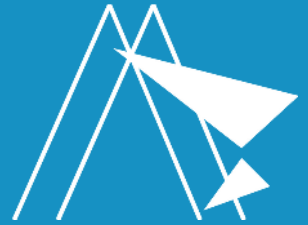


How to Plan for Your Divorce



20 N. CLARK STREET, SUITE 3300 CHICAGO, IL 60602
ILLINOISLAWFORYOU.COM | (312) 715-0870



Going through a Divorce is not easy. Don't do it alone - Read more to know what to expect, what the laws are in the State of Illinois, and how to choose the right Divorce Attorney for you.

How to Plan for Your Divorce

Because failing to plan, is planning to fail. Know your rights, and get the Divorce Settlement that you Deserve with the Results you Desire.

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ANDERSON BOBACK & MARSHALL
FAMILY LAW ATTORNEYS
20 N. CLARK STREET, SUITE 3300
CHICAGO, IL 60602 (312) 715-0870

PLANNING FOR DIVORCE

A divorce is a life-changing event, and just like you plan for other life-changing events such as a marriage, the arrival of a child, or purchasing real estate, planning for divorce will ease the process and remove a lot of stress. Many facets of your life will change, but knowing what to expect, and choosing the right divorce attorney to look out for your interests, allows to move forward with confidence.

Whether you are the spouse that is seeking a divorce, your spouse has filed or is planning to file, or a joint decision has been made to end the marriage, there are a number of things that you can do to facilitate an amicable separation.





Agreement to Separate

The decision has been made to separate, so where to begin? You usually think of the house and living arrangements, children, bank accounts, and income coming into the household.

There are also high emotions during this time. In addition to trying to think of practical matters such as separating assets and debt, you may also have a lot of emotions combined with just as many questions. You may be wondering:

- What are the shared marital assets and debts?
- Will my spouse have to help pay the debts that have been incurred?
- Which assets and debts will each of us take from the marriage?

