax forms are sent to you and your spouse, showing wages, dividends, interest, commissions and other income received. If your spouse attended to all of the finances, you may have no idea what some of these documents are or where your spouse keeps them. You can ask your spouse, if you are on friendly terms. Of course, if you haven't told your spouse you want to separate, asking for these papers may arouse suspicion.

If you suspect your spouse is thinking about a separation, you may want to take steps to protect any joint checking or savings accounts. (See Question 2.4)

## **2.2 Should I leave the house if I want to separate?**

Seek legal advice before you leave the house. There may be legal consequences. For instance, it may be harder for you to get possession of the house later, or you may not even be able to re-enter your house without a court order. If you want custody of your children, do not leave the house without taking them with you. Your leaving may be considered abandonment and could hurt your chances of getting spousal or child support or custody of your children. Of course, if you or your children are in any danger, leave the house immediately. Talk to a lawyer as soon as possible after you and your children are safe.

## **2.3 Can my spouse force me out of the house if he wants a separation?**

**No.** Your spouse cannot lock you out of the house if your name is on the deed (and cannot lock you out of your apartment if your name is on the lease). If your spouse tries to lock you out, call the police. You have as much right to live in the marital home as he does. Similarly, you can't force your spouse out of the house unless he has committed an act of domestic violence, or unless you obtain permission from the Court. The process of obtaining permission is to file a Petition for Exclusive Possession. Certain restrictions apply, and it is important to consult with an attorney.

### *PROTECTING YOUR FINANCIAL INTERESTS*

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## **2.4 What should I do about bank accounts that my spouse and I share?**

If a bank account is in both your names, both you and your spouse have access to all the funds. This means that your spouse could take all the money out of the account. If you have the slightest suspicion that your spouse might do this, you should tell your lawyer right away. Your lawyer can get a protective order to keep your spouse from draining the account, but this may be expensive.

If you don't have a lawyer yet and you think your spouse is about to drain the account, you may want to withdraw the money that is yours. Or, you could withdraw half of the money. Of course, you can withdraw this money even if you don't think your spouse will empty the account. The money is a marital asset and if you drain the account, you will have to account for it later. If you're a dependent spouse and your spouse refuses to give you any money, you may be forced to use the joint account for living expenses. Remember that the money that you take will be accounted for in your final property settlement.

You and your spouse may have some certificates of deposit (CDs) at the bank. CDs are accounts that require that you leave your money in for a certain length of time to get a higher interest rate. You may find it necessary to take money out of CDs held jointly by you and your spouse even though you will lose some interest and possibly pay a penalty. Some banks will give you a written statement agreeing not to give the CDs to either party until the property division is settled. In a perfect situation, you should first obtain the consent of your spouse, or an Order from the Court, granting you the right to withdraw the money.

## 2.5 What else can I do to protect my financial interests?

Make a list of all the assets and liabilities that you and your spouse have, whether in your name, his/her name, or jointly titled. Your lawyer can take action to freeze the assets so that they will not be dissipated. Information about the marital assets and income will be needed to determine spousal and/or child support during the separation. If you and your spouse divorce, your lawyer can also use this list to make sure that you get a fair portion of the marital assets and perhaps alimony.

### ASSETS

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## 2.6 What assets should I list?

You should list all assets owned by you and/or your spouse. Start by listing any properties owned by you and your spouse jointly. For example, your marital residence, rental homes, vacation properties, land or lots, or even business properties should all be listed. Include the following information in your list:

- Description of the asset
- Owner of the asset
- Date the asset was acquired
- Asset's present value
- Value of the asset as of the date of marriage and date of separation

These assets should appear in financial records or IRS returns.

If you or your spouse has any businesses, you should have them appraised for present market value. Corporate tax returns and IRS forms will show some information about these businesses. You may also want to look through business records, business profit and loss reports, and business capital asset reports. If you or your spouse owns a business, have your lawyer collect most of this information.

Other assets might include 401 (k) and 403 (b) plans, retirement plans, stock option plans, profit-sharing plans, contingent rights to receive, royalties, copyrights, patents, accounts receivable. You should include pension plans in your list. You should include as much of the following information as possible:

- Name of the plan
- Owner of the plan
- Date the plan began
- Vesting date or vested percent
- Time and method of distribution
- Present value

There may be records or statements concerning the pension plan from you or your spouse's employer. You can also check IRS returns (line 17 on Form 1040). You should obtain the services of a pension valuator to give you an accurate estimate of the plan's worth.

## 2.7 What should I do if I suspect my spouse has hidden assets?

Your spouse may have purposely hidden assets from the IRS to avoid paying taxes or from you in anticipation of a divorce. Be particularly suspicious if your spouse is:

- Self-employed
- In a partnership
- Principal owner of a closely held corporation
- A salesperson who gets commissions
- An employee with a business expense account
- An employee who regularly receives tips
- In a business where cash is often paid or goods are traded for services

If you suspect your spouse has hidden assets, tell your lawyer. If you want to do an investigation or some checking on your own, you can begin by looking carefully at all of your spouse's financial records. A close look at your spouse's personal income tax returns may turn up sources of interest, dividends, trusts, partnerships, or real estate holdings of which you were not aware. Gift and inheritance tax returns may also uncover assets.

If your spouse is the principal owner of a closely held corporation, look at the corporate tax returns. Principal owners can manipulate their salary by taking loans from the corporation or charging personal expenses to corporate accounts. Corporate returns should also be checked for excessive retained earnings. These may disguise available profit distributions or an artificially low salary level. Also, look for reimbursement, prior capital contributions, or repayment of loans to the corporation. These may also reveal a hidden cash flow to your spouse.

Partnership returns should also be reviewed over a number of years to see if there are any drastic changes. Look for things such as your spouse's partnership interest dropping suddenly or a much higher percentage of business expenses being charged to your spouse than to the other partners. Partners sometimes agree to these kinds of arrangements temporarily when one partner has a divorce settlement pending.

If you have any reason to suspect that your spouse has altered copies of tax returns given to you or your lawyer, tell your lawyer. You can get copies from the IRS. If you and your spouse used an accountant to prepare returns, you are also entitled to a copy of your returns from the accountant. Altering tax return records is a crime.

Of course, if your spouse is hiding the assets from the IRS, as well as from you, the assets won't show up on tax returns. A good place to find these assets is in a loan application. The more assets listed on a loan application, the more likely the applicant will get the loan. Your spouse is not likely to hide assets on an application. You might find a loan application in the financial files in your home, or you may remember the name of the bank or financial institution where your spouse applied for the loan. You can ask the bank for a copy of the application. If your name was also on the application, they have to provide you with a copy. In any event, your lawyer can try to get a copy of the application through a court order.

Careful scrutiny of canceled checks, check registers, and savings account passbooks from personal and business accounts may turn up hidden assets. Be sure to check the cancelled checks against the bank statements to see if they are all there. Some cancelled checks may have been purposely hidden. Once you have all the checks, you may find some for the purchase of property

you never knew existed. If the checks show that your spouse is spending more money than reported as income, there is a good chance he has hidden assets. Your spouse may also be claiming expenses and hiding expense reimbursements or insurance reimbursements. Deposits or withdrawals in unusually large amounts in a savings account may indicate your spouse received money or bought something. Withdrawals on a monthly basis may indicate a mortgage on a property you don't know about. Monthly deposits may indicate income you don't know about. If more money is being deposited in savings than reported in income, there is a good chance your spouse has hidden assets.

If you have access to your spouse's business records, you should look them over. They may show a greater profit than he had reported on taxes. They may also show unreported benefits, such as a company car, or reveal expense account abuse.

Do not open envelopes from financial institutions with only your spouse's name on them. Jot down the name of the financial institution that appears on the outside of the envelope and inform your lawyer so that your lawyer can ask your spouse about the contents during questioning.

If you learn that your spouse falsified tax returns, or signed your name without your knowledge, you may qualify for Innocent Spouse Relief. Please see an accountant to discuss this option.

## *LIABILITIES*

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### **2.8 What liabilities should I list?**

You should list all the liabilities in your spouse's name, your name, or both your names. Liabilities are any kind of debts you owe, including:

- Loans from banks, mortgage companies, and other financial institutions
- Interest on any loans or debts to family, friends, or other individuals
- Debts to businesses
- Unpaid bills
- Unpaid real estate or income taxes

You should include as much of the following information as possible about each liability on your list:

- Description of the liability
- Name of the company or individual to whom the liability is owed
- Liability the name is listed under
- Date the liability was acquired
- Original amount owed
- Amount paid
- Present amount owed

## *PREPARING A BUDGET*

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### **2.9 How do I prepare a budget?**

The easiest way to start a budget is to review your recent spending history. Begin with the last 24 months of checking account statements. Look at the Debit total at the top of each statement. The

Debit total will tell you the amount of checks, ATM withdrawals and direct bill payments that have been made each month. If the family has several checking accounts you will need to use the totals from all of them (be careful of transfers between accounts). This will give you an approximation of the *overall* spending of the family.

Now, break your spending down into categories. Use checkbook registers, cancelled checks, bills, receipts, charge account statements, mortgage statements and any other financial statements you can find for the last twelve months. If you can't find any of these, try asking the appropriate bank for copies of your cancelled checks or other companies for copies of your bills. Your financial records should give you a good indication of your monthly and yearly expenses for the items that follow below.

Don't cheat yourself by underestimating any of your costs and expenses. It takes a lot of money to live on, especially if you have children. As you make your budget, try to think of every possible expense. Be sure to include expenses for any special needs you or your children might have. Here is a form you can use to start your budget planning:

<b>ITEM</b>	<b>MONTHLY</b>	<b>YEARLY</b>
<b>SHELTER</b>		
Rent or mortgage		
Property taxes		
Homeowners or renters insurance		
Utilities		
Electricity		
Other home fuel (gas, oil, wood)		
Water and sewer		
Cable television		
Telephone		
Other		
<b>FOOD</b>		
Groceries for family of _____		
Food at work (daily average x 22 days)		
School lunches (x 22 days)		
Eating out		
Other		
<b>HEALTH CARE</b>		
Health insurance/life insurance		
Doctor		
Dentist/orthodontist		
Medication		
Counseling/therapy		
Glasses/contact lenses		
Hearing aid		
Other		
<b>TRANSPORTATION</b>		
Car payments		
Car insurance		

Property tax on car (?)		
Car licensing costs		
Car repairs		
Gasoline/oil		
Parking and tolls		
Bus, carpool, taxi		
Other		
<b>CLOTHING AND PERSONAL EXPENSES</b>		
Adult clothing		
Children's clothing		
Dry cleaning/laundry		
Hairdresser/personal care		
Toilet articles		
Other		
<b>HOUSEHOLD MAINTENANCE</b>		
Lawn care		
Household supplies		
Home repairs		
Home improvement		
<b>MAJOR PURCHASES</b>		
Furniture		
Appliances		
Other house expenses		
<b>OTHER EXPENSES</b>		
Tuition and school books		
Pets (food, veterinarian)		
Newspapers/magazines		
Children's allowance		
Alimony/child support (paid out)		
Child care		
Banking fees		
Savings		
Recreation/entertainment		
Gifts		
Vacation/travel		
Charitable contributions		
Misc. expenses (be specific)		

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*SUPPORT, CHILD SUPPORT AND CHILD CUSTODY DURING SEPARATION*

**2.10 Do I need a formal order from the court to make my separation legal?**

There is no “legal separation” in Pennsylvania - you are either married or divorced. That being said, the “date of separation” is important for two reasons. (1) You will ‘snapshot’ the value of the assets as of the date of separation, and (2) if your spouse does not file a consent for the

divorce within one (1) year, you can move the divorce forward one year after the date of separation.

Pennsylvania does not require a formal court order for a husband and wife to be considered separated.

Pennsylvania law does, however, provide for the ability to obtain child and/or spousal support and to determine child custody and visitation rights, without getting a divorce. It does not allow for the division of property without a divorce action. However, if you and your spouse choose to, you may enter into a formal separation agreement. This is essentially a contract between you and your spouse covering issues such as support, alimony, child custody, etc., for the period when you are separated. These agreements are enforced under contract law and not the more specific divorce laws. However, if you choose to make this type of agreement, enforcing the provisions of the agreement will be harder than if you have separate custody and support orders in place that are filed with the court system.

### **2.11 Can I get financial support for myself from my spouse during separation?**

You may be entitled to alimony pendente lite or spousal support during the separation and divorce process. It depends on the legal form of income that is requested. An award is generally based on the income of the parties. You may file a petition for support at your county's Domestic Relations department.

### **2.12 How is child custody decided during separation?**

No one parent has a legal right to the children over the other without a Court Order. If the parties cannot reach an agreement themselves, temporary or interim custody orders are sometimes necessary. Filing a complaint for custody with the court starts the custody proceeding. This action can be filed with or without an attorney. Custody is awarded based on the best interests of the child or children.

### **2.13 Can I get child support from my spouse during the separation?**

The obligation to support is based upon the reasonable needs of the child and the parents' available income. Both parents have an obligation to support their children based upon their respective incomes, earning capacities, assets, and abilities. The courts will use the Statewide Support Guidelines to determine the exact amount of support that you will receive. Information regarding the guidelines is available on-line.

### **2.14 How can I support myself if it takes a while to get child or spousal support?**

You should file for child and/or spousal support as soon as you are separated. You will be entitled to retroactive support, only back to the date of filing for support. If you are a dependent spouse and have no funds of your own, you may be in a difficult situation if your spouse won't agree to give you support. You may not even be entitled to spousal support or eligible for alimony pendente lite to support yourself. If you and your spouse have a joint checking or savings account, you may have to use its funds to support yourself and the children. If no funds are available, immediately apply for public assistance. It may be a necessary step until you can get some support. If you get into debt or have trouble budgeting finances, contact Women's Resource Center for referral to a local credit counseling service.



**2.15 Does separation require a lawyer?**

Pennsylvania law does not require that a lawyer handle your case, but the knowledge and training of a family law attorney will ensure that all the necessary papers are prepared in the correct format, filed and served on your spouse. In addition, the lawyer will identify legal issues you may not foresee, gather the evidence for your case and advocate for your interests. If your case goes to trial, or if your spouse has a lawyer, you will be at a distinct disadvantage without one.

**2.16 Can the same lawyer represent both my spouse and me?**

No. One lawyer cannot represent both spouses.

**2.17 How can I find a good lawyer?**

When hiring an attorney, it is very important to hire someone who specializes in divorce or domestic relations. It is also advisable that you hire a family law attorney who has experience with handling cases in the county where you live or where the action will or has been filed. Often each county has its own local rules and procedures and it would be in your best interest to hire someone who is familiar with the practices in your particular county.

If you know a reliable lawyer who does not practice family law, he or she may be able to recommend a family law attorney. Referrals by friends and family can also be very useful, especially if they can tell you how much time and attention the lawyer provides to his or her clients. If you are in counseling, your counselor may be able to recommend a good family lawyer. Your local County Bar Association also offers a free Lawyer Referral Service and they can refer you to a lawyer in your area who practices family law. See Appendix A for phone numbers. Most attorneys can now be searched on the Internet. You can narrow your search to “Family Law Attorneys” in your area and then search them individually. The Women’s Resource Center can also refer you to one of our Attorney Affiliates who practice family law.

**2.18 How much will legal assistance cost?**

Lawyers will have various hourly rates, based upon their experience, but in this area they range between one hundred ninety-five dollars and above. Your lawyer will usually request a lump sum payment, paid in advance (a retainer) of at least two thousand dollars or more, depending upon the expected complexity of the case. The lawyer will bill against this amount. You should always ask a lawyer exactly what the retainer covers before you hire him/her. Make sure your lawyer sends you a retainer or representation letter, which outlines the scope and cost of your legal representation.

The total cost will depend on how much time your lawyer has to spend on your case. The amount of time is determined in part by how long it takes your lawyer to gather the necessary information and by the number of hours it takes your attorney to negotiate an agreement with your spouse or your spouse’s attorney. If you cannot reach an agreement and have to go to trial, your legal costs will rise considerably. Cases in which custody of the children is contested and there is considerable property to distribute can be very costly. You may also have to pay your attorney for photocopying, postage, parking, telephone calls and any other expenses incurred. You should

ask your lawyer what expenses you will be charged for and an estimate of your overall costs. Always get written agreements concerning fees.

### **2.19 What can I do if I can't afford a lawyer?**

Explain your financial situation to the lawyer you select and see if the lawyer can make alternate payment arrangements with you. Some lawyers will allow you to set up a payment plan and many accept credit cards. If you are a dependent spouse, your partner may be ordered to pay your lawyer's fees. If you have little or no income, you may be able to qualify for Legal Aid Services or clinical services through the Villanova University School of Law or Temple University Beasley School of Law. Most local university law schools and Legal Aid Services will assist with custody and support but not with divorce.

Alternatively, you may want to try mediation. Mediation is a popular means of resolving a divorce related dispute with the assistance of a neutral third party. More information on mediation is available in Chapter Four. Another option is the Collaborative divorce process. This process avoids long, difficult, and often expensive court battles, focuses on problem solving, and protects the well-being and needs of your children. To learn more about the Collaborative process and to get a referral to an attorney that practices Collaborative Law, contact the Helpline at the Women's Resource Center.

