

DIVORCE BASICS

Massachusetts is one of the few states in the country that does not recognize a formal legal separation. The reason for it goes deep into the Commonwealth's roots of past case law and the explanation is fairly complex. In summary however, Massachusetts laws recognize that if a married couple is no longer living together, then they are legally separated. How they come to terms with this separation (individual support, living arrangements, division of assets and etc.) is a different matter. One that the parties themselves can determine or per a legal separation agreement, the latter usually drawn up with the help of well trained attorneys.

There are two types of divorce in Massachusetts. One is labeled the 1A divorce and the other 1B. The 1B is the more popular one because 1A requires both parties agree on essentially every aspect of the divorce (the divorce, all division of assets, parenting plans if applicable and amounts on child support and/or alimony). For spouses getting divorced, agreeing on a few things is hard enough, never mind agreeing on every aspect of the divorce. Thus, the 1A divorce is typically utilized by couples that were married either for a very short period of time or have no assets or children to fight over.

Whichever is used, Massachusetts requires the parties exchange Rule 401 (financial statements) as well as Rule 410 (supplemental 3 year financials) disclosures prior to being able to schedule any Court hearings. Also, if the couple have children, it is a requirement each spouse register to take a parent education course within 60 days of filing or being served with divorce paperwork. Without a waiver for good cause, again no hearings can be scheduled.

Once a divorcing couple gets through these housekeeping issues, is when the guts of the case really starts. First comes the decision of whether one party needs to file a Motion for temporary orders, and if so, orders for what? The many different motions and strategies that can be pursued are involved and complex but some examples are:
1) filing a Motion for the Court to determine the opposing parties gross income and order child support conforming to Massachusetts guidelines 2) filing a Motion for the Court to order one party to continue making mortgage/rental payments for the other 3) filing a motion for the Court to order one party to pay the other's Attorney fee's. The list goes on and on.

Issues also arise if one party owns a business. If so, does a business evaluator need hiring to determine the opposing side's unreported income and/or what the value of that business is in order for the divorcing parties to come up with a fair division of assets. A further issue that may need exploring is if one party has been hiding or spending money. If so, a forensic accountant may be needed to determine where the money has been used or moved to, to again devise an appropriate division of assets. Finally, how will the joint assets be split, what is a fair division of those assets, who will pay alimony and or child support to whom and what will the parties parenting plan be (if applicable).

As one can see from above, there is nothing basic about divorce. There are so many issues which can arise case to case, that it is highly recommended a person contemplating divorce hire well qualified counsel to represent them through it. Here at P&P Law, our attorneys are trained to walk you step by step through the complicated and emotional divorce process. We will also review your particular case with you at no charge prior to your delving into what I refer to as the 'divorce abyss.'