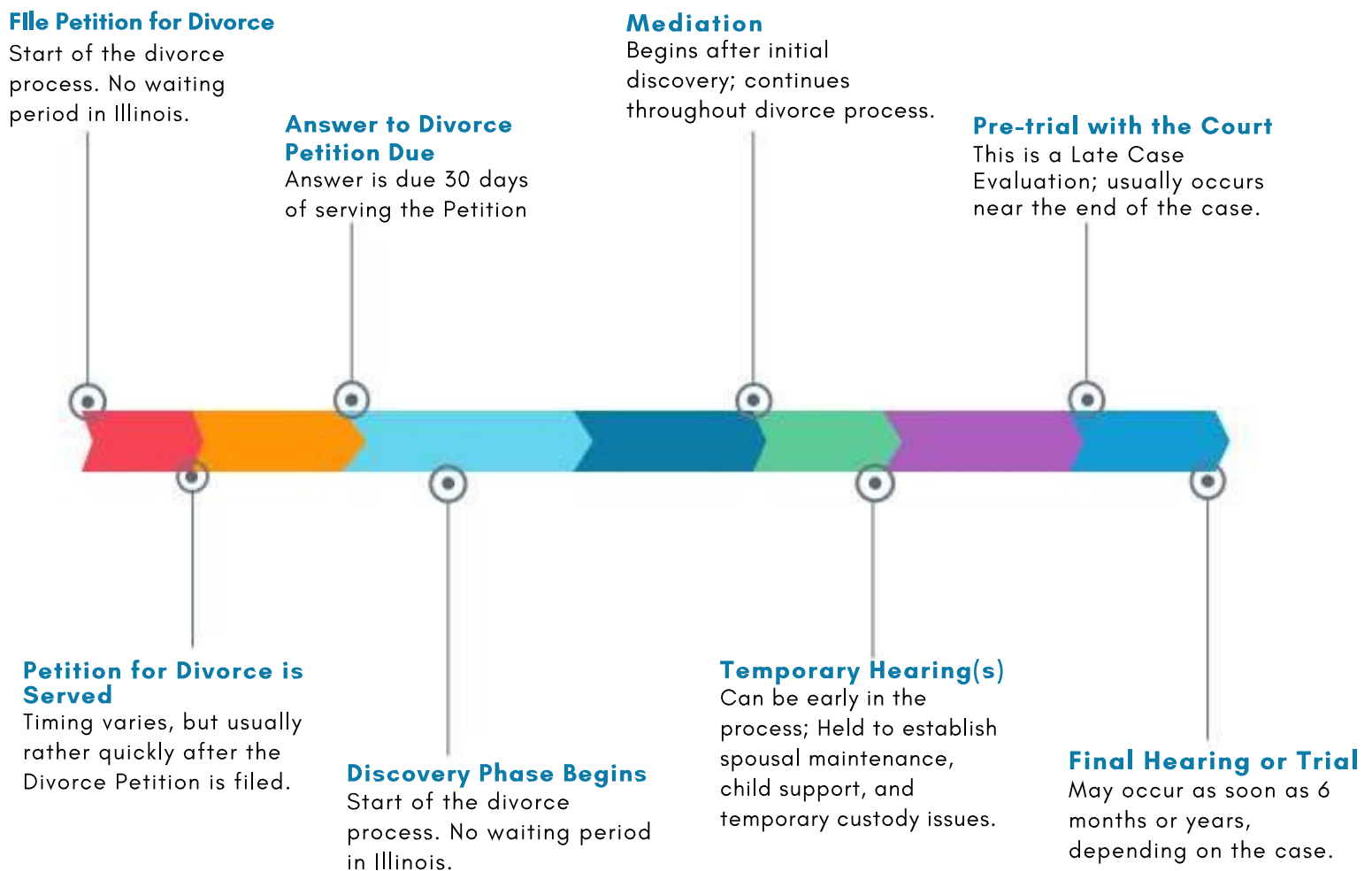
- Will I receive maintenance (alimony)?
- What will the parenting time be for each of us?
- How will I negotiate who spends the majority of time with the children?
- How much will each of us have to pay for child-related things like their school and extracurricular activities?
- How much money will I have to raise the children?

That's why retaining the right lawyer with experience in family law is so important. With the right attorney, you will know what to expect, allowing you to plan for your future.

HOW LONG WILL MY DIVORCE TAKE

You may be wondering how long the entire divorce process will take. This is a stressful time and while you may just want it to be over to move on with your life, you should prepare to get the settlement you deserve. In some cases, the entire process can take as little as six months, or up to several years if the case is complicated with high-conflict.

Here is what you can expect as a typical timeline:





Decided to File - What to Expect

FILING A PETITION

Filing a petition is the first step. There is not a waiting period in Illinois provided that one of the spouses is a legal resident in Illinois. There is a fee to file a petition, your attorney can tell you what the fee is in your county. In some cases, this filing fee may be waived if the petitioner cannot afford it. The divorce may be granted if the petitioner has been a legal resident of the state of Illinois for at least 90 days prior to the judgment.

TEMPORARY ORDERS

After the initial filing, temporary orders are issued to address:

- Spousal maintenance, also known as alimony
- Parenting time, or visitation
- Child support

All temporary orders remain effective until the finalization of the divorce.



Main Areas of a Divorce Settlement

- 1. Separation of Assets**
- 2. Separation of Debt**
- 3. Ongoing Maintenance (Spousal Support)**
- 4. Child Support**
- 5. Child Custody**

1. Separation of Assets

Your assets are much more than just the home you live in and the joint bank account. Assets of the marriage may include:

- Home
- Vehicles, RVs, boats, motorcycles
- Bank accounts, checking and savings
- Furniture
- Investments, including retirement accounts such as IRAs or 401(k)s
- Pensions
- Inheritances
- Artwork or other valuable items

Be prepared to produce a financial affidavit statement of all assets, including when it was purchased and if it was purchased with marital funds. Regardless of who earned the most money during the marriage, assets that were acquired throughout the marriage are considered marital property unless specifically excluded by a prenuptial agreement or excluded as an inheritance or a gift. It is important to know the asset's worth and any debt owed against it to determine the equity.