### **2.20 Should I interview a lawyer before I hire him/her?**

Always interview the lawyer before you hire him/her. Family law cases tend to be very stressful and emotional for the parties involved. It is important that you find an attorney who is caring and sympathetic, as well as extremely competent. You should also know how long the lawyer has been in the practice of law and whether the lawyer concentrates in family law. Make sure the lawyer is straightforward with you, and is able to explain issues to you so that you understand them. Trust your instincts and, if possible, keep shopping around for a lawyer until you are comfortable with your choice and feel a good connection with him or her.

### **2.21 How do I interview a lawyer?**

1. Prepare an overview of your case and bring it with you to the interview. See the next page for a sample form you can use. On your sheet, include things like:
  - Cause and length of time you have been living apart
  - Information about any previous separations
  - When you and your spouse last had any sexual relations
  - Any abuse or adultery committed by you or your spouse
  - Your spouse's attitude toward the marriage
2. Describe your immediate needs:
  - Do you want to stay in the house during the separation?
  - Do you need alimony or child support?
  - Are you afraid your spouse will hurt you or your children?
3. Also, include your long-range goals:
  - Do you want alimony?
  - How much child support do you need?
  - What property would you like to obtain?

## Initial Interview Information Sheet

### Your Information:

Full Name: \_\_\_\_\_  
Present Address: \_\_\_\_\_  
Length of time you have lived in the county and state: \_\_\_\_\_  
Place of Employment: \_\_\_\_\_  
Home Phone Number: \_\_\_\_\_ Work Phone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Salary (Gross): \_\_\_\_\_ Salary (Net): \_\_\_\_\_

Notations regarding any second job, unusual deductions, unusual work hours, etc.,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### About Your Spouse:

Full Name: \_\_\_\_\_  
Present Address: \_\_\_\_\_  
Length of time he/she has lived in the county and state: \_\_\_\_\_  
Place of Employment: \_\_\_\_\_  
Home Phone Number: \_\_\_\_\_ Work Phone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Salary (Gross): \_\_\_\_\_ Salary (Net): \_\_\_\_\_

### About the Marriage:

Date of Marriage: \_\_\_\_\_ Date of Separation: \_\_\_\_\_  
City, County and State Marriage Took Place In: \_\_\_\_\_  
Number of Children Born of this Marriage: \_\_\_\_\_

	Name of child	Date of Birth	Social Security Number
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Notations regarding school status or careers and any special disabilities or needs of your children:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any relevant facts regarding the failure of your current marriage:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of previous Marriage(s)/: \_\_\_\_\_

Date of Divorce(s): \_\_\_\_\_

Children by other Marriages/Relationships:

	<b>Name of Child</b>	<b>Date of Birth</b>	<b>Social Security Number</b>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

**Your goals (freedom, getting back together, the children, money/support, etc.):**

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**Bring copies of the following items with you:**

- Tax returns
- W-2's
- List of assets and debts
- Credit card receipts
- Any other relevant documents and information listed in the beginning of this chapter.

Make sure that you only give copies of these papers to the lawyer and always keep the originals for yourself.

If you need to hire a lawyer and haven't had time to prepare these documents, go ahead with the interview. You can collect this information later.

**In addition to your checklist and financial documents, it's a good idea to develop a list of questions you want to ask. Consider asking any of the following:**

**Questions about the lawyer's experience:**

- How much experience have you had in family law cases?
- What percentage of your caseload are family law cases?
- How many cases like mine did you handle last year?
- What was the outcome?
- How many family law cases have you settled in court?
- Do you prefer negotiating an agreement or do you prefer going to trial?
- Are you familiar with the tax aspects of divorce or will you need to hire a financial specialist?
- Do you represent mostly men or women?

**Questions about fees:**

- How much do you charge?
- Is a retainer required?
- What exactly does the retainer cover?
- How much do you charge for trial work?
- How much do you charge for phone calls?
- Will I be charged if I talk to your secretary?
- Will I be charged for expenses like photocopying and postage? What other expenses like these will I be charged for? How much do these kinds of expenses usually cost?
- What would you estimate my total charge to be?
- What is the likelihood my spouse would be required to pay any of these fees?

**Questions pertaining to your case:**

- How strong is my case?
- How long do you think the case will take?
- What are my chances of getting custody of the children?
- Can I get the family home?
- How much alimony and/or child support can I expect to get?
- What property settlement can I expect?
- How would you handle my case?

You don't have to decide on a particular lawyer right away. Tell the lawyer you want some time to make up your mind about hiring him/her. Choosing a lawyer is an important decision and you should take all the time you need to decide.

When you get home, replay the interview in your mind. Did you like the attorney? Did you feel comfortable with the attorney? Did the two of you communicate well? Was the lawyer respectful to you? Did the lawyer give you full attention or did he or she answer phone calls and allow other interruptions during the interview? Did the lawyer seem to be straight-forward with you? Was the lawyer able to explain the legal issues so that you could understand them? Trust your instincts. Hire someone with whom you are comfortable.

After you have decided which lawyer to hire, make sure the lawyer provides you with a written Fee and Representation Agreement. Such a contract should make clear what the legal services will cost and what services the lawyer has agreed to undertake. You should request a monthly statement of your account if your lawyer doesn't normally provide one. Never sign on with a lawyer unless you have the financial details in writing.

**2.22 What can I do to keep my lawyer's fees to a minimum?**

Any work you can do to build your case and collect evidence will be money saved from having a lawyer do it for you. Always cooperate with requests by your lawyer for documents and information. You may even want to ask your lawyer for a checklist of documents and facts which you could provide.

Remember that a lawyer is not there for emotional counseling, only legal advice and representation. Don't spend your legal money by discussing emotional issues or calling your lawyer every time your spouse does something to make you angry.

When you have a legal question or a question about your case, you might want to write it down instead of calling the lawyer immediately. Often, you can save money by asking all your questions in one phone call or in one visit to the lawyer's office. Also, use your lawyer's secretary as a source of information. Often his/her secretary is very knowledgeable and will be able to answer your questions. Most likely, you will not get billed for the time you talk to the secretary.

It is important to keep a record of time spent with your attorney in his/her office, on the phone and in court. Make a point of asking your attorney to let you know in advance the anticipated cost of legal work or additional expenses such as experts, private investigators, court reporters and process servers. Be responsible and keep involved in your case. Be sure to check your legal bills carefully.

### **2.23 Can I fire my lawyer?**

You can fire your lawyer anytime for any reason. Before you take this drastic step, try to work out your complaint with your lawyer first. If your representation does not improve, give your lawyer written notice of your desire to discharge him or her from the case. The lawyer must refund any portion of the retainer not already earned. Make sure you have a new lawyer lined up before you fire the first one. Your original lawyer must cooperate with your new lawyer in providing the documentation of your case file.

Firing your attorney and hiring a new one may slow down the progress of your case through the court system and will most likely increase your legal fees. Think carefully before you take that drastic step.

If you believe your lawyer has acted unethically (lied to you or acting against your interests), you can report him or her to the Disciplinary Board of the Supreme Court of Pennsylvania. The Supreme Court is the organization that licenses and disciplines attorneys. In extreme cases, you may be able to sue your attorney for malpractice. You should ask your new attorney for advice on that matter.

## ***YOUR CONDUCT AND BEHAVIOR DURING SEPARATION***

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### **2.24 Can I date during the separation?**

Although separated couples may date and form new relationships during separation, your sexual conduct may count against you in a custody proceeding if you introduce your new partner to the child/children. If there is any dispute concerning custody of the children, it is very likely your dating and sexual relationships will be examined in detail. It is generally wise to be conservative and responsible about these matters, especially during a separation or divorce.

### **2.25 Can I have sexual relations with my spouse during the separation?**

It is not advisable to have sexual relations with your spouse during your separation. There may be negative legal consequences later.

## Chapter 3: Divorce

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*LEGAL GROUNDS FOR DIVORCE*

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**3.1 What is a legal divorce?**

A divorce is the legal termination of your marriage contract and partnership. Generally, there are three matters to be resolved through the legal divorce process:

1. The divorce of two people giving each the legal right to marry someone else;
2. Equitable Distribution of property, responsibility for debts and alimony;
3. Care and custody of minor or dependent children.

To the Commonwealth of Pennsylvania, a divorce must include the Equitable Distribution of marital assets and liabilities.

**3.2 What is an annulment?**

Annulments are very rare. An annulment is a legal decree that a marriage was invalid from the beginning. The grounds for a legal annulment must have existed at the time of the marriage ceremony. Grounds for annulment are:

1. One of the parties is too young to get married
2. One of the parties is guilty of fraud
3. One party was under duress when he/she got married
4. One party did not have the mental capacity to get married
5. One party was already married to another person
6. The marriage is incestuous

**3.3 What do I have to prove to get a divorce in Pennsylvania?**

There are nine legal grounds for divorce in Pennsylvania. There are seven fault-based grounds that involve complicated proof processes and two no-fault provisions. The traditional fault-based grounds for divorce are:

- Willful and malicious desertion for at least one year
- Adultery
- Treatment endangering your life or health
- Bigamy
- Imprisonment;
- Mental abuse
- Insanity or serious mental disorder that results in confinement to a mental institution for at least eighteen months

Very few people file for fault-based divorced, and even many less proceed under fault-based grounds. The reason is that Pennsylvania is a “no fault” state, meaning a Pennsylvania citizen does not require a fault-based reason to seek a divorce.



In a no-fault divorce, you will need to prove each of the following major points:

1. Your marriage is irretrievably broken. Simply state the fact that your marriage relationship is broken and cannot be saved. If your spouse does not agree to the divorce, you will also need to show that you have lived separate and apart for at least one year; and
2. How your property will be divided between you and your spouse.

It is important to note that you can be separated from your spouse and be living in the same house as long as you do not cohabit. Cohabitation is when you and your spouse mutually assume the rights and duties associated with the husband and wife relationship. Occasional sexual relations may not be considered cohabitation. When occasional sexual relations become more frequent, the line as to the date of separation becomes blurred, and will be determined on a case-by-case basis. There are cases where the Court determined spouses were separated, even though they went on vacation together, had sexual relations, or lived together for years.

### *RESIDENCY REQUIREMENT*

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#### **3.4 How long do I have to be a resident of Pennsylvania before I am eligible to file for Divorce?**

In order for you to file for divorce in Pennsylvania, either you or your spouse must be domiciled in Pennsylvania for at least six months immediately before filing a complaint.

#### **3.5 What does it mean to be domiciled in a state?**

You are domiciled in a state if it is your permanent residence, i.e. where you file your taxes, vote and have your automobile registration and license to drive and live for the majority of the time. You can be a resident of more than one state, but your domicile is only in one state.

#### **3.6 In which county do I file for divorce?**

Your divorce case may be filed in the county you live in or the county within which your spouse lives.

### *DIVORCE PROCEDURES*

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#### **3.7 What are the procedures for filing a Simple No-Fault Divorce?**

The procedures for filing a simple no-fault divorce can be viewed as a five-step process:

1. ***Complaint in Divorce.*** To begin a divorce action, you must file a Complaint for Divorce along with other essential papers with the Prothonotary, Clerk of the Court, or Office of Judicial Support. The Complaint in Divorce is a written request for the judge to grant a divorce. Once the Complaint in Divorce is completed, you must file it with the Prothonotary. A filing fee is required and usually ranges between \$200 and \$500, depending on the county in which you are filing and the relief sought.
2. ***Notifying your spouse.*** After you have prepared the Complaint in Divorce, you need to officially notify your spouse by serving him/her with the Complaint in Divorce. Even though your spouse may already know that you are filing for divorce, you still need to have him or her officially notified by delivering a copy of your Complaint in Divorce and other papers you filed with the court to your spouse via certified mail or by personal service. If you use a personal service, an authorized person will deliver the papers to your spouse for you. In either case, you must have a record that the papers were delivered and received.
3. ***Settlement negotiations.*** Once all of your paperwork is filed, you need to contact your spouse or your spouse's attorney to enter into negotiations regarding the division of all marital property and assets. Usually, you contact the party in writing with a request for a statement of assets, pension plan funds, 401k information, valuable marital property, etc. Child support and custody agreement can be arranged through the proper filings with the court.
4. ***Affidavits of Consent.*** Affidavits of Consent and other documents must be filed with the court before your divorce will be granted. If your spouse will not consent to the divorce, you must wait one year from the date of separation to notify the Court that you have been separated for enough time.
5. ***Property Settlement Agreement.*** A Property Settlement Agreement should be prepared and filed with the court. The agreement will cover:
  - Property division and asset distribution
  - Division of marital debts
  - Alimony, if applicable

The Property Settlement Agreement may also include:

- How custody of your children is to be arranged
- How the children are to be supported

However, matters of custody and support should be addressed in separate documents filed with the court under support and custody court docket numbers.

### **3.8 What happens after all the necessary paperwork is filed with the Prothonotary?**

After you file your paperwork, a judge will review all of your documents and issue a Decree of Divorce. If there are any open issues with regard to the property distribution, the Court will schedule a hearing to determine the issues related to property.

### **3.9 How long will it take to get a divorce?**

It is possible to get a simple, non-contested divorce in as little as 91 days after filing the complaint. It is not likely, however, that you will receive the divorce in that short a period of time period. The courts are very busy, and it may be some time before the judge reviews your divorce papers.

You can also get an uncontested divorce if your spouse does not actively oppose the divorce, cannot be located or is not willing to cooperate in a mutual consent procedure, and you and your spouse have lived separate and apart for one year.

Contested divorces can take quite some time to complete, depending upon the schedule of the courts, complexity of the assets and debts being divided, and issues being contested between the parties.

## *NEGOTIATED DIVORCE*

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### **3.10 What happens during negotiations?**

The parties and/or their attorneys get together and arrange the terms of the divorce settlement; you can also use a mediator to reach agreement as to the terms of a settlement. You should make a list of the assets with the value and have an idea of which assets you wish to keep. This list should include your income needs, your child support needs (if applicable), and the property/debts the two of you need to divide. During the negotiations process, you or your attorneys will discuss and work through items you can agree on and settle without the involvement of the court. As a recommended strategy, you should try to have some idea of what you think your spouse would want and what you can give up in order to compromise. Additionally, regardless of how much you may dislike your spouse, it is typically to your advantage to negotiate a settlement outside of the courtroom.

### **3.11 What does a marital property settlement agreement usually contain?**

A typical marital property settlement agreement specifies how property and debt will be divided. Pennsylvania utilizes a concept called Equitable Distribution to divide the marital estate. A typical marital property settlement agreement specifically states how property and debts acquired during the marriage will be divided. Marital assets and debts are those acquired during your marriage—such as real estate, bank accounts, stocks and bonds, vehicles, appliances, electronics, equipment, jewelry, art work, silverware, gold coins, stock options, employment benefits, antiques, as well as other valuables even if they were acquired by you or your spouse individually. Marital assets also include all rights in and increases in value during the marriage of retirement funds, pensions, profit sharing plans, insurance policies, as well as, other similar plans. Even the increase in value of real estate purchased prior to the marriage is considered marital property for purposes of Equitable Distribution. Many factors should be considered when entering into a property settlement agreement and such factors are considered by the Court when determining an Order for Equitable Distribution. These factors include: length of marriage, prior marriages of the parties, standard of living of the parties, amount and sources of income of the parties, vocational skills and employability, individual estates/wealth of parties, liabilities and bills, needs of the parties because of age, ill health, and custody of the minor children, medical plans, retirement plans, etc.

Asset transfers between spouses do not have tax consequences for either party. However, before signing the Property/Marital Settlement Agreement, be sure to have a tax expert/certified public accountant review the Agreement to be sure all tax consequences are addressed and/or considered.

A major factor in determining Equitable Distribution is the date of separation of the divorcing parties. The question of when you and your spouse separated will not only have a consequence as to whether property was acquired before or after separation by the parties, but will also be relevant to the question of when you and your husband can obtain a divorce based upon a one year separation.

### **3.12 When is my divorce final?**

Your divorce is final once a decree of divorce has been issued and signed by a judge.

### **3.13 How do I enforce the terms of my Property Settlement/Equitable Distribution Agreement?**

After you execute the Property Settlement Agreement, you or your spouse can file it with the Court in order to obtain the Decree in Divorce. The Decree in Divorce is a Court Order, and the Property Settlement Agreement will be incorporated, but not merged, in the Decree in Divorce.

If your spouse does not comply with the Agreement, you can seek assistance from the Court by filing a Petition for Contempt and Enforcement.

If your agreement remains separate, you will have to file a civil action for breach of contract to remedy a violation of the agreement. Both parties must agree to a modification of a separate divorce settlement agreement. Your lawyer can advise you further about the advantages and disadvantages of both choices in your particular situation.

### **3.14 How long will it take to get a negotiated divorce?**

In theory, a mutual consent divorce can take as little as 91 days. A fully negotiated divorce, however, will take at least that long plus the time necessary for you and your spouse to agree on the issues of the division of property, debts and alimony. You should also attempt to settle issues of child support and custody, although you can still obtain a divorce without agreement as to child support and custody.

### **3.15 What preparation is necessary if my case has to go to trial?**

One of the most important pieces of your divorce trial is information. You must be sure that your lawyer has all the information needed to represent you in the best possible way.

In order to get all the information your lawyer needs, he/she will use several methods. One method is called a deposition. A deposition is a formal proceeding held outside of the courtroom. The person being deposed is required to answer questions pertinent to the divorce case. The deposed party will take an oath to tell the truth. The lawyer who scheduled the deposition will ask questions first. Everything that is said during the deposition will be written down in a formal transcript for use at the trial later on.

