
THE DIVORCE MEDIATOR

CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC.

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DIVORCE ASSUMPTIONS AND MYTHS

We are always surprised by the assumptions and myths that we hear over and over again from our clients. We have no idea about their source but they seem to be enduring. The following are some of the more common ones with our comments.

❖ **MYTH:** The husband must pay the wife a year of alimony for every two years of marriage.

ANSWER: A family relations officer in Hartford is said to have devised this formula. Many attorneys use it as a “rule of thumb” but it has no legal basis. In fact the only statistical study of divorce outcomes in Connecticut which we conducted in 1999 showed the “rule of thumb” does not hold in actual divorces, both adversarial and mediated. Women actually get alimony far fewer years than predicted by the “rule of thumb.”

❖ **MYTH:** The wife’s alimony terminates when she remarries.

ANSWER: The law actually does not require this. It is the customary practice but on some occasions alimony does not end.

❖ **MYTH:** The mother always gets physical custody of the children.

ANSWER: The mother often gets physical custody of the children but we see more and more cases where there is shared custody or the father gets physical custody.

❖ **MYTH:** Assets are equally divided and each person keeps premarital assets.

ANSWER: The assets are not always equally divided and a person does not always keep premarital assets. Connecticut divides property based on equitable distribution. Many factors including the length of the marriage, the causes for the divorce, the age, health, occupation, amount and sources of income, vocational skills, employability, liabilities, needs of each of the parties, the opportunity of each for future acquisition of

EDUCATIONAL SUPPORT ORDERS FOR COLLEGE

As of October 1, 2002, Public Act Number 02-128 allows the Court to order a parent to pay support for a child’s necessary college educational expenses, including room, board, tuition, fees, registration and application costs. The expenses may not be more than the amount charged by The University of Connecticut for a full-time student at the time the child matriculates. The limit may be exceeded, however, by agreement of the parents. The support order may also include the costs of books and medical insurance for the child. The order must be made at the time of the divorce.

This is not a big change for our mediation clients. Our statistical study of divorce in Connecticut showed that more divorcing couples who mediated and who lived in Fairfield County paid for college education than couples in the rest of the state. We are hearing from colleagues that as a result of the new law, more parents across the state are paying for college education expenses.

assets and income, and the contribution of each of the parties in the obtaining, preservation or appreciation in value of their respective assets play into their division.(continued on page 2)

June, 2003

Dear Colleagues:

The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. is pleased to send you this eleventh issue of THE DIVORCE MEDIATOR.

The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. has developed this newsletter to share information and ideas related to Divorce Mediation. We want to share what we know as well as invite your questions, thoughts and comments. This exchange of ideas will allow us to continue to grow and learn from each other and better serve couples who have made the difficult decision to end their marriage.

Wally Marcus and Mary Marcus

DIVORCE ASSUMPTIONS AND MYTHS

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❖ **MYTH:** The person who pays child support gets the tax exemption and credit.

ANSWER: Either party may get the tax exemption and credit. This is a negotiable issue. We encourage couples to have the person who gets the maximum tax benefit, take the tax exemption and credit and for the family to share the tax savings.

❖ **MYTH:** Property in an individual's name is not marital property. "If it's in my name, I own it."

ANSWER: Connecticut is an equitable distribution state. It does not matter if the property is only in the name of one spouse. It is still a marital asset. How it is divided is another issue.

ALIMONY IN OTHER STATES

We were recently fascinated to read an article about alimony guidelines in other states in the *Family Advocate*. The amount of alimony a person receives is greatly affected by where she or he lives. Texas requires a 10 year marriage for alimony to be ordered. Support is limited to \$2,500 per month for a period not to exceed three years. In Florida, there is no permanent alimony in marriages of six years or less but there can be rehabilitative alimony to restore an ability to earn a living. There are no specific rules for marriages of six to 16 years. In marriages of 16 years or more, there is a presumption of permanent alimony based on the marital life style during the last three to four years of the marriage.

THE DIVORCE MEDIATORS

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Wally Marcus is an attorney who has practiced Family Law for 31 years. He is an Advanced Practitioner Member of the Association for Conflict Resolution, former President of the Connecticut Council for Divorce Mediation, former Chair of the Connecticut Bar Association Divorce Mediation Committee, a member of the Executive Committee of the Family Law Section, and a member of the Alternative Dispute Section of the Connecticut Bar Association.

RULES AND LEGISLATIVE UPDATE

For at least the second time, there is a bill in the legislature (House Bill Number 5136) to permit a divorced spouse to continue to be eligible for coverage under the other spouse's health plan instead of requiring the spouse to obtain separate individual health insurance coverage, usually through COBRA. Massachusetts has a law which allows this. The insurance industry has not taken a formal stand on the bill but large employers are against it. The large employers who testified at the public hearing on the bill, indicated that they assume 10% of their employees will divorce each year and have factored the saving caused by divorce into the cost of providing insurance for their employees. One major Connecticut employer indicated it would cost it over \$150,000 if the bill was passed. If the bill is defeated this year, it will probably be reintroduced in the future. If the bill is passed, it would be a significant cost savings for couples who get divorced. We will keep you advised of the progress of the bill.

Effective July 1, 2003, the Court rules provide that the financial affidavits filed with the Court will be under seal and will be disclosable only to Court personnel, the parties, and their attorneys, except as ordered by the Court and when any hearing is held at which financial issues are in dispute. In general, our clients were astonished that their financial affidavits were public records and like the change.

The Child Support Guidelines are being revised again. There is talk of major changes. We will keep you posted.

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