Illinois law dictates that all marital property, assets, and debts, be divided "equitably," not "equally." This is not the same in every state. To determine what is equitable, the contribution that each party made to acquire the property is considered, in addition to the financial circumstances and the likelihood of each spouse to acquire assets in the future.



Let's Review Each Asset in Further Detail

THE FAMILY HOME

Separating the home is not a simple process. If parties cannot come to an agreement, the judge will make the decision. It must be decided if one party will stay in the home, and if so, how to separate the equity. The property will be divided legally upon judgment, although provisions can be made to allow for payments to be made over time. Try to locate any prior appraisals on all properties owned. If one party wants to stay in the home, you must be prepared to pay the other their share of the equity. You could be required to refinance the house to remove the other's name from the mortgage and title.

VEHICLES

Vehicles include all Automobiles in the family, Recreational Vehicles (RVs), Boats and Motorcycles. Vehicles are considered marital property if they were purchased during the marriage. Make a list of all vehicles and don't forget any recreational vehicles. List the vehicle's year, make and model, the date and amount of purchase, what the vehicle is worth and any outstanding debt against the vehicle.

BANK ACCOUNTS

Bank accounts include balances in savings, checking and money market accounts. Balances in cash accounts are considered marital funds and are subject to an equitable division of assets. If you fear that your spouse will clean out any joint accounts, protect yourself and move half of the funds into a new account in your name alone. Disclose that you have done this, and do not spend the money foolishly. You will be required to account for it later and you might need to pay it back.

If you are not comfortable with your spouse having control of cash accounts, speak with your attorney about freezing the accounts.

FURNITURE

Unless inherited or specified otherwise, furniture purchased during the marriage is considered marital assets. Coming to an agreement with your spouse about who is going to keep what is often very helpful to avoid ongoing bickering about items in the household. Speak with your attorney about items that you are unable to agree upon.

INVESTMENTS AND RETIREMENT ACCOUNTS

Keep track of the purchase date and present value of any investments. Any value in investments, including 401k and retirement accounts, are usually considered marital assets if they were acquired during the marriage.

There are very specific rules that apply to retirement accounts when divorcing in the State of Illinois. Make sure that you understand the procedures, and tax implications when dividing retirement income.

Learn the following tips related to dividing a retirement account:

- Wait until the divorce is final to make a transfer or you may face a 10% penalty for early withdrawal
- Divide any retirement account as a percentage, rather than a dollar value. This provides an equitable division if investment values swing with the market
- Make sure the divorce decree clearly stipulates the division of the 401k or retirement account
- Be sure to update the beneficiary of any forms with your employer or institution

PENSIONS

Any value in a pension account accrued during the marriage is marital property, even if only one spouse has a pension plan. They may not be able to draw on it for years to come, but the marital portion of a pension is divided like any other marital asset. In Illinois, a QILDRO or QDRO must be filed to direct a portion of the pension payment to the alternate spouse at the time that distribution begins.

INHERITANCES

Determining whether an inheritance is marital or non-marital property is the key to how, or if, an inheritance is divided during a divorce. Generally, however, inheritances are usually considered non-marital property.

ARTWORK AND VALUABLE ITEMS

Items acquired during the marriage are most often considered marital property. However, sometimes artwork or other valuable items can be considered gifts. It is important for your attorney to know about your valuables and how you obtained them.

Understanding the law regarding the division of assets and property is vital to obtaining the settlement that you deserve. An experienced family law firm can make sure that you keep the property and equity that you are entitled to.



2. Separation of Debt

DETAIL ALL DEBT FOR BOTH PARTIES

Make a list of all debt owed by both spouses, whether or not the debt is in your name. Write down the name of the debtor, the balance owed, and who pays the bill. Obtain statements of all debt accounts and make copies for your attorney. You will likely need to produce three years of statements on all accounts.