Lawyers use depositions for several purposes:

1. **Information/Preparation:** discover facts about the case and what the witness is likely to say at trial in order to be better prepared for the trial.
2. **Impeachment:** if a spouse or witness changes his or her testimony at trial, the record of the deposition shows that the spouse or witness isn't entirely truthful.
3. **Preservation:** if a witness can't come to the trial, his or her testimony is preserved in the deposition.

If you are deposed, your lawyer should coach you and advise you on how to handle the deposition. Your spouse's lawyer may ask you some tough questions in order to discredit you. You may be asked about alleged misconduct during the marriage. Try to remain calm. Be sure to ask your lawyer afterwards how you did. That way, you can improve your testimony at trial. Ask your lawyer what you should do to prepare for trial. Your lawyer should help you with your testimony. Be sure you understand the issues and strategies involved in the case. If you want a little extra guidance about being a witness, you may want to look at some books on the subject.

Your lawyer will also conduct several types of discovery- such as Interrogatories and Requests for Production of Documents - and may issue subpoenas to obtain information.

### **3.16 What will the Equitable Distribution trial be like?**

The Court will set a date for the trial, depending on the jurisdiction. Masters hear most Equitable Distribution cases. Divorce Masters are attorneys who are permitted to hear all issues pertaining to divorce with the exception of those concerning custody and paternity. At a typical Equitable Distribution trial, there is not a jury, only a judge or master.

Both lawyers will begin by giving opening statements describing what they intend to prove. Each side will present evidence as to what the marital assets are and the value; the parties' income and other facts that will impact on the division of the assets and/or award of alimony. The plaintiff spouse's lawyer calls the witnesses for the plaintiff's side. The plaintiff's lawyer will ask each witness questions. This is called direct examination. After the plaintiff's lawyer has finished asking questions, the defendant's lawyer will have a chance to ask the witness questions. This is called cross-examination. When the plaintiff is finished calling witnesses, the defense is able to call its own witnesses and the process starts over.

You will most likely have to testify at your trial. As in the deposition, your spouse's lawyer may try to discredit your testimony. You may be asked about alleged misconduct during the marriage. Some of the questions may make you angry, but try to remain calm and polite. You can talk to your lawyer about what to expect.

When all the witnesses have been called, both lawyers will make closing arguments and summarize the evidence in their client's favor and argue why their client should win the case.

The judge will either rule at the end of the trial or take the case under advisement and rule later after he/she has had a chance to review all the evidence. The judgment will contain decisions on all the issues not initially agreed on. It may contain orders about alimony, child custody, child support, property division, etc. Your lawyer should follow up by making sure any orders contained in the judgment are completed.

### **3.17 What can I do if I'm unhappy with the judge's ruling in my case?**

Depending on the county, if you are unhappy with the result of the Master's hearing, you may request a trial de novo, which is a new trial before a judge, or you may just be permitted to ask a judge to review specific decisions. If a new trial before a judge is granted, there will be one or more pretrial hearings with the judge. The judge will probably meet with the lawyers alone before you and your spouse are called in. The judge will probably want to know if you and your spouse can agree on any of the issues involved or if you are willing to settle the case without going to trial. If you and your spouse still don't want to settle, the judge will probably go over the issues to be tried so everyone is prepared for the trial.

If you are unhappy with the judge's decision, you can appeal to a higher court that has the power to overturn the initial court's ruling. An appeal may cost more than the trial and it may take a year or more, so you should talk to your lawyer about the advantages and disadvantages of appealing your case. Trial judges are given broad discretion to interpret the evidence. Therefore, if your appeal is based on a claim that the judge misinterpreted the evidence, the appeal is not likely to succeed. You have a better chance if the appeal is based on a legal error or an error in procedure.

## *NAME CHANGE*

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### **3.18 What do I need to do if I want to use the name I had before I was married?**

At any time after the divorce complaint is filed, you can retake your maiden name officially by filing an Election to Retake Prior Name Petition. This petition officially indicates your intention to retake the name you had prior to marriage. There may be a nominal fee to file this petition and a fee for a certified copy of the order.

## *ALIMONY AND SUPPORT DURING SEPARATION*

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### **3.19 What is alimony and spousal support?**

**Alimony pendente lite** is an order for temporary support granted to a spouse during the duration of a divorce or annulment proceeding. It is awarded to equalize the parties' ability to maintain or defend the divorce action. The Court determines the parties' needs, including the receiving spouse's basic living expenses plus those expenses incurred to pursue or defend a divorce action.

**Spousal support** is an order granting care, maintenance, and financial assistance to assure a reasonable living allowance to the party requiring support. The duty to provide spousal support arises from the marital relationship itself and terminates when the marriage ends. It is intended to enable the dependent spouse to continue to try to maintain the standard of living that was established during the marriage. A support action may be sufficient to generate income and maintain health insurance benefits without committing to proceed with a divorce action. Spousal support terminates upon the entrance of a divorce decree.

**Alimony** is an Order for support granted to a spouse or former spouse in conjunction with a Decree granting a divorce or annulment. Alimony is not available until after the divorce decree has been entered.

The alimony statute requires the court to consider several factors when making a determination on a request for alimony. These factors are used both to determine whether

alimony should be awarded and, how much to award, and how long payments should be made. The factors include:

- Relative earnings and earning capacities of the parties
- Each party's age and physical, mental, and emotional condition
  - Each party's sources of income including medical, retirement, and insurance benefits
- Each party's expectations and inheritances
- The duration of marriage
- Any contribution of one party to the other party's education, training, or increased earning power
- The extent to which either party's earning power, expenses, or financial obligations are affected by serving as a custodian of the parties' children
- The standard of living established during the marriage
- The parties' relative education, and the time needed to acquire education and training to become adequately employed
- The parties' relative assets and liabilities
- The property brought into the marriage
- Either party's contribution as a homemaker
- The relative needs of the parties
- Any marital misconduct during the marriage up to the date of separation
- Any tax consequences
- Whether the party seeking alimony lacks sufficient property to provide for needs
- Whether the party seeking alimony is incapable of self-support through employment

### **3.20 Can I get financial support from my spouse during separation?**

You may petition the court for spousal support and/or alimony pendente lite (support during the separation process) to provide financial support during your separation.

### **3.21 What do I have to prove in court to get support?**

You and your spouse will have to provide information about income, including paystubs, income tax returns and W-2 forms. You may also have to show that you lack the resources to meet your needs through your own means.

### **3.22 What if my spouse or I committed adultery?**

The commission of adultery during a marriage until separation may be considered by the court when determining whether alimony should be paid or the amount of alimony to be paid. The courts have the ability to set alimony amounts in part, as punitive measures against an "offending" spouse (spouse involved in marital misconduct).

### **3.23 What else could prevent me from getting support?**

Several factors could prevent you from being awarded support, including:

1. Your inability to prove that you require assistance to support yourself in the manner to which you are accustomed.

2. Any criminal acts you may have committed during the marriage and/or separation.
3. Your spouse has no income or ability to provide support

### **3.24 How likely is it that I'll get alimony?**

Whether or not you will get alimony depends on the facts of your particular case. Generally, if you are able to prove a need for support and you did not participate in marital misconduct, the courts will give fair consideration to the awarding of alimony. If you do not earn more than your spouse, you might instead receive more of the marital assets in lieu of obtaining alimony.

### **3.25 How do I go about getting alimony?**

Negotiating and agreeing upon the terms and conditions of alimony directly with your spouse is the preferred method of securing alimony. In some cases, however, the court must be involved. In these cases, you initially meet before a master to arrange for the divorce and property distribution. You will need to provide the master with financial data to support your argument for alimony. The Master will weigh your information and the information provided by your spouse, and will seek to obtain some agreement between the two of you on the subject. If you and your spouse can not agree, the Master will issue a recommendation to the judge of whether alimony should be paid or not and how much. If you disagree with the Master's report, you can address your objections with the court.

### **3.26 How will I be paid alimony?**

Once the amount, frequency, and how long payments should be made has been established – you and your spouse may agree upon a mechanism for payment. You may also file with your county support office and they may receive, process, and forward payments to you. It is best to file paperwork to receive direct deposit.

### **3.27 Will my spouse have to pay the attorney's fees that I have incurred?**

The court may require your spouse to pay your attorney's fees if it is determined that you lack sufficient resources to do so on your own. During the Equitable Distribution portion of your divorce proceedings, the master and/or judge may award you or your spouse a higher amount of marital assets in consideration for attorney's fees. It is very unusual for a spouse to be ordered to pay legal fees for the other spouse.

### **3.28 What if my ex-spouse doesn't make the alimony payments?**

If ordered in a court decree or incorporated as part of the divorce decree, you need to notify the county support office that payments are not being made. This office will assist you in attempting to collect and has various options open to it, including obtaining a contempt order from the courts.

If you and your ex-spouse directly negotiated the alimony, you have the option of attempting to enforce the agreement through a suit in civil court (this process may be lengthy).

### **3.29 How much will the alimony payments be and how long will I receive them?**



The amount of alimony awarded and for how long will be the result of a combination of criteria.

1. Your ability to provide for yourself in a manner to which you have become accustomed
2. The distribution of marital assets and debts
3. Punitive factors such as marital misconduct by either party

### **3.30 Can the amount of alimony I am supposed to receive change?**

Whether or not your alimony amount is modifiable depends upon the terms of your agreement or court order. Generally, alimony is modifiable unless the terms of the agreement or order dictate otherwise. In a negotiated settlement, you and your ex-spouse can agree to change the alimony conditions (including income thresholds or change in marital status). In Court ordered decrees, the court can set the terms and conditions for change. Additionally, you or your ex-spouse can petition the court to affect a change to a decree and award of alimony based upon material changes to financial or marital conditions of the parties. However, remember if alimony is modifiable it can be also modified downwards.

## *PROPERTY DIVISION*

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### **3.31 How is property divided?**

In Pennsylvania, property is divided in divorce by Equitable Distribution. Equitable Distribution is the distribution of assets and debts based upon principles of fairness and justice. Equitable Distribution does not necessarily mean equal distribution.

An *equal* split of the marital assets can be accomplished via direct negotiation between yourself and your ex-spouse (and attorneys, if necessary) and the issuing of a mutual consent decree dividing your property and debts.

If you and your spouse cannot agree on how to divide your assets, the court will divide them for you. Generally, if processed by the courts, you will first try to resolve the matter before a Master. The Master will look at the financial information provided by both parties and listen to your arguments as to disputed items. Once done, he/she will issue a Report and Recommendation to the judge. You and your ex-spouse can indicate your objections to the Masters Report and Recommendation document. The judge, using a broad definition of Equitable Distribution may except the masters report, modify it or reject/replace it entirely.

### **3.32 What procedure does the court use for property division under Equitable Distribution?**

You and your spouse are encouraged to attempt to negotiate a settlement without the overt assistance of the courts. In some counties, resources are provided or recommended to help you pursue a negotiated property settlement agreement. For any Equitable Distribution to be worked out, however, both parties must have a clear understanding of the non-marital assets/debts and marital assets/debts that need to be distributed. Non-marital assets and debts are those which were either acquired prior to marriage, acquired through direct gift or inheritance, or income/debts received or incurred prior to the marriage through direct gifts or inheritance.

If you cannot reach an agreement, you can request that the court hear your case. The procedures are different in the various counties. Generally, a master will be appointed to hear your divorce case and will make every effort for you to reach an agreement without going to trial. The process of an Equitable Distribution trial is described above in this chapter.

### **3.33 Can I get alimony or Equitable Distribution of property if my partner and I are not married?**

Possibly. Pennsylvania no longer recognizes common law marriages. However, you may have established a common law marriage prior to the new law taking effect. A common law marriage may be held to exist if two parties live together and hold themselves out to the world as married. If your relationship is a common law marriage, you may be entitled to alimony or a property distribution following the same procedures as legally married couples. You must be able to prove to the court that your relationship constitutes a “common law” marriage. However, it is very difficult to prove the existence of a common law marriage. If you do not feel that your relationship meets the criteria necessary to be considered a common law marriage, you may attempt to pursue other civil means to obtain a distribution of property or compensation.

### **3.34 What is the effect of a Prenuptial Agreement on alimony or Equitable Distribution of property?**

A Prenuptial Agreement is a written contract between two people who are about to marry that sets out the terms of possession of assets, treatment of future earnings, control of the property of each party, and potential division of marital assets if the marriage is later dissolved. Depending upon the terms and conditions set forth in a prenuptial agreement, alimony and the process for Equitable Distribution of property may already be spelled out. You may, however, have the grounds to challenge the validity of the prenuptial agreement. If you intend to challenge your prenuptial agreement, you are strongly advised to enlist the services of an attorney, as you will be required to go to court to prove that the Prenuptial Agreement was invalid or unenforceable.

## *TAX CONSEQUENCES OF DIVORCE*

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### **3.35 Are tax consequences of the divorce settlement important? How are divorce settlements taxed?**

Tax consequences are extremely important. After January 1, 2019, spousal support, alimony pendente lite, and alimony are generally not taxable to the receiving party and not deductible to the paying party. The tax consequences of any anticipated distribution should be addressed in the divorce settlement. Additionally, your divorce settlement should cover the handling of any joint income taxes as a result of your union, any past or present local, state, or federal taxes that may be owed on an asset you jointly owned. Equitable Distributions of cash, checking/savings account balances are generally not taxable. Pensions and retirement plans, including IRAs, 401(k) plans, etc. must be divided through the proper process such as a QDRO (Qualified Domestic Relations Order) to insure that taxes and penalties are not incurred.

## Chapter 4: Mediation

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*THE BASICS*

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**4.1 What is mediation?**

Mediation is a confidential problem solving process that can be very helpful to couples that are splitting up. A mediation session is facilitated by a “mediator” who acts as a neutral third party, sets guidelines for communication, and helps parties discuss their issues in a non-threatening environment, in an attempt to reach a mutually acceptable agreement. It is important that participants understand that the mediation process moves at their pace. Take your time and do not let yourself be pressured into any decisions.

**4.2 Why mediation?**

There are several good reasons to consider mediation.

1. Mediation provides a safe forum to discuss important issues.
2. A mediator can help you and your ex-partner identify the issues, reduce misunderstanding, explore areas of compromise, helps clarify priorities, and finds points of agreement.
3. The mediation process gives you the opportunity to develop and design your own agreement.
4. You and your ex-partner are often best able to formulate solutions to meet the needs of your family.
5. Mutually agreed upon solutions are more likely to hold up over time and create less animosity between you and your ex-partner.
6. A mediator can help you and your ex-partner learn how to communicate and interact in a healthy manner. This is an important skill to have during and after a break-up.
7. Mediation fosters better co-parenting relationships, which helps children lead healthier post-divorce lives.

**4.3 What will happen at a mediation session?**

Initially, you and your ex-partner will complete some paper work providing some basic information about your dispute. The mediation center will then arrange for one or two mediators to work with both of you at a mutually convenient time.

Generally, mediation sessions last about two hours. During your first session, the mediators will explain the mediation process to make sure that you understand it and that it is appropriate for your situation. You will explain your goals for mediation and hear your ex-partner’s goals. Each of you will have equal time to say what you need to say. Future sessions may involve gathering more information that you will need in order to make decisions. Gradually, you may move toward some preliminary mutual decisions about your situation.

After you have agreed on all the issues, the mediator will provide you with a draft of what you and your ex-partner agreed upon. This agreement must be based on the voluntary decisions of you and your partner and not the decision of the mediator. This draft is not legally binding on either party; it is primarily for the benefit of you and your ex-partner. You should take this draft to an attorney to have it reviewed. Once you and your ex-partner agree to its terms, you can sign the agreement to make it legally binding. Never sign an agreement until an attorney who is looking out for your interests has reviewed it. Call and ask your local mediation center about how their specific mediation process works.

## *THE ATTORNEY'S ROLE IN MEDIATION*

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### **4.4 Do I need an attorney?**

Working with mediators does not replace having an attorney, and the mediator does not represent either party to the mediation. Attorneys have special expertise and are hired to protect your interests. It is a wise idea to begin by talking with an attorney to evaluate your situation and determine your rights. Ask your attorney about using mediation to help resolve some of your issues. Mediation centers will also strongly encourage parties to seek the advice of an attorney throughout the mediation process. If your ex-partner has an attorney, it is strongly recommended that you also consult an attorney to represent your interests.

### **4.5 How is court-ordered mediation different from voluntary mediation?**

#### **Court Ordered Mediation**

The court may order mediation for the following reasons:

- 1.If child custody or visitation is contested
- 2.If one of the parties in a divorce or child custody action moves for mediation
- 3.If the parties stipulate to mediation
- 4.Some courts in Pennsylvania require parties to go to mediation before hearing the case
- 5.Some counties have mandatory mediation programs

The court may not order mediation if a party or child of either party is or has been the victim of domestic violence or child abuse, either during the action or within 24 months before the filing of the action.

Each county has different procedures for mediation, although the Domestic Relations Procedure Rules Committee of the Pennsylvania Supreme Court is currently developing uniform statewide reporting requirements and evaluation forms. You and your ex-partner may be required to attend an orientation session and one mediation session. The purpose of the orientation session is to answer your questions about the mediation process. At the end of the orientation session, your mediation session will be scheduled. If you and your ex-partner come to an agreement, the mediator will help you put this agreement in writing. Before you sign it, review the agreement with your attorney. After you sign the agreement, the mediator will submit it to the court for approval. Once approved by the court, the agreement will be entered as an enforceable order of the court.

#### **Voluntary Mediation**

Voluntary mediation is initiated by the parties, not by a court, and it is not governed by state or local rules. It can be with a community mediation center or a private mediator. In a voluntary mediation setting, you may discuss child custody and visitation as well as other issues such as child support, alimony, and the division of property. For example, if you and your ex-partner own a home, mediation can help you decide how to divide the value of the home and its contents.

## *WHEN MEDIATION IS INAPPROPRIATE*

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### **4.6 When is my situation not appropriate for mediation?**

It is generally best to explore the mediation option before proceeding to litigation (legal action in court). In families where substance abuse, alcoholism, domestic violence, emotional abuse, or child abuse has occurred, mediation is not always the best choice. Also, mediation may not be appropriate if there is an extreme power imbalance between you and your ex-partner, if you don't feel comfortable being assertive with your partner, or if you feel threatened or intimidated by your ex-partner.

## *HOW TO FIND A MEDIATOR AND HOW MUCH IT MAY COST*

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### **4.7 Where do I go for mediation?**

Private mediation services are listed under "mediation services" and can be searched online. The Academy of Family Mediators can also refer you to local mediators.

### **4.8 How much does mediation cost?**

Practitioners in the area usually charge an hourly fee. When you find a mediator you and your ex-partner can agree on, call and ask about their individual rates.

## *WHAT TO DO IF MEDIATION ISN'T WORKING*

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### **4.9 What if I don't feel like mediation is working for me?**

You are in control of the mediation process. Parties are required to mediate in good faith, but they aren't compelled to reach an agreement. You or your ex-partner may withdraw at any time. If you don't feel comfortable with your mediation sessions, you can request to speak to the mediator individually about your concerns. You may choose to continue, but decide to proceed more slowly and cautiously. You should also discuss the process with your attorney.

## Chapter 5: Child Custody

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*CHILD CUSTODY*

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**5.1 What is Child Custody?**

If you have children and are in a parental divorce or similar situation, a restructuring of your parental rights and responsibilities is required. If you and your ex-partner can agree to a restructuring arrangement you will not have to go to court. However, you should have your agreement entered as an order of court under a custody docket number. If it is not entered as such, it will not be enforced by the court. If you and your ex-partner are unable to reach an agreement, the court must determine and allocate the decision-making authority and contact that each of you will have with the child. The courts in Pennsylvania apply a “best interest of the child standard” in determining the reconstruction of your parental rights and responsibilities. The court determines the best interests of the child by considering all factors that legitimately impact the child’s physical, intellectual, moral and spiritual well-being. The factors the court may use in determining child custody include:

- Which party is more likely to encourage and permit frequent and continuing contact between the child and the other party
- Present and past abuse committed by a party or member of the party’s household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child
- Parental duties performed by each party on behalf of the child
- Need for stability and continuity in the child’s education, family life and community life
- Availability of extended family
- Child’s sibling relationships
- Child’s well-reasoned preference, based on the child’s maturity and judgment
- Custody arrangements of siblings
- Attempts of a parent to turn the child against the other parent, except in cases of domestic violence
- Which party is more likely to maintain a loving, stable, consistent and nurturing relationship with the child
- Which party is more likely to attend to the daily physical, emotional, developmental, educational and special needs of the child
- Proximity of the residences of the parties
- Each party’s availability to care for the child or ability to make appropriate child-care arrangements
- Level of conflict between the parties and the willingness and ability of the parties to cooperate with one another
- History of drug or alcohol abuse of a party or member of a party’s household
- Mental and physical condition of a party or member of a party’s household
- Any other relevant factor

*GRANDPARENT AND IN LOCO PARENTIS STANDING FOR CHILD CUSTODY*

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**5.2 Who has standing for any form of physical or legal custody?**

Any biological or adopted parent has standing to sue for custody of a child. Under Pennsylvania law, other individuals (such as grandparents) who stand in *loco parentis* to a



child may file an action for any form of physical or legal custody. A person stands in loco parentis to a child if they have put themselves in the situation of a lawful parent by assuming the obligations related to the parental relationship without going through the formality of a legal adoption. In such cases, the child has established strong psychological bonds with that person who, although not a biological parent, has lived with the child and provided care, nurture, and affection.

Similarly, a grandparent of the child who is not in loco parentis to the child may file an action for any form of physical or legal custody in cases where:

- their relationship with the child began either with the consent of a parent of the child or under a court order;
- they assume or are willing to assume responsibility for the child AND
- one of the following conditions is met:
  - the child has been determined to be a dependent child;
  - the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity OR
  - the child has, for a period of at least 12 consecutive months, resided with the grandparent, excluding brief temporary absences of the child from the home AND is removed from the home by the parents, in which case, the grandparent must file the action within 6 months after the child is removed from the home

Grandparents and great-grandparents may also file an action for partial physical custody or supervised custody in cases where:

- the parent of the child is deceased OR
- their relationship with the child began either with the consent of a parent of the child or a court order and the parents of the child commenced a proceeding for custody and do not agree as to whether the grandparents should have custody OR
- the child has, for a period of at least 12 consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child from the home, AND is removed from the home by the parents, in which case, the grandparent must file the action within 6 months after the child is removed from the home

## *CHILD CUSTODY AGREEMENTS*

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### **5.3 How are custody agreements reached?**

Unless the parties cannot agree on a reasonable and workable custody arrangement on their own, the court will become involved. The court does not like to interfere or dictate personal decisions unless compelled to do so. With the assistance of a mediator, many parents can reach an agreement without the court becoming involved. Some counties make custody mediation mandatory. If the parties cannot reach an agreement, a custody conciliator will meet with the parties and recommend a custody arrangement to the court. As long as your agreement does not appear to be detrimental to the child, the court will usually accept any custody and visitation arrangement agreed upon by you and your ex-partner. Some of the issues that should be addressed in the custody agreement are:

1. Whether legal custody is to be shared.

2. Whether physical custody is to be shared and, if so, whether the sharing will be equal or whether one party is to be designated the primary custodian.
3. Amount of time each party will have physical custody of the child. This may be kept flexible or specifically stated.
4. The sharing of holidays and birthdays. One way to handle this is to alternate holidays on a yearly basis; e.g. mother has Christmas this year, father has Christmas next year.
5. The parties may wish to provide each parent with a period of uninterrupted summer vacation time. The parties may also wish to specify a date by which each year they will have solidified their summer vacation plans so that each party can plan accordingly.
6. The parties may wish to select a mediator so that future custody conflicts can be resolved without resort to the courts.
7. The parties may wish to place restrictions on moving out of the geographic area.
8. The parties may select the religion that the children shall be raised.

Negotiated child custody agreements can be an advantage over court ordered custody arrangements. Agreements often meet the needs of a particular family better than a court decision. Also, it is beneficial for the child if you and your ex-partner can work some kind of arrangement instead of going to court. A custody trial can be traumatic for the entire family, but most especially for the child. Unless one parent has harmed the child in some way, it is beneficial for the parents to agree that both will be involved in parenting the child.

If you and your ex-partner cannot agree outside of the court room, a judge or custody master must become involved. The custody process varies from county to county. In most counties, after the custody complaint is filed, date is set with a Custody Conciliator/Master for a custody conference. This informal conference provides a forum for you to present information about what is best for you and your children. If you and your ex-partner reach an agreement, it will be formalized into an Order of Court and signed by a Family Court Judge, you, and your ex-partner.

In many counties, the parties in a custody dispute are required to attend a seminar on how children cope with divorce, or may be ordered to attend some other type of co-parenting counseling. There is usually a small cost for the program and attendance is usually mandatory.

Depending on the circumstances, if a custody settlement is not reached at the initial conference or a custody evaluation needs to be performed, another conference will be scheduled. The Master may prepare a Temporary Order at the close of the conference if there are issues that must be resolved prior to the next conference. If nothing is urgent from the Court's perspective, no order will be entered until the extended hearing is held. If a Temporary Order is put into place, you must obey the terms of the order until the second conference.

In some Pennsylvania counties, parties who cannot reach an agreement at the Conciliation/Masters conference are required to go through non-binding custody mediation orientation in an attempt to resolve custody issues. If custody issues cannot be resolved at mediation orientation, another hearing date is set.

If the case is scheduled for an extended hearing before the Conciliator/Master, that hearing is more formal, and both parties give testimony. In addition, presentations of custody evaluation experts, child testimony, or testimony of non-party witnesses for both sides may be given. If the parties cannot agree following the hearing, the Master will issue written findings and a recommended Order. The Order is then forwarded to the Court for entry as an Order of Court.

The parties in a custody case have the right to appeal any Custody Order entered by the Master within ten days of the entry of the Order. The party must file a demand for *hearing de novo* to request a new custody hearing heard by a judge. In a disputed child custody case, it is important that

you have an attorney with experience in child custody trials represent you. These are difficult trials, and much is at stake.

#### 5.4 Are there different kinds of Child Custody Arrangements?

Custody arrangements are as different and varied as are the people that make them. Each custody arrangement is constructed based upon an examination of the parties' circumstances. There are several classifications of custody:

1. **Legal Custody:** The legal right to make major decisions affecting the best interest of a minor child, including but not limited to, medical, religious, and educational decisions. Legal custody may be shared or it may be vested solely in one of the parties.
2. **Physical Custody:** Physical custody refers to the actual physical possession and control of a minor child.
3. **Primary Physical Custody:** The right to assume physical custody of the child for the majority of the time.
4. **Partial Physical Custody:** The right to assume physical custody of the child for less than a majority of the time.
5. **Shared/Joint Physical Custody:** Each party has the right to assume physical custody of the child for significant periods of time.
6. **Sole Physical Custody:** The right of one party to exclusive physical custody of the child. Unless there is compelling evidence that one parent is not fit to have even a minimal amount of contact with the child, sole custody is rarely granted.
7. **Supervised Physical Custody: Custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and one of the parties. Supervised physical custody may also be referred to in some areas as "visitation."**
8. **Temporary Custody:** Is an Order awarding temporary physical possession of a child pending the final determination of custody by the court. Temporary Custody may be ordered while parents are undergoing counseling, in instances where a parent is relocating out of the state, or if there is alleged violence or abuse.

#### 5.5 What kinds of physical custody arrangements are possible?

Parents negotiating their own agreement can agree to any form of physical custody schedule they wish. The parent without custody may see the children as often and for as long as the agreement allows. If the court has to decide physical custodial rights, it usually bases the custody schedule on what is reasonable and in the best interests of the child. Court ordered supervised physical custody can be decided in a custody action. Usually a parent will be denied physical custody only when the party's contact is severely mentally or morally deficient so as to constitute a grave threat to the child's welfare. Specifically, the court may deny visitation if:

- The parent has been physically abusive
- There is a proven risk that the parent may be physically abusive
- The parent has been sexually abusive
- There is a proven risk that the parent may be sexually abusive
- The parent has a substance abuse problem
- It is not in the children's best interest to visit the parents.

In these situations, the party without custody may only be allowed supervised physical custody, or may not be allowed to visit the children at all.

## 5.6 How is child custody decided if the parents aren't married?

The parties do not have to be legally married in order for child custody to be determined. Just as with married couples, child custody must be decided by a written agreement or a court order. The mother or father of a child born outside of a marriage may bring an action for child custody. Filing a complaint for custody or visitation with the court starts the process. As in all custody matters the most important consideration in determining custody is the best interest of the child.

## 5.7 What is the best approach for negotiating a child custody agreement?

In her book *Child Custody: A Guide for Concerned Mothers*, attorney Marianne Takas suggests a good plan for approaching child custody agreements. Takas strongly recommends that you do not start with the difficult and emotional question of who will get custody of a child. She suggests that negotiations start with the day-to-day concerns of the child's care. The following guide for custody negotiations is taken from her book:

1. Look at what the pattern of family responsibility has been in the past
  - What has each parent actually contributed to childcare?
  - Who has had primary responsibility for child care tasks?
  - Have both parents shared these tasks equally?
  - Does the child look to one parent as the primary caretaker?
  - Does the child identify equally with both parents?
2. Look at what future child-rearing arrangements are possible in light of what child-care taking responsibilities each parent is willing and able to assume
3. Look at which future child-rearing arrangements are practical given each parent's role in the past and their present responsibilities
4. Consider which of these future arrangements would be in the child's best interest. For example:
  - The child's need for continuity in care taking
  - The child's preference if the child is old enough to have a preference
  - The care taking skills and experience of each parent
  - The amount of time each parent has available to spend with the child
  - The child's need for both parents' involvement in care taking
  - The child's need for a stable home
5. The last decision will be which parent gets custody or if the parents will share custody. By this time, the decision should be easier to reach because most of the factors have been considered.

This plan is an effective one, particularly for a parent who has been the child's primary caretaker in the past and is now faced with a custody challenge from the other parent. By first examining the past and the need for continuity in the child's life, the challenging parent may agree not to alter the child's life dramatically by the time custody has been decided. Also, a parent who thinks he or she wants custody, but did not previously have many childcare responsibilities in the past, may see what a big job it is.

## 5.8 What should the child custody agreement contain?

Your child custody agreements should be very specific. It should clearly identify which party has sole physical and/or legal custody or if the parties have some form of joint custody. If the parties have joint custody, the exact terms and conditions of the joint custody agreement should be clearly spelled out. By reading the agreement, you should be able to tell exactly when each parent will have actual physical custody or possession of the child and for how long. Specifically, physical custody of the child on weekdays, weekends, school vacations, all legal holidays, religious holidays (like

Christmas, New Years, Easter, Halloween and Thanksgiving), birthdays, Mother's Day and Father's Day should all be agreed on.

If one party has sole legal custody, the other party's physical custodial rights should be clarified in detail. In both sole custody and joint custody cases, the agreement should state exactly how decisions about the child's medical treatment, education, religious upbringing, and other welfare concerns will be made. It may also contain agreements on child support, health insurance coverage, and any other obligations either parent has to the children.

The more specific and detailed the child custody agreement the less likelihood there is for confusion and disagreement in the future.

## *CHILD CUSTODY TRIALS*

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### **5.9 How does the custody trial begin?**

All custody actions begin with one party filing a complaint for custody. The other party must be served a copy of the complaint and must be given 30 days to file an answer. The responding party is not required to answer the complaint, but may choose to file a counterclaim asking for custody or visitation rights. As described above, you may be able to reach a custody schedule through agreement or mediation or the custody conciliator may recommend a schedule. If all these methods fail, you will have to go to trial. Your attorney will prepare for trial by hiring custody experts, talking to your pediatrician and other medical professionals, teachers, clergy, family members, friends, employers about your child best interests and if you are fit to raise a child.

### **5.10 How should I prepare for the trial?**

The best preparation for your trial is to make sure your life is in order. Your behavior is going to be a major issue at trial, so you want to concentrate on showing good behavior. You will probably be asked by the other party's attorney about your child care taking ability, your behavior, and your morality. Make sure the children are being cared for properly. You should know that any sexual behavior on your part will probably be very closely examined, so you'll need to be very discreet. Some parents choose to remain sexually inactive until the custody trial is over.

Other aspects of your behavior may also be examined, from whether you attend religious services to how much alcohol you drink. Ask your lawyer what to expect. Judges often make their decisions on their own definitions of moral behavior and these definitions may be different from yours. The reality is that if you want your children, you may need to make compromises in your behavior until the custody trial is over.

You should make sure you know as much as possible about your child's life. It is a good idea to know everything from when your child's last doctor's and dental appointments to your child's favorite cartoon.

Sometimes the Department of Social Services will intervene on the child's behalf in a custody case. If this happens in your case, a social worker may question you before the trial. The social worker will probably want to meet you in your home. You'll want to have the house as clean and neat as possible for the social worker's visit. Make sure you and the children are dressed neatly and appropriately. You'll want to be polite and respectful to the social worker, even if the questions bother you. Emphasize your love and concern for the children, as well as your care taking abilities. Your attorney can also give you advice on how to act and what to say. The social worker may also

want to talk to the children. You can be supportive if they are upset about having to talk to the social worker, but you don't want to tell them what to say.

Also, the other party's lawyer may require you to be evaluated by a psychologist or therapist who specializes in children and custody issues. The interview will probably take place in an office. Your lawyer can advise you and give you some idea what questions may be asked and how you should handle them.

You may want to talk to a child psychologist or therapist before the custody trial for advice on how to deal with the children during this difficult time. The children themselves may even want to talk to a therapist if they are upset by the custody trial.

Also, you should make sure that your trial is being held in the correct place. Pennsylvania's UCCJEA (Uniform Child Custody Jurisdiction and Enforcement Act) states that a Pennsylvania Court must have jurisdiction in compliance with the Act to decide custody, regardless of whether the child is physically located in Pennsylvania. Pennsylvania will have jurisdiction if it is the home state of the child at the time the custody action was commenced, or was the home state within six months of commencement, the child is absent because of the removal by a person claiming custody, and a parent still resides in the home state. Ask your attorney if he or she foresees any jurisdiction problems in your custody case.

### **5.11 What will the trial be like?**

The trial procedure will be very much like the procedure in other family court trials. Custody trials are generally not pleasant, so be prepared. Your behavior, attitude, and style of communication in the courtroom will affect how the judge will receive your testimony.