Keep good records of all expenditures so you explain exactly what you spent money on as you do have a duty to account for monies spent. Failure to adequately explain what money was spent on can lead to "dissipation", a term used in court to describe a wasting of marital funds. Marital debt is divided considering who is more financially able to pay the debt, not necessarily by which name the debt is in.

OBTAIN A COPY OF YOUR CREDIT REPORT

If you find that you do not have any credit in your own name, you should establish credit as soon as possible. Open a credit card in your name alone and use sparingly, only what you can pay off each month. The goal is to establish a good credit score, not increase your debt.

KEEP MAKING PAYMENTS ON ALL DEBT

Continue to make payments on any debt you have been paying. Don't let divorce proceedings ruin your credit. Even if you only make the minimum payment it will be worth keeping your credit score up.



3. Ongoing Financial Support (Spousal Support)

Spousal maintenance, also known as alimony, will be determined based on the income of both parties. Statutory guidelines dictate that maintenance awarded is typically 30% of the paying spouse's gross income less 20% of the receiving spouse's income. The duration of time maintenance is paid depends upon the length of the marriage.

Obtain all documentation of income for yourself and your spouse. This includes check stubs, W-2s, and tax returns. If your spouse is self-employed this becomes more difficult. Obtain copies of bank statements and any financial statements to help determine income.



4. Child Support

In Illinois, new support guidelines took effect on July 1, 2017. Both parents have always been obligated to support the child, but now the law states that the Court will consider both parents' incomes to determine the support.

The court determines child support by applying the child support guidelines unless the court finds that applying the guidelines would be inappropriate after considering evidence and relevant factors supporting what is best for the child. Relevant factors include but are not limited to:

- The financial resources and needs of the child
- The financial resources and needs of the parents
- The standard of living the child would have enjoyed had the marriage or civil union not been dissolved
- The physical and emotional condition of the child and his or her educational needs

The percentages used under previous law is eliminated with both parents' combined, adjusted net income used to allocate child support.



Consideration is also given to the amount of time the child is with each parent. A parent that only has the child overnight a few times a year will pay more than a parent that has the child the same amount of time as their ex-spouse.

Child support obligation continues until the child is 18 years of age unless the child is still attending high school full-time, in which case it continues until the child turns 19 or graduates from high school, whichever happens first.

Be sure to speak with your family law attorney about tax reform and how this impacts spousal maintenance and child support. Both the payor and payee will be affected beginning January 1, 2019. Currently, the payor of spousal maintenance can deduct payments from taxable income. Beginning in 2019, payors are required to pay tax on all payments. Talk to your attorney for more information.

5. Child Custody

Family courts in Illinois no longer determine "custody." Illinois no longer has "custody agreements" but rather "Allocation Judgments." These Allocation Judgments allow the parents to pick and choose or allocate, which responsibilities that they will be responsible for as it relates to their child. Mom can now be responsible for school decisions and dad can be responsible for medical care. If the parents choose to continue sharing in those responsibilities, the agreement can be written that way as well.

EMOTIONS RUN HIGH

Emotions can run high during a divorce. It is beneficial to strive for an amicable relationship with your soon to-be former spouse. If you need help in communicating or working out parenting time schedules, speak to your attorney for assistance.

Your attorney can help you with temporary arrangements designed to ease the burden, relieve stress, and deal appropriately with hostile feelings.

Do not do anything to add to the stress, or to hurt your settlement. Be especially careful of social media! Posting inappropriate things on Facebook, Instagram or any other social media can not only be embarrassing but could hurt your case. Think before you post, and do not give your spouse anything to use against you.

Follow your attorney's advice to obtain the Divorce Settlement that you deserve with the results that you desire.