You should dress appropriately for the trial. The clothes you wear will influence the judge's impression of you. Do not wear shorts, tank tops, strapless tops, slit skirts/dresses, or other clothes that are tight, clingy, sheer, or low cut. Dress for confidence. It is not a good idea to wear strongly scented perfume or powder. Wear your hair style that allows your face and eyes to be seen. Do not fiddle with your hair while you talk. If you wear makeup, apply it conservatively. If you wear jewelry, avoid noisy or dangling items that can distract from your testimony.

The following suggestions are offered to help you on the witness stand so that you can communicate your thoughts clearly and accurately.

1. Keep yourself calm on the witness stand. Take deep breaths as you sit in the witness chair to help you to gather your thoughts and reduce your anxiety.
2. Avoid slouching in the witness chair. Attempt to find a comfortable position, preferably sitting up as straight as possible, so that your voice is projected and not muffled. You want to make eye contact with the judge. He/She is the one deciding your case.
3. Unless you are illustrating a point in your testimony, attempt to keep your hand gestures to a minimum.
4. Do not chew gum or have candy in your mouth when you are testifying.
5. Eat and drink lightly before testifying to avoid feeling light headed or dizzy. Do not have an alcoholic drink or any drug to calm your nerves because it may have a negative effect on the way you present yourself in court.
6. Tell the truth, dealing only with the facts as you experienced them. The truth is the most powerful weapon you have; use it with confidence. Answer questions concisely, limiting your responses to yes or no. If an explanation is needed, ask the judge if you may offer an explanation to the question.

7. Be careful not to anticipate questions. If you are uncertain of the question asked, have the person repeat the question for your clarification. It is acceptable to say that you do not remember if indeed you do not. Do not answer what you do not know.
8. It is in your best interest to cooperate with the attorneys while you are on the stand. Do not yell, swear, get hysterical, or be sarcastic. Do not use name-calling, unless you are quoting what your ex-partner said to you. Allowing yourself to become defensive may place doubt in the judge's mind as to what you may be handing or avoiding in your testimony. It is extremely important to control your temper and remain calm. If you feel overwhelmed, the court may allow a few moments for you to regain your composure, or you may excuse yourself and continue when you are able.
9. Your credibility will be enhanced if you
  - Listen carefully to each question and think before you answer.
  - Answer only one question at a time, looking directly at the judge, especially if the answer is important.
  - Do not interrupt the person asking the question; allow him or her to finish the question before answering.
  - Do not mumble when answering. Speak clearly and loudly.
  - Answer only what you are asked as politely and simply as possible.
10. Do not discuss your testimony with anyone who may be a witness until after the trial is over.
11. Keep visual contact with your support people for encouragement. You do not have to make visual contact with your ex-partner unless you are asked to identify him/her in the courtroom.

## **5.12 What will happen at the trial?**

After the arguments are filed, the court will set the date for your custody trial.

The formal *de novo* custody hearing takes place before a common pleas judge sitting without a jury. You and the other party (through your attorneys) will present your evidence and cross examine the evidence of the other party.

A guardian ad litem may be appointed to represent your child in the custody action. The guardian ad litem must be an attorney and will represent the legal interests and the best interests of your child during the proceedings. An attorney chosen by the court may also represent your child if the court determines that doing so will assist in resolving the issues in the custody proceeding. If a child has legal counsel and a guardian ad litem, the attorney will represent the legal interests of the child and the guardian ad litem will represent the best interests of the child.

The court may question your child either in the judge's chambers or in open court. Sometimes you, your spouse and your attorneys are permitted to remain while the child is examined, but often the court excludes the parties from this part of the trial. Some courts permit attorneys to question your child while other courts will accept written questions from counsel. Your child's testimony will be placed on the record in the court proceeding.

Reports by experts provide assistance to the judge in making his or her decision in a custody dispute. Expert testimony is often very helpful to the judge in making the custody decision, but it is not his or her only basis for making its decision. The hiring of expert witnesses by the parents is often used in custody hearings to provide insight into our child's best interests. You or your former spouse may hire your own expert or the court may have ordered medical or psychiatric examination. An expert report may not be used in any manner in a custody case unless the expert testifies and is subject to

cross examination by the other parent's attorney or the parties consent to the use of the report. In custody disputes, the trial judge has discretion to accept or refuse expert testimony.

After all testimony has been given and all the evidence has been presented, the court may enter its decision on the record upon the conclusion of the hearing. However, the judge is not required to enter his/her decision until the testimony of the hearing is transcribed.

### **5.13 What standard is used to decide custody?**

In Pennsylvania, the legal standard for custody is what custody arrangements are in the best interests and welfare of the child. If it is in the child's best interest, the court wants to assure the parties have reasonable and continuing contact with the child. For many years, it was a fundamental issue of child custody law that unless compelling reasons appeared to the contrary, the natural mother of a young child was entitled to custody. The rationale was that only the mother could satisfy the best interest and welfare of the child. Now, the presumption that the mother of a young child is entitled to custody no longer exists. Ultimately, determination of the child's best interest is made on a case-by-case basis, considering all factors that legitimately have an effect upon the child's physical, intellectual, moral, and spiritual well-being.

Where both parties are fit parents, the court must give positive weight to the parent who has been the primary care giver. Also, the continued presence of a fit parent who through daily affection, guidance, companionship, and discipline fulfills the child's psychological and physical needs is crucial to the child's emotional well-being.

The court also tries to keep the family unit together. Absent compelling reasons, siblings should be raised together, and the court will try to maintain the stability of the children's home environment. The court will also look at factors that affect a parent's ability to raise a child. These factors include:

- morality and character
- past misconduct
- current incarceration
- past mental or emotional illness
- marital history
- abuse, neglect, or cruelty
- corporal punishment
- relationship between the parent and child
- drinking and drug use
- religion
- employment status
- characteristics of proposed home
- third party support

Additionally, the Pennsylvania custody statute requires court to consider the violent and abusive conduct of a parent in making an award of custody or visitation. The custody statute also prevents an award of custody or visitation in favor of a parent who has been convicted of certain violent crimes until the parent is deemed by the court not to pose a continued threat of harm to the child. The court may also take into account the preferences of the child by considering the age, intelligence, maturity and reason for the preference.



#### **5.14 Can child custody arrangements be changed once agreed upon?**

Modification of a custody order may be sought at any time and does not require a substantial change of circumstances when it is in the best interest of the child. The courts believe that a change in custody is just as important as an original award of custody and the parties should be awarded the same type of hearing on a modification petition as they did on the original petition.

#### *UNLAWFUL TAKING BY A PARENT*

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#### **5.15 What should I do if my ex-partner threatens to take my children?**

Here are the steps to follow if your ex-partner threatens to take the children.

1. Contact the police immediately and tell them about the threat
2. Don't allow the children to visit your ex-partner, even if there is an existing custody or visitation order until you can get into court
3. Contact your lawyer or hire a lawyer as soon as possible. If custody hasn't been decided by court order or written agreement, file for an Emergency Petition for Custody. If you have an existing custody order giving you primary physical custody and the other parent partial physical rights, file a petition to modify the court order to request that the order be changed.

#### **5.16 What do I do if my ex-partner takes the children without my permission or court order?**

If you have an order granting you custody and your ex-partner takes the children, go to court immediately and get a contempt of court order. The police may assist in the return of the children to you.

#### **5.17 What if one parent takes the children out of the country in violation of a custody order?**

Contact the Office of Citizens Consular Services. If you know to which country your children have been abducted, you can also contact the United States Embassy in that country.

#### **5.18 What if my ex-partner takes the children and I don't know where they are residing?**

Contact the police immediately so they can begin searching for your ex-partner and your children.

If the FBI gets involved, they put your child's records in a national computer network. This computer network is a sophisticated tool for locating missing children. If you want to get the FBI involved, you have to get your local prosecutor's office to write a letter stating that:

1. You have documented legal custody.
2. There is a local warrant for your ex-partner's arrest on felony charges.
3. The local prosecutor's office guarantees it will arrange and finance your ex-partner's return to the state if the FBI arrests him or her.

If you have enough money, you may want to hire a private detective. Private detectives usually have more time to devote to your case than local police or the FBI. You may even want to do some detective work yourself, especially if you cannot afford to hire one.

If you have access to any of your ex-partner's phone bills or mail, check for numbers or addresses that may clue you in to where your ex-partner might have gone. Credit card statements may also indicate where purchases have been made which may give you a clue. If you have some idea of the general area, check the post offices to find an exact address.

You can also call directory information to find a phone number. You can try talking to your ex-partner's family, friends, or past employers to see if you can get any information. You can also try calling your ex-partner's credit card company, bank, doctor, insurance company, professional licensing agency, college, and other companies and institutions he or she is affiliated with to see if your ex-partner gave them a forwarding address. It is also a good idea to check with all the moving companies where your ex-partner was living before the unlawful taking to see if he or she used their services.

### **5.19 What can I do to protect my children from being unlawfully taken?**

If your children are old enough, teach them your phone number and how to make a collect long distance call. Tell them to call you collect whenever they go on a trip. Teach them to recite their full address.

Also tell them that you and their other parent have certain rules for visits. Tell them you will always let them know when the other parent will be taking them for a visit. If they go on a visit and you haven't told them about it, tell them to call you right away. Also, tell them to call you if the other parent doesn't bring them home when they're supposed to.

You don't have to tell them why you want them to learn their phone number, addresses, or the visitation rules. There is no reason to scare them or put ideas into their heads unless absolutely necessary for their safety.

Keep current files on the children, including recent photographs and current medical and dental records. Also, keep an information file on your ex-partner that includes any information available on your ex-partner, from his or her social security number to the addresses of your ex-partner's friends and relatives.

You may want to get the children passports. Your local post office should be able to tell you how to obtain passports for your children. If you control the children's passports, your ex-partner can't take them out of the country. If your ex-partner has the children's passports or you think your ex-partner may get passports for your children, contact the Department of State in Washington, DC. If you explain to them that you have reason to believe your ex-partner may kidnap the children and take them out of the country, the Department of State may be able to help you.

## ***REFUSAL OF PHYSICAL CUSTODY***

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### **5.20 What if my ex-partner refuses to let me have physical custody of my children?**

If you have a court order granting you partial physical custody rights and the other party does not allow you to see your children, you can go into court and get contempt of court order. You cannot, however, withhold support payments you may owe because the other party has refused to let you have physical custody of the children. The situation is different if custody has not been decided by a

court order or a written agreement. If the children are living with the other party under an informal arrangement and you aren't allowed to have physical custody of them, you can file a court action for physical custodial rights. You can also file an emergency order for custody or an action for permanent custody if you want custody.

#### *CHILD ABUSE AFTER CUSTODY IS DECIDED*

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### **5.21 What should I do if I suspect my ex-partner is abusing the children?**

If you suspect your former partner or the other party is abusing your children in any way, you need to take immediate action to protect your children. If you have primary physical custody and the other party has partial physical custody rights, you can file an action to have those custodial rights suspended, or get supervised physical custody at the very least. If the other party has primary physical custody, you can file an action for a modification of the custody agreement. If you feel that your child is in immediate danger, file an Emergency Petition for Custody with the court.

You may also want to consider reporting the alleged abuse to the police and contacting your county's Department of Child Services to report the alleged abuse so an investigation can be initiated.

### **5.22 What should I do if my children are upset by the disruptions caused by the custody and visitation arrangement?**

As a caring and loving parent do whatever you need to do to make your life and lives of your children as normal and functional as possible. If your child becomes upset about the disruptions caused by the custody arrangement, you can always go to court and file a petition to modify the custody order. You may also want to consider taking them to a child psychologist or therapist if they are having a hard time adjusting.

## Chapter 6: Child Support

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*GENERAL CHILD SUPPORT INFORMATION*

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**6.1 What is child support?**

Pennsylvania law establishes the legal duty for parents to provide financial support for children for as long as they are dependent. Getting a fair amount of child support is often dependent upon the accuracy of financial information provided by you and your partner. Once an amount is negotiated or ordered by the Court, the funds are to be used to support the needs of the dependent child.

**6.2 Which parent has the right to bring a child support action?**

The right to support can only be asserted by the party who possesses the legal rights to act on behalf of the child. A dependent spouse or custodian of the child may also bring an action for child support. Custodian of the child is the person with whom the child resides.

**6.3 How do I obtain Child Support?**

You can negotiate a child support agreement through direct negotiations with your ex-partner or through the Domestic Relations Section of the Court of Common Pleas in your county. If you have hired a Family Law attorney, he or she will be well suited to negotiate support with your ex-partner, or seek the necessary court ordered support. To help prepare yourself and your attorney, have as much financial information about you and your ex-partner as possible available for review. If you are not confident in your knowledge in your partner's financial affairs, your attorney can help you obtain appropriate Child Support payments.

It is best to obtain a formal Support Order from the Domestic Relations office of your county. If your spouse stops making payments under a Support Order, the County will seek enforcement against your spouse on your behalf. This is the most time and cost efficient method of ensuring receipt of support.

**6.4 How does the court decide how much Child Support I will get?**

Child support is determined by the application of state-issued guidelines. At a Support Conference, an officer will calculate the support due to you or due by you on behalf of the child/children.

Child support amounts determined through negotiation are developed to the satisfaction of both parties and then reviewed by the court.

**6.5 How long do children get child support?**

Child support is generally paid in Pennsylvania until the child either graduates from high school or reaches the age of 18, whichever is later. The amount of support may change or be eliminated, however, if either you or your spouse's financial situation changes dramatically. Additionally, there may be circumstances such as severe physical or mental disabilities, where your child may be unable to provide for him or herself. In cases of severe disability, child support may be required beyond high school or the age of 18.

## **6.6 How do negotiated child support agreements work?**

Negotiated child support agreements are agreements in which the two parties work out a settlement with or without attorneys.

## **6.7 How much child support should I ask for?**

If you are seeking Child Support, in a negotiated settlement, you should start with an amount reasonably higher than the Support Guidelines Computations–Child Support Worksheet might suggest is reasonable. This will give you a good start and will advise you of what you are likely to get if a Court decided and ordered support arrangement.

## **6.8 How often is child support paid?**

Once a negotiated agreement is reached or a Court Order is issued, an income deduction order is also likely to be put into place.

## *COURT-ORDERED CHILD SUPPORT*

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## **6.9 When can I ask the court to order child support?**

You may seek child support at any time after you and your spouse are physically separated. You can even ask for support if you both have 50% custody, as long as you earn less than your spouse. If you earn more than your spouse, you might be obligated to pay him/her support.

## **6.10 What should I expect if I have to go to court to ask for child support?**

The following is how a support matter is commenced:

1. **Complaint:** In order to initiate a child support case, you must file a Complaint for Support at the Domestic Relations Office in your county. See Appendix B for a sample form.
2. **Conference:** The Supreme Court of Pennsylvania has given each county the option to proceed by one of two Pennsylvania Rules of Civil Procedure. The first rule states that a hearing officer shall conduct an office conference usually held at the County Domestic Relations Office. At the conference, the parties must provide copies of their federal income tax returns, pay stubs for the preceding six months, and an income and expense statement. After the hearing officer reviews this information, he may make a recommendation of the amount of support that he believes is appropriate. If an agreement is reached, the hearing officer will prepare a written order for the parties to sign and submit to the Court.

If you cannot reach an agreement at the Conference, you may be scheduled for a hearing. The process for a hearing varies from county to county.

3. **Modification.** If circumstances change with the receiving parent's need for support or the paying parent's ability to pay, either parent can file a Petition for Modification. Another conference will then be scheduled.

**6.11 Will the judge order my ex-partner to pay for my attorney fees if I have to go to court to get child support?**

This is up to the Court to determine, based upon many factors – including your ability to pay and the financial resources of both you and your partner. It is very unusual.

*CHANGING CHILD SUPPORT AGREEMENTS AND COURT ORDERS*

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**6.12 If the amount of child support has been decided in an agreement or by court order, can that amount ever be changed?**

Generally, child support reached through mutual agreement and approved by the court may also be changed through mutual agreement and approval by the court. Child Support reached by court order alone, however, is generally subject to modification upon proof of a change in circumstances of either party.

**6.13 How should I prepare if I want to ask my ex-partner or the court for an increase in child support?**

You should document any changes to your income or child care related expenses. You should estimate the duration of the changes, and the reasoning behind any special needs that you may be facing.

*ENFORCING CHILD SUPPORT AGREEMENTS AND COURT ORDERS*

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**6.14 If my ex-partner doesn't pay child support as agreed or ordered by the court, what can I do?**

If your ex-partner is behind in his or her payments, contact the appropriate Office of Child Support Enforcement in your county government office for assistance.

Each county has slightly different procedures in handling Child Support enforcement. One thing they can do is assist you in bringing your ex-partner back into Court. The Court can then take a number of enforcement steps in an attempt to obtain payments. These steps include:

- Entering judgments
- Authorize the taking and seizure of property
- Taking of rent and profits of real estate
- Attachment of wages
- Issuing civil contempt orders (punishable by commitment of a person to prison for a period not to exceed six months)
- Awarding counsel fees and costs

**6.15 What should I bring to my initial interview at the support enforcement office?**

1. Your Original Court Order and/or Negotiated Agreement
2. A profile of your current financial situation
3. Any information about your ex-partner you may have (including phone numbers, address, employer, and any financial information you may be aware of)

**6.16 What if I don't already have a child support agreement or a child support court order?**

You will need to obtain a child support court order prior to utilizing the services of the appropriate support enforcement office. This order can be obtained by the filing of a Complaint for Support with the Domestic Relations Office in your county.

**6.17 What is the procedure the support enforcement office uses to collect the child support my ex-partner owes me?**

Each county's enforcement office has different procedures. Consult your respective county's office for up-to-date information.

**6.18 Do I need to hire a lawyer to enforce child support payments through the support enforcement office?**

It is not necessary to hire a lawyer to enforce child support payments through the support enforcement office. If you expect to have to go to court to compel your ex-partner to pay, it is advisable to hire representation. If your case must go before a judge, your attorney will be able to protect your interests by ensuring all relevant facts are placed before the judge prior to court ruling.

**6.19 What if my ex-partner lives outside of Pennsylvania?**

Once you have obtained a child support order, you can file the order with the appropriate support enforcement office or court in the jurisdiction your ex-partner resides in. You will need to contact that jurisdiction to determine what its requirements are and whether or not you need to retain the services of an attorney to assist you. Many states have agreements with Pennsylvania streamlining the enforcement process.

**6.20 What if my ex-partner has disappeared?**

Some jurisdictions, such as Philadelphia County, have small parent locator offices to assist in tracking down ex-partners for support matters. With some basic information, the support enforcement office can obtain necessary court orders to ensure that any federal payments, such as tax returns can be intercepted and utilized to offset late support payments due. Additionally, the support enforcement office may notify credit bureaus of the status of any missing payment.

**6.21 What if I was never married to the other parent?**

If the father acknowledges paternity, the normal process for obtaining support is followed. If paternity is denied, each county has its own procedures for determining paternity. Should your ex-partner refuse to volunteer for the necessary tests, court orders can be obtained to force him/her to make payment.



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## CHAPTER 7: DOMESTIC VIOLENCE AND SEXUAL ABUSE

### DOMESTIC VIOLENCE

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#### 7.1 What is domestic violence?

Domestic violence is abuse between family or household members, sexual or intimate partners or persons who share biological parenthood. You are a victim of domestic violence and need to seek help if you:

- Have been hit, kicked, shoved, sexually abused, or threatened by your partner.
- Are frightened of your partner's temper, jealous rages, or anger.
- Have a partner who is out of control during alcohol or drug use.

Domestic violence is not an emotional loss of control; it is intentional behavior. Your partner must take responsibility for his or her actions without blaming you.

Domestic violence occurs to people of every race, ethnicity, and economic status. The statistics for domestic violence are staggering.

A domestic violence situation is both dangerous and life threatening. *In any situation the goal is to be safe.*

#### 7.2 Who are the victims and perpetrators of domestic violence?

The majority of domestic violence victims are women, but victims are not identified by particular demographics. They cross all racial, ethnic, national origin, religious, age and social economic lines. Domestic violence affects every community.

Batterers/Abusers of domestic violence are not easily identified. It has been found, however, that the majorities of batterers are male and have witnessed domestic abuse in their childhood.

#### 7.3 Why is it difficult for victims of domestic violence to leave abusive relationships?

The main reason women do not report abuse or leave their abusive partner is fear that the abuse will worsen if they report it to the police. Additionally, many victims of domestic violence (especially those with dependent children) stay in violent relationships because they cannot afford to leave the relationship. It is very costly for them to leave the family home and relocate and begin a new life. Domestic violence victims may be embarrassed about being abused. They do not want anybody to know what is happening.

#### 7.4 Where can I find a domestic violence program?

Domestic violence services are offered in every county in Pennsylvania. These services include crisis hotlines, safe homes or shelters, legal advice, community education, counseling, transportation, information, and referral. A domestic violence counselor may

be available to help you seek a protection order. Your local domestic violence hotline is available 24 hours a day, and all services are confidential.

### **7.5 How can a domestic violence agency help me?**

Your local domestic violence program has staff and volunteers who are familiar with domestic violence. Some of them may have experienced the same treatment that you have, and they will listen to you and help you work through your feelings. They will keep anything you tell them confidential.

The staff at your domestic violence program can also explain the legal steps that you can take to get a Protection From Abuse order, and someone may also be able to go to court with you and help you through the legal process.

## *INVOLVING THE POLICE*

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### **7.6 What should I do if my partner hits or threatens me or my children, or if I fear my partner will hit me or my children?**

In 1986 the Pennsylvania legislature passed the probable cause arrest statute that expanded police authority to intervene in domestic violence situations. Even if your partner has threatened you, but hasn't hit you, and you are afraid, call the police immediately. You can also call your local domestic violence agency to find out about shelters or other safe places to go.

### **7.7 What should I consider when thinking about calling the police?**

You may feel reluctant to involve the police. Calling the police may diffuse the situation or send a message to the abuser that this behavior is not acceptable. After you make the call, the police will come to your house. When they arrive, tell the police if you or your children have injuries or need medical treatment. If you need transportation, ask the police to take you to the hospital. If you or your children have injuries, get them treated, even if you don't think the injuries are serious. There may be internal injuries that you can't see. It is also a good idea to get medical treatment because medical records can be used as evidence later.

The police can tell you about counseling services and a safe place to stay if you need one, and can address routine questions and legal issues. If you don't have transportation, ask the police for a ride to the shelter or to a friend or relative's house.

Contacting the police provides you with a record of what has happened. Even if your partner is not arrested, the police record documents the abuse. If you do not call the police at the time of the assault, you can call them later when you are in a safe place and make a statement that can be kept on file. Always get the officers' names in case you need them at the hearing.

## **7.8 Will calling the police ruin my chances of making my relationship work?**

You should call the police anytime you or your children are in danger, even if you want to stay in your relationship. It is impossible to work things out with someone who is violent and it will not help the relationship if you or your children are hurt. The violence will not stop until the abuser accepts responsibility for his behavior and goes into long-term counseling. You cannot prevent an assault when your partner chooses to be violent.

## **7.9 Will the police arrest my partner?**

It depends. If your partner threatens or hits you in front of the police, they are required by law to make an arrest. They can also arrest your partner if they have probable cause to believe a threat or an assault took place. Evidence can be visible injuries on your body: the presence of blood, torn clothing, destroyed property, for example. It can also be testimony from you, your child, or any other witnesses. Although the law allows the police to make an arrest anytime they have probable cause that an assault took place, some departments may not make arrests without you swearing out a warrant or filing criminal charges.

If the police have reason to believe your partner's assault was serious enough to be a felony, they will get a warrant from the magistrate and law enforcement officers will investigate the case. Felonies usually involve a weapon or a very severe beating. If your partner is charged with a felony, keep in contact with the law enforcement officers to learn about the court process and the court date.

## **7.10 What if I fought back?**

If your partner starts to hit you and you fight back to protect yourself, it is self-defense. If you hit your partner first, you should still call the police if your partner gets violent or if you are afraid you'll get hurt. Your partner cannot use more force than necessary to protect themselves. You need to realize, however, that if you do fight back to protect yourself, the police might be reluctant to arrest your partner or may arrest both of you.

## **7.11 What options do I have if I am a victim of domestic abuse?**

You can contact your local domestic violence agency and/or a private attorney to find out what options are available to you. You may want to press criminal charges against your partner or get a Protection From Abuse Order.

### ***ABUSE UNDER THE PROTECTION FROM ABUSE ACT***

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## **7.12 What is considered Abuse?**

Under Pennsylvania's **Protection From Abuse Act**, (PFA Act) abuse is defined as any of the following:

1. Attempting to, or intentionally or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon
2. Placing another, by physical threat, in *reasonable* fear of serious bodily injury

3. False imprisonment, as defined under the crimes code
4. Physically or sexually abusing minor children
5. Stalking a person and placing that person in reasonable fear of bodily injury

The PFA Act does not cover the victim's emotional or mental abuse.

### **7.13 Who can file for protection under the Protection From Abuse Act?**

A family member, a current sexual or intimate partner, or a former sexual or intimate partner can file for a Protection From Abuse Order. Only family or household members can obtain relief under the PFA Act. Family or household members include:

1. Your spouse or former spouse
2. Someone who was living with you in a common law marriage or as your boyfriend/girlfriend
3. The parent of your child
4. Your child
5. Someone who was a sexual or intimate partner
6. Your parent
7. Someone related to you by blood or marriage

An adult or minor living by themselves can file for a protection order. If the abused person is a minor, then a parent, adult household member, or guardian can file on behalf of the child.

### **7.14 What can the Protection From Abuse Act do for me?**

The Protection From Abuse Act enables the victims of domestic violence to have protection from future abuse in the form of a Court Order. If there is future abuse or a threat of future abuse, the victim of domestic violence can call the police and the abuser will be arrested. A further goal is not to punish the abuser for past abuse. The PFA Act has been very effective in providing swift and meaningful civil relief for victims of domestic violence.

### **7.15 What is a Protection From Abuse Order?**

A Protection From Abuse Order (PFA) is immediate legal protection that can be obtained through civil court. It is a paper signed by a judge stating that your partner should not abuse or threaten you or your children. To file this action, you must show that you or your children have been abused or threatened. You can go to court with or without a lawyer and ask the judge for a Domestic Violence Protective Order.

The law allows the judge a wide variety of measures to protect you and your children from your partner. The judge can:

- Order your partner not to assault, threaten, follow, harass, or interfere with you and your children either in person or on the telephone
- Order your partner to stay away from your residence, day care, schools, and place of employment

- Allow you to live in the home where you have lived together and order your partner to leave
- Give you possession of personal property such as clothing, household goods, and use of the car
- Give you temporary custody of the minor children and may order your partner to pay child support
- Make your partner pay for your court costs and attorneys fees

The kind of protection you receive depends on the facts of your case. It may also depend on the individual judge. Some judges will give more protection than others.

Any orders issued under the Protection From Abuse Act will last for a fixed amount of time. The judge will set this time, but it will never be longer than one year. You can get an extension after the year is over by reapplying to the court *before* the year has expired.

You can only obtain a restraining order against someone with whom you have a “personal relationship.” If your abuser does not fall into these categories, you may need an attorney to obtain a different type of restraining order.

### **7.16 How and where can I file for a Protection From Abuse Order?**

Protections from Abuse filing procedures are different in every county. You should contact the local domestic abuse center for exact information on the filing procedures in your county. In most counties in Pennsylvania filing a petition in the Court of Common Pleas starts a Protection From Abuse proceeding. There are no filing fees for PFA’s in most counties. On an emergency basis (after Court hours and on weekends and holidays), emergency relief is available from the Court or from a District Justice.

### **7.17 In which county do I file my Protection From Abuse Complaint?**

Under Pennsylvania Rules of Civil Procedures an order for Protection From Abuse may be brought in a county where:

1. The petitioner resides, either temporarily or permanently, or is employed
2. The defendant/abuser may be served
3. The abuse occurred

The action must be brought only in the county where the residence or household is located if you are seeking possession of the residence or household in your complaint, and requesting that your abuser leave the family home.

### **7.18 Do I receive a Temporary Protection Order after filing a Petition for Protection From Abuse?**

After filing a petition for Protection From Abuse, a judge will review the case to determine if a temporary protection order should be granted. If the judge believes the abuse has occurred, he will issue a temporary protection order and schedule a hearing that must be held within 10 days.

### **7.19 How will my abuser be notified of the Temporary Protection From Abuse Order?**

Your abuser must be served with notice of the temporary protection order and the hearing date. You may serve the papers yourself, or the local police department will serve the abuser with the court order on your behalf. Make sure you get the form signed by the person that served your partner with the protection order verifying that the order was delivered and received. If you are unable to notify your partner, you must still go to court on your hearing date to ask the judge for a continuance to get more time to serve your abuser. If you fail to serve the papers on your abuser your case will be dismissed. Once the abuser is served, he/she can be arrested for violating the terms of the court order.

### **7.20 How do I get a final Protection From Abuse Order?**

A hearing will be held and the judge will listen to the facts of your case. If the judge agrees that abuse has occurred, a final protection order will be issued for up to one year.

### **7.21 What will happen on my hearing day?**

You should check in with the Court Clerk and advise them that you will be present at the hearing. If one is available, talk to a domestic violence advocate who will tell you about the hearing and assist you with any questions you may have about your case. Your day in Court could be a very long day. There are often many cases scheduled along with yours. Try to be patient with the judicial process.

### **7.22 What are the possible outcomes of my hearing?**

There are several possible outcomes at your scheduled Protection From Abuse Hearing. The following is a list and explanation of the possible outcomes.

1. **Agreement:** The person you filed a petition against agrees to a Protection From Abuse Order.
2. **Status:** If you feel that your abuser needs counseling for anger management or drug/alcohol abuse and your abuser is willing to get the treatment, the two of you may agree to a three month status. The abuser must seek help for the abuse issues. If the abuser brings proof of this help to the court in three months, the Order will be dropped. If the abuser does not comply with the status, you may go forward with the hearing.
3. **Continuance:** You or your abuser may ask for a continuance to get an attorney, to bring witnesses or documents if you were not able to serve the court papers on the person you filed against.
4. **Default:** If the person you filed against does not show up for the hearing and you properly served him/her with the court papers, the judge may enter the Final Order for Protection. You must serve the abuser with the Final Order as you did with the Temporary Order.
5. **Trial:** If you and the person you filed against cannot agree to an Order and there is no request for a continuance, your case will go to trial that day. At trial, you will need to tell the judge about the incident and cross examine your abuser. The judge will then decide if you will receive a Final Order and what the order will say.

6. **Withdrawal:** You may withdraw your petition for the PFA Order. Keep in mind that you may not re-file based on the same incident of abuse once you have withdrawn your petition, and you will not have any Order for Protection in place.

### **7.23 What should I wear to court?**

You should dress appropriately. You should not wear shorts, t-shirts or jeans. Look as nice as possible. The courtroom is a formal setting and your appearance may affect the judge's perception of how serious you are about your case.

### **7.24 How should I act at my hearing?**

Always be respectful and polite. Direct all of your comments in the courtroom to the judge. Never interrupt the judge, another party, or the attorney of the other party. Control your emotions, expressions, and body language. Do not argue with the other party in the courtroom. Listen to the judge and other court officials. Do not eat food or chew gum in the courtroom.

### **7.25 What will the Judge ask me at my hearing?**

The Judge will ask you to talk about your problems relating to the abuse. He is looking for the legal reasons to issue a Protection From Abuse Order.

### **7.26 What should I do to prepare for the Protection From Abuse hearing?**

Make a list of what you want to tell the judge. Practice what you want to say out loud. Bring your list to court and look at it before your case is presented. If you have witnesses, make a list of the questions you wish to ask them. Also make a list of any questions you may want to ask your abuser and/or witnesses he may call.

### **7.27 What should I bring to the Protection From Abuse hearing?**

Aside from any witnesses you may have, you should also bring your Temporary Order and your completed Affidavit of Service (proof that the order was delivered and received to your abuser). Additionally, you should bring copies of any medical records from your doctor or hospital, medical bills, or other documents/materials which can document your abuse.

### **7.28 If a police officer witnessed the abuse, how can I get him/her to testify?**

Contact your county domestic relations division of the court and ask for assistance getting a subpoena issued to require the officer to be present at your hearing. Be sure to have a request for the police report and any other relevant documents included in your subpoena request. There is usually a charge to have a subpoena issued for a Police Officer.



### **7.29 Will my Protection From Abuse Order be enforced in another county?**

**Yes.** The Pennsylvania State Police maintain a registry of all Protection From Abuse Orders issued throughout the Commonwealth. A court will enforce a valid protection order that is issued in another county and recorded in the Pennsylvania State Police Registry.

### **7.30 What should I do with my Protection From Abuse Order?**

**KEEP YOUR PROTECTION ORDER WITH YOU AT ALL TIMES.** You may also consider leaving a copy of the order with a friend or family member for safe keeping. Give a copy of the order to your local police department and to your children's daycare center. Make sure you keep copies wherever you go.

### **7.31 What if I lose my Protection From Abuse Order?**

Your Protection From Abuse Order is automatically added to a statewide registry once it is granted allowing police statewide to access the information about your case. To obtain another copy, contact your County Domestic Relations office.

### **7.32 Do Protection From Abuse Orders and other legal remedies guarantee my partner won't hurt me again?**

**No.** Unfortunately, no legal action will stop some abusers. Abusers may simply not care about the law and will not stop. You should contact your local domestic violence program to do additional safety planning for you and your family.

### **7.33 What if my abuser violates the Protection From Abuse Order?**

Violation of the Protection Order is a crime in Pennsylvania. If your abuser violates the Protection Order, call 911 immediately and report the violations to the police. A police officer can arrest the abuser, even if he/she does not witness the abuse.

Depending on the facts of your case, the District Attorney's Office in your county may bring charges against your abuser. Your abuser may be prosecuted, charged with a crime, sent to jail and/or ordered to pay a fine.

## ***CONTEMPT PROCEEDINGS***

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### **7.34 What is Contempt of the Protection From Abuse Order?**

A violation of the Protection From Abuse Order is commonly referred to as contempt. If your abuser is arrested for violation of the PFA Order, he will be processed, fingerprinted, photographed, and arraigned before a judge. Often the District Attorney's Office will charge your abuser with several other related offenses such as simple assault and aggravated assault, threats, etc. If your abuser is charged with more serious crimes, he will then proceed to a preliminary hearing. If the related charges are for misdemeanors only, a District Attorney before a Family Court judge will usually try the charges.