How to Choose a Divorce Attorney that is Right for You

Before you choose an attorney to handle your divorce, think about the following five areas to choose the attorney that is right for you. Your divorce attorney should have experience and concentrate on Family Law. You should clearly understand their billing practices, they should have a good reputation and make you feel at ease with comfortable communication. Evaluate each divorce lawyer in these five areas to select the right attorney for you.

REPUTATION AND REFERENCES

Use your network to obtain references for divorce attorneys that fit the qualifications you desire. Ask friends, family, co-workers and other professionals in your network for the names of divorce attorneys with a good reputation. Most other business professionals would have the names of trustworthy attorneys.

CONCENTRATIONS

Family law expertise matters when handling your Divorce. There is a lot at stake with child custody and your financial future. **Make sure your attorney concentrates only in family law.** Ask how many custody cases they've handled, and how many have gone to trial.

EXPERIENCE

Do they know the judge that will prevail in court? Ask them how they can ensure the success of their clients, are they typically able to negotiate with the other attorney or the judge? Negotiation skills are important to obtain the settlement you deserve, with the path of least resistance. It'll cost more money for an attorney that drags things out without attempting to negotiate on your behalf.



If the most important thing in your Divorce is regarding the children, make sure that your attorney has experience with child custody cases. You want a lawyer that concentrates in family law, not one that dabbles in it with other types of cases.

BILLING PRACTICES

Fees can vary widely from one law firm to another regarding how they bill their clients and what they bill for. Most charge by the hour, so be sure you know the hourly rate, what that includes and what you will be charged for. Will you be charged for every phone call? Ask if there is a retainer due, which is a down payment due in advance, and be sure that you will be able to afford the law firm if your case gets dragged out.

Understanding the billing practices from your attorney will prevent disputes later. Don't be afraid to ask questions.

EASE IN COMMUNICATION

You should feel comfortable with the divorce attorney that you hire and have a good rapport with easy communication. Going through a divorce is a personal thing and you will share personal and private details throughout the process. Your attorney should make you feel more at ease when discussing your case, if they do not that is probably not the right attorney for you.

It is better to negotiate than to litigate, although your attorney must be experienced at both. You'll need someone that can be aggressive when they need to be, but not at the expense of productive negotiation. With such a personal process, be sure that you feel like you can communicate with your attorney and that they fit your case.



WHY ANDERSON BOBACK AND MARSHALL

Anderson Boback & Marshall are highly respected attorneys experienced in Illinois family law. We are skilled at negotiation, and litigation. You are not just a case, you're a person. We understand the fears and questions that you have, we specialize in bringing understanding and certainty to what can be a chaotic and uncertain time.

We concentrate in:

- Divorce
- Adoptions
- Child Support
- Custody/Allocation Judgments
- Prenuptial Agreements

You can have confidence in our years of experience and expertise with family law. Kimberly Anderson, Janice Boback, Jessica Marshall, and our other partners and associates are attorneys with in-depth knowledge of the many facets of Family Law in Illinois.



Our team concentrates on divorce, child custody, child support, spousal support, and other family-related issues including adoption, as well as having extensive knowledge in finance and division of marital assets. Our attorneys often serve as child representatives throughout Chicago, Cook County, and neighboring counties.

The lawyers at Anderson Boback & Marshall know how emotionally draining and stressful it is to go through a divorce, child custody dispute, adoption process, and many more family-related legal matters. Our law firm keeps an open line of communication with every client at all times. When you need an advocate to represent your rights and best interests, fighting for what you are entitled to, contact Anderson Boback & Marshall, the only call you need to make when you need the right divorce attorney in Illinois.

To book a confidential consultation, please call (312) 715-0870 or visit our website at illinoislawforyou.com to request an appointment.

NOTICE: Each individual person's case has unique facts and circumstances. Therefore, the information provided in Anderson Boback & Marshall's How to Plan for Your Divorce is general information and is not a substitute for legal advice from an attorney. The information contained in this Guide does not constitute legal advice nor is it intended to be legal advice. If you have a need for legal advice, please consult with an attorney.