Contempt of the Protection From Abuse Order is divided into three (3) categories.

1. **Indirect Criminal Contempt:** This is usually initiated by the police arresting your abuser for violation of the Order. The police may make an arrest for violation of the non-economic provisions of the protection order whether or not the violation is committed in the presence of the police officer. The arresting officer shall seize all weapons used during the violation of the protection order or during prior incidents of abuse at the time of the arrest. If you do not have a copy of your protection order when the police arrive, the officer can verify the existence of the order by checking with the Pennsylvania State Police Protection From Abuse Registry.
2. **Civil Contempt:** If your abuser violates the PFA Order you may file a petition for civil contempt. This petition should be filed in the domestic relations unit in your county. Your local domestic violence organization may help you file this petition. Civil contempt is usually reserved for violations of economic provisions of the order, e.g. your abuser failed to pay money owed as reimbursement for your losses. If your abuser is found in civil contempt, he/she may be incarcerated until he/she complies with the order or shows an intent that he/she will comply with the order, for a maximum of six months.
3. **Private Criminal Complaint:** If the District Attorney's Office chooses not to press charges against your abuser you may file a private criminal complaint. Alleging indirect criminal contempt for violation of the non-economic provisions of the PFA order. The complaint may be filed with the court, the office of the district attorney, or the district justice in the jurisdiction where the violation occurred. You should provide the court with a copy of the final protection order, your abuser's address, and any police reports describing the violations of the order. Anyone who files a private criminal complaint for an offense related to an incident of domestic violence should not have to pay filing fees and court costs. There will be a trial and your abuser will be entitled to a right to counsel, exclusion of inadmissible evidence, and the right to a speedy non-jury trial.

### **7.35 What happens after my abuser is arrested?**

Depending upon the facts, the District Attorney may bring criminal charges against your abuser for the acts committed that were in violation of the Order. You may need to testify in court, and will receive notice of the court dates.

### **7.36 What are some questions the District Attorney (D.A.) may ask me at my abuser's Protection From Abuse Contempt Hearing?**

- What is your name?
- What is your relationship with the defendant?
- How long have you known the defendant?
- Do you have any children?
- Did you see the defendant on (the date the assault happened)?
- Tell the court what happened between you and the defendant on that day.

- How were you assaulted?
- What was the distance between you and the defendant?
- Did you sustain any injuries?
- Did you seek medical treatment?
- What did the defendant say before, during, and after the assault?
- What is the defendant's age and physical condition?
- What is your height and weight?
- Had the defendant been drinking or using drugs at the time? When did he start?
- Did he have any weapon in his hand or within reach? What did he do with it?
- Did you leave the house? Where did you go? Why did you leave?
- If you did not leave, were you afraid to leave?
- Did the police respond?

### 7.37 What are some courtroom tips for abused women?

- If you have witnesses to the actual assault, have them with you.
- Be on time for court. Judges may dismiss the case if you are not present when the case is called.
- Dress neatly but simply: pants suit, dress, skirt and blouse. Do not wear: T-shirts, shorts, tank tops, slit skirts and dresses or garments that are tight, clingy, sheer, or low cut. Avoid elaborate jewelry or strongly scented perfume.
- The first opportunity you will have to explain the facts of the case to the D.A. who prosecutes the case is usually right before he calls you to the witness stand. Be prepared to give him/her a concise version of the facts. Bring a written statement of the incident to the D.A. before the case is heard. Also, give the D.A. any pictures or other documentation you have of the assault.
- It is natural to be nervous. Rehearsing what you're going to say may help you be calmer.
- Speak loudly enough so that the judge and attorneys can hear you.
- Do not chew gum or have candy in your mouth when you are testifying.
- Speak slowly and clearly. Be calm but firm in your answers.
- Don't lose your temper or become rude with your partner or his attorney when you are cross-examined.
- Do not whisper to the D.A. unless it is very important. Doing so can disturb his or her concentration.
- Do not be afraid to look in the eyes of the judge or jury when you testify.
- If you are asked a question, and an attorney says, "Objection" before you can answer, do not answer the question until the judge rules on the objection. If the objection is "sustained," you do not have to answer.
- When you are asked a question, listen carefully and answer the question. Don't give a long explanation leading up to the answer. Be specific, yet concise in your answers.
- If you don't know the answer to a question, do not guess. If you don't know the answer or have difficulty recalling, simply say you don't recall. Don't try to add to the facts as you remember them. Don't try to over-dramatize the facts. Simply tell the truth. Do not lie about anything.

- If you are asked to give an estimate or to approximate, such as a time span or distance, make sure you phrase the answer in such a way that is only an estimate. Example: “I would say, approximately ten minutes passed, but I’m not certain of the time,” or “It was about ten feet, more or less.” If you are not sure, say so.
- The defendant’s attorney is entitled to ask you questions, which require a yes or no answer. Feel free to explain your answer following your “yes” or “no.” Don’t limit yourself to one-word answers. For example, the attorney may ask, “Do you deny that you slapped your husband?” A good response is, “No, but only after he started assaulting me. Only in self-defense.”

### **7.38 What happens if my abuser is found in contempt?**

After the hearing, the court can find the abuser in contempt of the order, charge him/her with additional crimes, and sentence him/her to prison and/or order him/her to pay a fine. For example, the sentence for indirect criminal contempt of a PFA order may include imprisonment for up to six months and/or a fine up to \$1,000. In many cases, the Court may suspend the sentence and place the defendant on probation. Often, the punishment actually awarded is another one-year protection order.

### **7.39 What if my Protection From Abuse Order has a support or custody provision?**

Contact your county Domestic Relations Office to file a formal complaint for support and custody in order to prevent the support order included in the Protection From Abuse Order from running out. Rules vary from county to county as to how to register this support action.

### **7.40 Can I change or extend my Protection From Abuse Order?**

**Yes.** If you want to change the terms of your Protection From Abuse Order you may take the following steps.

1. **Petition to Modify:** if your abuser has violated your Order, you may change your order by filing a Petition to Modify at any time.
2. **Petition to Extend:** if your abuser has violated your Order, you may wish to petition the court to extend the Order past its expiration date.

### **7.41 How should I track interactions with my abuser?**

Keep a journal of all interactions with your abuser, and any violations of your Protection From Abuse Order. Write down dates, times, locations, and potential witnesses of any violations. Also, it is important to write down the names and badge numbers of the police officers that respond to your future requests for assistance.

#### **7.42 What if I want to live with my abuser after receiving a Final Protection Order?**

Any provisions that your abuser must not abuse you and/or your children will remain in effect even if you and your partner are living together. You must file papers with the court asking the court to change the terms of the Order to read that the abuser may live with you, the abused, but still must not abuse you and/or your children.

#### **7.43 What if I don't feel like these legal remedies are enough protection?**

There are several steps you can take to distance yourself from your abuser:

1. You may want to change your home phone number and have it unlisted if you are still being harassed.
2. You may want to move to another city or town and start over. If you're afraid your partner will find you, be very careful who you tell where you're moving. Also, be careful about having your mail forwarded. Your abuser can get your new address if you fill out a change of address form at the post office or give notice of your new address to places where you and your abuser have joint accounts.
3. You may have to change your name.
4. You probably want to talk to someone at your local domestic violence program before you leave town. They can tell you more about how to protect yourself.

If you are married to your partner or separated, you may want to talk to a lawyer. Fleeing can have legal consequences in a divorce. You can always stay at the local shelter while you make more permanent plans.

### *SEXUAL ABUSE IN THE FAMILY*

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#### **7.44 What can I do if my partner sexually abuses me or forces me to have sexual relations?**

The state may charge your partner or spouse with rape or some other sexual offense if he forces you to have sex.

You should call the police if your partner forces you to have sex. There are people who will listen to you, who will counsel you and help you heal. You don't have to face it alone. Call your local rape crisis program. They can offer you emotional support, as well as talk to you about your legal rights and safety options.

#### **7.45 What should I do if I suspect or find out my partner molested, raped, or sexually abused my child?**

If you suspect a child is being abused or neglected by a parent or another person who is responsible for his care, you are required by law to report it to the Department of Social

Services. They will investigate the case. You may also report it to the police. No matter how you feel about your partner you need to get help for your child. Sexual abuse is terrifying to a child, and may leave life-long scars.

Sexual abuse is any kind of sexual behavior towards a child. Even if a child consents (agrees) to sexual conduct, it is still considered abuse. Children are not old enough to consent to or make decisions about sex.

Many times it is hard to find out if your partner has sexually abused your child. Often, the partner threatens the child. The child may be too ashamed to tell you, or the child loves the parent in spite of the abuse and won't tell you about it. If you suspect sexual abuse is happening, ask the child.

Get medical treatment for the child immediately if the sexual abuse just happened. If you call rape crisis, they can recommend a doctor who treats these types of cases. After you get medical treatment for the child, rape crisis can work with both you and your child. They can give you counseling and other types of help. If you haven't called Children and Youth Services, rape crisis or the doctor will call for you.

If the sexual abuse happened in the past, your child may not need medical treatment but may still need counseling and other help as well as protection from further sexual abuse. You must still call Children and Youth Services and you should call rape crisis. The child needs to know you will protect him or her.

## GLOSSARY

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### A

**Abuse of Discretion** - Legal term that states the standard of review an appellate court must abide by when reviewing a case appealed from the trial court level. The appellate court will not overturn the decision of the judge in the lower court unless the court abused its discretion making the decision.

**Action** - A lawsuit in which one party sues another.

**Adultery** - Consensual sexual relations when one of the participants is legally married to another person. In some states, adultery is still a crime and in many states it is grounds for divorce for the spouse of the married adulterer.

**Agreement** - Any meeting of the minds, even without legal obligation and/or in law. Another name for a contract including all elements of a legal contract: offer, acceptance, and consideration which is payments or performance of a duty based on specific terms.

**Alimony** - Support paid by one ex-spouse to another as ordered by a court in a divorce case.

**Alimony Pendente Lite** – Alimony paid in the period before a divorce is final (i.e. during a separation or divorce proceedings)

**Annulment** - A legal or religious term that states that a marriage never existed between the parties. Annulments are only possible in a few circumstances such as when a marriage was entered into with fraud, deceit, duress, lack of mental capacity, or a party was already married, legally too young, or the marriage was incestuous. Annulments are often difficult to prove. Should you desire an annulment you should consult an attorney. If you are seeking an annulment for religious reasons and need to go through a church procedure rather than, or in addition to, a legal proceeding, you should consult your priest or minister.

**Appeal** - To ask a higher court to review and reverse the decision of a trial court after a final judgment has been entered or other legal ruling has been made.

**Appraiser** – A professional who makes appraisals or estimates as to the value of property.

**Arrears** – Money not yet paid when due, usually the sum of a series of unpaid amounts, such as rent, installments on an account or promissory note, or monthly child support. This is sometimes called arrearages by the court in a child support matter.

**Asset** – Any item of property that has a monetary value. Assets are shown in balance sheets of businesses and inventories of probate estates.

### B

**Breach of Contract** – Failing to perform any term of a contract, written or oral, without a legitimate legal excuse. This may include not completing a job, not paying in full or on time, failure to deliver all the goods, substituting inferior or significantly different goods, being late without excuse, or any act which shows the party will not complete the work.

## C

**Capital Gains** – The difference between the sale price and the original cost plus improvements to property.

**Child** – A person's natural offspring, or generally a person 14 years and under. A child should be distinguished from a minor who is anyone under 18 years of age in most all states.

**Child Custody** – The court's determination of which parent, relative or other adult should have physical and/or legal control and responsibility for a minor/child under 18. While a divorce is pending the court may grant temporary custody to one of the parents, require conferences, psychological evaluations or investigation before making a final ruling. There is a difference between physical custody, which designates where the child will actually live, and legal custody, which gives the custodial parent or person(s) the right to make decisions for the child's welfare. If the parents agree, the court can award joint custody, physical and/or legal. Joint custody is becoming increasingly more common between parties.

**Child Support** - Court ordered funds to be paid by one parent to the custodial parent of a minor child after divorce or separation.

**Common-Law Marriage** – An agreement between a man and woman to live together as husband and wife without any legal formalities such as a wedding ceremony followed and/or preceded by cohabitation on a regular basis. Common-law marriages are only legal in the Commonwealth of Pennsylvania and recognized by the state if the marriage occurred prior to 2005.

**Complaint** – The first document filed with the court, usually the Clerk of the Court by a person or entity claiming legal rights against another. The party filing the complaint is usually called the plaintiff or petitioner and the party against whom the complaint is filed is called the defendant or respondent. Complaints are pleadings that must be carefully drafted most often by an attorney to properly state the factual as well as legal basis for the claim.

**Compromise** – An agreement between opposing parties to settle a dispute or reach a settlement in which each gives some ground, rather than continue the dispute or go to trial.

**Consent** – A voluntary agreement to another's proposition or to voluntarily agree to an act or proposal of another.

**Consent Decree** – An order of a judge based upon an agreement, almost always put in writing, between the parties to a lawsuit instead of continuing the case through trial or hearing.

**Conciliation** – The adjustment and settlement of a dispute in a friendly, non-antagonistic manner. This is used in family courts in custody disputes before trial with a view towards avoiding trial.

**Contempt of Court** - There are essentially two types of contempt: 1) being rude, disrespectful to the judge or other attorneys or causing a disturbance in the courtroom, particularly after being warned by the judge; 2) willful failure to obey an order of the court. The court's power to punish for contempt called citing one for contempt includes fines and/or jail time also called imposing sanctions. Incarceration or jail time is generally just a threat and if imposed, usually brief.

**Contingent Fee** - Fee to a lawyer which will be due and payable only if there is a successful conclusion of the legal work, usually winning or settling a lawsuit in favor of the client



particularly in civil negligence cases, or collecting funds due with or without filing a lawsuit. Usually, such agreements must be in writing and signed by the attorney and client. The fee is generally a percentage of the recovery-money won, but may be partly a fee for time worked and partly a percentage. Although fees are negotiable, a standard contingent fee in accident cases is 30-40 percent of the money won, unless extreme difficulties exist with the case, making the attorney believe he/she has the right to ask for more.

**Continuance** – Postponement of a date of a trial, hearing or other court appearance to a later fixed date by order of the court, or upon a stipulation which is a legal agreement by the attorneys and approved by the court.

**Court** – The judge or any official tribunal (court) presided over by a judge or judges in which legal issues and claims are heard and determined.

**Court Costs** – Fees for expenses that the courts pass on to attorneys, who then pass them on to their clients or to the losing party. Court costs usually include: filing fees, charges for serving summons and subpoenas, court reporter charges for depositions, court transcripts, and copying papers and exhibits.

**Cross-Examination** – Opportunity for the attorney or an unrepresented party to ask questions in court of a witness who has testified in a trial on behalf of the opposing party. The questions on cross-examination are limited to the subjects covered in the direct examination of the witness. The attorney has the opportunity to ask leading questions, in which he/she is allowed to suggest answers or put words in the witness' mouth. A strong cross-examination can force contradictions, expressions of doubts or even complete obliteration of a witness' prior carefully rehearsed testimony.

**Custody** – In domestic relations or family law matters such as divorce, custody is a court's determination of which parent or other appropriate party should have physical and/or legal control and responsibility for a minor child. It can also mean holding property under one's control or a law enforcement officials' act of holding an accused or convicted person in criminal proceedings, beginning with the arrest of that person.

**Custody Conciliator** – Is a person, usually an attorney, who aids the parents in structuring the certain terms of their shared custody arrangement by effectuating a binding legal document. The conciliator provides a non-threatening, non-adversarial negotiating session in which both parties are encouraged to negotiate and communicate their goals for parenting such as structured partial custody times with each parent. The goal of the conciliator in the custody conference is to assist in preserving and maintaining the bond and relationship children are entitled to experience with both parents.

## D

**Decree** – A judgment or judicial decision. It is the common or preferred term in domestic relations/divorce. When your divorce decree is entered, the court deems you legally divorced.

**Defendant** – Party sued in a civil lawsuit or the party charged with a crime in a criminal prosecution. In some types of cases such as divorce a defendant may be called a respondent.

**Depose** – Called in to answer questions by the other spouse's lawyer

**Deposition** – Out of court testimony of a witness taken down in writing under oath to be used in an upcoming legal proceeding.

**Direct Examination** – First questioning of a witness during a trial or deposition, as distinguished from cross-examination by opposing attorneys and redirect examination when the original attorney again questions the witness.

**Distribution** – Act of dividing up the assets of an estate, marriage or trust, or paying out profits or assets of a corporation or business according to the ownership percentages.

**Dissolution** – A modern and gentler term for divorce that is typical of the no-fault divorce or a non-confrontational approach to dissolving a marriage.

**Divorce** – Termination of marriage by legal action, requiring a petition or complaint for divorce.

**Domestic Relations** – Polite term for the legal field of divorce, dissolution, annulment, child custody, child support, alimony and abuse.

**Domestic Violence** – Continuing crime and problem of the physical beating of a spouse/wife, girlfriend, and/or children, usually by the woman's male partner although it can also be a female partner or female violence against a male or other family member.

**Domicile** – Place where a person has his/her permanent principal home to which he/she returns or intends to return. This becomes significant in determining in what state a probate of a dead person's estate is filed, what state can assess income or inheritance taxes, where a party can begin divorce proceedings, or whether there is diversity of citizenship between two parties which may give federal courts jurisdiction over a lawsuit. Where a person has several "residences" it may be a matter of proof as to which is the state of domicile. A business has its domicile in the state where its headquarters is located.

## **E**

**Equitable** – Just, even handed, based on fairness, and not upon legal technicalities.

**Equitable Distribution** –The process courts use to distribute equitably/fairly upon divorce all property legally and beneficially acquired during marriage by a husband and wife, or either of them, whether legal title lies in their joint or individual names.

**Expert Testimony** – Opinions stated during trial or deposition which is testimony under oath before trial by a specialist qualified as an expert on a subject relevant to a lawsuit or a criminal case.

**Expert Witness** - Person who is a specialist in a subject area, often technical, who may present his/her expert opinion without having been a witness to any occurrence relating to the lawsuit or criminal case. It is an exception to the rule against giving an opinion in trial, provided that the expert is qualified by evidence of his/her expertise, training and special knowledge. If the expertise is challenged, the attorney for the party calling the expert must make a showing of the necessary background through questions in court, and the trial judge has discretion to qualify the witness or rule he/she is not an expert, or is an expert on limited subjects.

## **F**

**Fact** – Actual thing, happening or authenticated incident which must be proved at trial by presentation of evidence and which is evaluated by the finder of fact, a jury in a jury trial or by the judge if he/she sits without a jury at a bench trial.

**Family** - Husband, wife, and children, or all blood relations. Also, all who live in the same household.

## **H**

**Hearing** – Is any proceeding before a judge or other magistrate without a jury in which evidence and/or argument is presented to determine some issue of fact or both issues of fact and law. While technically a trial with a judge sitting without a jury fits the definition, a hearing usually refers to brief sessions involving a specific question at some time before the trial itself.

**Hearing Officer** – One who presides at a hearing with power to administer oaths, take testimony, rule on questions of evidence, regulates course of proceedings and makes determinations of fact in the family law context in Equitable Distribution and custody and support matters.

## **I**

**Income** - Money, goods, compensation, earnings or other economic benefit received.

**Irretrievably Broken** – A term used in a divorce action which means that the marriage relationship is broken and cannot be repaired.

## **J**

**Joint Custody** - A decision by the court, often with agreement between the parents, that they will share custody of a child.

**Joint** - Referring to property, rights or obligations which are united, undivided and shared by two or more persons or entities.

**Jurisdiction** - Authority given by law to a court to try cases and rule on legal matters within a particular geographic area and/or over certain types of legal cases.

## **L**

**Legal Separation** – The Court-decreed right to live apart, with the rights and obligations of divorced persons, but without divorce taking place. The parties are still married and cannot remarry. A spouse may petition for a legal separation usually on the same basis as for a divorce, and include requests for child custody, alimony, child support and division of property. For people who want to avoid the supposed stigma divorce, who hold strong religious objections to divorce or who hope to save a marriage, legal separation is an appropriate solution.

**Legal Services** – Legal work performed by a lawyer for a client.

**Litigate** – To settle a dispute or seek relief in a court of law.

## M

**Marriage** - Joining of two individuals in matrimony by person qualified by law to perform the ceremony such as a minister, priest, judge, justice of the peace or some similar official, after having obtained a valid marriage license which requires a blood test for venereal disease and a waiting period from one to five days in many states. Marriage is referred to as a legal contract, and, for many, it is also a religious contract. The standard age for marriage without parental consent is 18.

**Master** – In family law matters the judge appoints a person called a master to hear divorce cases. The Master process came into existence to assist judges in managing their case load. Almost always, a master is an attorney who virtually has the same powers as a judge. In practical terms, the only difference is the person's formal title.

**Mortgage** - Document in which the owner pledges his/her/its title to real property to a lender as security for a loan described in a promissory note.

**Mutual Consent Divorce** – A divorce case where you and your spouse agree to everything in the divorce action from the beginning of the action, or where you and your spouse negotiate or disagree, but eventually reach an agreement. A mutual consent divorce can be obtained in 90 days after the filing of the complaint.

## N

**Negotiation** – The deliberation, discussion, or conference in an attempt to reach an agreement or settle a dispute.

**Negotiated Divorce** – A divorce which by mutual consent the parties to the divorce action agree to settle all matters pertaining to the divorce and Equitable Distribution without the need of court interference.

**No Fault Divorce** – Divorce or dissolution of a marriage in which neither spouse is required to prove fault or marital misconduct on the part of the other.

## O

**Order** - Direction or mandate of a judge or a court which is not a judgment or legal opinion. Although, both may include an order directing that something be done or that there is prohibition against some act. In support actions, an order is entered as to how much one party will pay to another.

## P

**Parent** - Lawful and natural father or mother of a person. The word does not mean grandparent or ancestor, but can include an adoptive parent as a replacement for a natural parent.

**Partner** - Someone with whom you share a personal relationship (boyfriend/girlfriend, spouse/ex-spouse, child's biological parent, etc).

**Pendente Lite** - Latin term for awaiting the litigation or lawsuit. It is applied to court orders such as temporary child support which are in effect until the case is tried, or rights which cannot be enforced until the lawsuit is over.

**Plaintiff** - Party who initiates a lawsuit by filing a complaint with the clerk of the court against the defendant(s) demanding damages, performance and/or court determination of rights.

**Pleading** - Every legal document filed in a lawsuit, petition, motion and/or hearing, including the complaint, petition, answer, demurrer, motion, declaration and memorandum of points and authorities written argument citing precedents and statutes. Pleadings are required by state or federal statutes and/or court rules to be of a particular form and format: typed, signed, and dated, with the name of the court, title and number of the case, name address and telephone number of the attorney or person acting for him/her. The act consists of preparing and presenting legal documents and arguments.

**Praecipe** - This is a written legal document that commands a person to do something, or prove that he or she should not have to do so.

**Probable Cause** - Enough information is presented to allow a reasonable person to believe that something has occurred.

**Pro Bono** - Legal work or services done or performed free of charge.

**Pro se** - Appearing for oneself. One who does not retain a lawyer and appears for her/himself in a court proceeding.

**Prothonotary** –The court clerk; the office in which divorce actions are filed; the title given in Pennsylvania to an officer who officiates as principal clerk of some courts

**Prenuptial Agreement** – A written contract between two people who are about to marry, setting out terms of possession of assets, treatment of future earnings, control of property of each, and potential division thereof if the marriage is later dissolved.

## R

**Real Property** – Land, structures, firmly attached and integrated equipment such as light fixtures or a well pump, anything growing on the land, and all interests in the property, which may include the right to future ownership, right to occupy for a period of time, the right to drill for oil, the right to get the property back if it is no longer used for its current purpose such as use for a hospital, school or library.

**Residence** - Place where one make his/her home. However, a person may have his/her state of domicile elsewhere for tax or other purposes, especially if the residence is for convenience or not of long standing.

## S

**Separate Property** - State laws vary, but generally separate property is, has been, or can be controlled by the spouse owning it.

**Separation** - Married persons living apart, either informally by one leaving the home or agreeing to separate while sharing a residence without sexual relations, or formally by obtaining a legal separation or negotiating a separation agreement setting out the terms of separate living.

**Separation Agreement** - Agreement between two married people who have agreed to live apart for an unspecified period of time, perhaps forever. The agreement generally covers any alimony, money paid for spousal support, child support, and custody arrangements if there are children, payments of bills and management of separate bank accounts.

**Spousal Support** - Payment for support of an ex-spouse or a spouse while a divorce is pending ordered by the court.

**Statute** - Federal or state written law enacted by the Congress or state legislature, respectively.

## T

**Title** - Ownership of real property or personal property, which stands against the right of anyone else's claim to the property. In real property, title is evidenced by a deed, judgment of distribution from an estate or other appropriate document recorded in the public records of the county. Title to personal property is generally shown by possession, particularly when no proof or strong evidence exists showing that the property belongs to another or that it has been stolen or known to be lost by another. In the case of automobiles and other vehicles, title is registered with the state's Department of Motor Vehicles, which issues a title document to the owner.

## U

**Uncontested Divorce** - A divorce action where your spouse cannot be located or your spouse is not willing to cooperate in the mutual consent procedure, but does not actively oppose the divorce. The legal basis in most uncontested divorces is that you and your spouse have lived separate and apart for a period of at least one year, and your marriage is irretrievably broken.

## W

**Witness** - Person who testifies under oath in a trial or a deposition which may be used in a trial if the witness is not available with firsthand or expert evidence useful in a lawsuit. A party to the lawsuit, plaintiff or defendant, may be a witness. It can also be a person who sees an event or a person who observes the signing of a document such as a will or a contract and signs as a witness on the document attesting that the document was signed in the presence of the witness. To sign a document verifying that he/she observed the execution of the document such as a will.

## Y

**Your Honor** - The proper and respectful way to address a judge in court.

**APPENDIX A**

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**NATIONAL RESOURCES**

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Child Find of America	(800) 426-5678
Child Help U.S.A. Abuse Hotline	(800) 422-4453
Child line 24 Hour Hotline	(800) 422-4453
Department of Health & Human Services	(800) 662-7030
National Center for Missing & Exploited Children	(800) 843-5678
National Domestic Violence Hotline	(800) 799-7233
National Sexual Abuse Hotline	(800) 656-4673
State Department: Oversees Citizens Services	(888) 407-4747

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**REGIONAL RESOURCES**

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Alanon	(215) 222 5244
Alcoholics Anonymous	(215) 923-7900
Alpha Divorce Center – Mediation Services	(800) 310-9085
Disciplinary Board of Supreme Court of PA	(717) 231-3380
Judicial Conduct Board of PA	(800) 525-8261
Juvenile Law Center	(800) 875-8887 or (215) 625-0551
Legal Clinic for the Disabled	(215) 587-3350
Menergy – Counseling for Batterers	(215) 242-2235
Pennsylvania Bar Association Lawyer Referral	(800) 692-7375
Pennsylvania Bureau of Child Support Enforcement	(800) 932-0211
Pennsylvania Legal Aid Network	(717) 236-9486
The Law Project of Pennsylvania HIV Services	(215) 587-9377 will take collect calls

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**COUNTY RESOURCES**

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**Bucks County**

A Woman's Place – Domestic abuse services	(800) 220-8116
Bar Association of Bucks County	(215) 348-9413
District Attorney's Office of Bucks County	(215) 348-6344
Domestic Relations of Bucks County	(215) 340-8068
Legal Aid of Southeast Pennsylvania	(215) 781-1111 or (215) 340-1818
Network of Victim Assistance (NOVA)	(800) 675-6900 24-hour hotline Business: (215) 343-6543

**Chester County**

Chester County Lawyer Referral	(610) 429-1500
Chester County Court House	(610) 344-6000
Chester County Court House – Family Court Administrator, Protection From Abuse (PFA)	(610) 344-6405
Crime Victim Services – Sexual Assault Hotline	(610) 692-1926
District Attorney of Chester County	(610) 344-6801
Domestic Relations of Chester County	(610) 344-6215
Domestic Violence Center of Chester County	(610) 431-1430
Legal Aid of Chester County	(610) 436-4510

**Delaware County**

Bar Association of Delaware County – lawyer referrals	(610) 566-6625
Bureau of Child Support Enforcement – Media	(610) 891-4314
Center for Resolutions	(610) 566-7710
Children and Youth Services	(610) 713-2000
County Court House & Government Center	(610) 891-4000 main phone number
District Attorney’s Office	(610) 891-4161
Domestic Abuse Project 24 Hour Hotline	(610) 565-4590
Domestic Relations of Delaware County	(610) 891-4314
Legal Aid of Southeast PA – Delaware County Division	(610) 874-8421
Legal Clinic for the Disabled	(215) 587-3350
Women Against Rape 24 Hour Hotline	(610) 566-4342

**Montgomery County**

Bar Association of Montgomery County – Lawyer Referrals	(610) 279-9660
County Court House	(610) 278-3000
District Attorney’s Office	(610) 278-3090
Domestic Relations of Montgomery County	(610) 278-3646
Domestic Violence 24-Hour Hotline Women’s Center of Montgomery County	(800) 773-2424
Legal Aid of Southeast Pennsylvania	(610) 275-5400 Norristown (610) 326-8280 Pottstown
Victim Services – Sexual Assault	(888) 521-0983 or (610) 277-5200

**Philadelphia County**

Bar Association of Philadelphia County	(215) 238-6300
Bar Association of Philadelphia County – Lawyer Referral	(215) 238-6333
Bureau of State Child Support Enforcement	(800) 932-0211
Center City Crime Victims Services	(215) 665-9680
Community Legal Services	(215) 981-3700 Center City
Congreso De Latinos Unidos	(866) 723-3014 or (215) 763-8870 x1353
Counseling and Referral Service Hotline	(215) 342-7660
County Court House – Court of Common Pleas	(215) 686-7000
Department of Human Services – Children & Youth	(215) 683-6100
District Attorney – Main Office	(215) 686-8000
District Attorney – Private Criminal Complaint Unit	(215) 686-9863



District Attorney – Child Support Unit	(215)686-1970
District Attorney – Rape, Domestic Violence, Child Abuse	(215) 686-8096
District Attorney – Victims Services Unit	(215) 686-8027
District Attorney – Victim/Witness Unit	(215) 686-8027
Domestic Relations of Philadelphia	(215) 686-7466 Family Court
East Division Victim Services	(215) 686-8027
Education Law Center	(215) 238-6970
Families of Murder Victims	(215) 686-8033
Lawyer Referral Information Services	(215) 238-6333
Legal Aid	(215) 981-3700
Legal Clinic for the Disabled	(215) 587-3350 or (215) 587-3352
Lutheran Settlement House	(215) 426-8610
Northeast Victim Services	(215) 332-3888
Northwest Victim Services	(215) 438-4410
Penn Legal Assistance Office – Custody, Support	(215) 898-8427
Philadelphia Children’s Alliance	(215) 387-9500
Philadelphia Domestic Violence Hotline	(866) 723-3014 Main
Philadelphia Family Court Domestic Relations Section	(215) 686-7466
Philadelphia Family Court Domestic Violence Unit	(215) 686-3512
Philadelphia Legal Assistance	(215) 981-3800
Philadelphia Volunteers for the Indigent	(215) 523-9550
Senior Law Center	(215) 988-1244
Support Center for Child Advocates	(215) 925-1913 or (267) 546-9200
Temple Elderly Law Project	(215) 204-6887 or
Temple University Legal Aid Office	(215) 204-1880
Women Against Abuse 24-Hour Hotline	(866) 723-3014
Women Against Abuse Legal Center	(866) 723-3014
Women in Transition - Lifeline	(215) 564-5301
Women Organized Against Rape	(215) 985-3333
Women’s Law Project	(215) 928-9801

## APPENDIX B

# Example of Civil Court Fees

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These fees are listed to give you an idea of what the court charges for different procedures. **THESE FEES ARE ONLY AN EXAMPLE.** These are the Delaware County court fees. They will be different in your specific county. Contact your attorney or county courthouse for a list of current fees.

Appeal from Arbitration	\$391.00	Revivals	
Appeal from District Justice	\$294.50	Adverse	\$ 35.25
Appeal to Higher Court	\$ 58.50	Amicable	\$ 17.50
Plus check payable to Appellant Court	\$ 85.50	Suggestions	\$ 10.00
Assignments	\$ 10.25	Satisfactions, SD&E, Withdrawals	\$ 10.00
Articles of Association	\$ 13.50	Subpoena	\$ 3.25
Certifications		UCC Filings	
1st page	\$ 5.95	Searches	
Additional pages each	\$ 1.00	Per debtor name	\$ 95.00
Certification of Notary Public	\$ 3.30	Per copy of each statement	\$ 5.00
Complaint - Civil Action	\$297.25	Non-conforming forms	\$ 95.00
Complaint for Custody	\$297.25	Writ of Execution	\$ 30.00
Each additional count	\$ 35.00	With garnishee	\$ .50
Complaint - Divorce No-Fault	\$297.25	Custody Complaint Alone	\$300.25
Additional count \$39.50 each count		New counts in counterclaim only	
Docket Entries per page	\$ 1.00	in Divorce	\$ 28.00
Judgments		Custody	\$ 35.00
Complain and Confession	\$297.25	Appeal from Master in ED	\$300.00
Default or Judgment that already has docket number	\$ 17.50	Motion for Appoint. of Special	
District Justice Judgment transfer	\$ 23.75	Master in Divorce	\$250.00
Note, Bond, or Transfer	\$ 40.00	Motion/Emergency Custody	\$ 36.00
Foreign Judgment	\$ 40.00	Registration	\$ 35.25
Land Use Appeal	\$297.25	Petition to Modify Custody	\$128.00
Lien	\$ 23.50	Praeipce to Transmit Divorce	\$ 24.50
Mechanics Lien	\$ 25.25	Property Settlement Agreement	\$ 10.00
Out of County Custody/Divorce	\$ 50.00	Qualified Dom. Relations Order	\$ 30.00
Out of County Writ	\$ 40.00	Retake Prior Name(with DELCO	
Petition to Commence an Action	\$296.75	Divorce #)	\$ 24.50
Petition to Open or Strike a Judgment	\$296.75		
Praeipce to Transmit	\$ 24.50		
Praeipce and Writ of Summons	\$203.00		
Recording Miscellaneous Document	\$ 20.00		



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