

Tanis McGonegal Family Law: Colorado Divorce FAQ

Getting Smart Answers to Commonly Asked Questions on Divorce in Colorado

BROOMFIELD, COLORADO, UNITED STATES, February 8, 2023 /EINPresswire.com/ -- Broomfield, Colorado (February 8, 2023) – Attorneys Leonard D. Tanis and Michael McGonegal use their combined 34 years of experience to help couples in the North Denver area seek and obtain fair [divorces](#). With their experience comes the insight needed to help divorcing couples make better decisions for themselves and their children if any. They know informed clients make smarter, less emotional choices. Here, they provide answers to some of the most commonly asked questions they receive when a potential client schedules a consultation.

What are the Residency Requirements for a Divorce in Colorado?

In Colorado, in order to file for divorce, one of the parties must be a resident of the state for at least 91 days prior to filing the case. Additionally, the divorce must generally be filed in the county where the non-filing party resides.

Additionally, even couples who file an uncontested divorce, in addition to the 91-day residency requirement, must endure a mandatory 91-day waiting period before the court will enter the divorce decree.

What is Marital Property?

Colo. Rev. Stat. § 14-10-113(2) defines marital property as all property acquired by either spouse during the marriage. There are exceptions, and these include any property acquired

By gift, bequest, devise, or descent

In exchange for property acquired prior to the marriage

In exchange for property acquired by gift, bequest, devise, or descent

By a spouse after a decree of legal separation

Additionally, the parties can exclude property from marital property, effectively making it separate property, if they enter into a valid agreement to do so.

How is Marital Property Divided in Colorado?

As an equitable distribution state and not a community property state, Colorado distributes property on an equitable basis as opposed to an equal basis. In theory, this means assets and debts acquired during the marriage are divided on what seems fair. In practice, though, this often looks a lot like community property states where property acquired during the marriage is split equally. It is on a case-by-case basis subject to many different variables and factors.

Attorneys Tanis and McGonegal note a few specific things about property division:

The courts will not consider fault as a reason to award more assets to one spouse over the other spouse, unless it financially harms the marital estate. For example, a spouse may have had an affair that led to the divorce, that affair is not reason to award the non-cheating spouse with more assets, except when the cheating partner wasted marital property on the affair. The latter is known as economic fault and can result in more assets going to the non-cheating spouse to compensate for the financial harm to the marital estate.

In some divorces, property may be distributed in a way to reduce or avoid spousal maintenance, traditionally known as alimony. This is something spouses should consider when divorcing and one party wants to seek alimony and the other party does not want to grant it.

When there's a conflict over what's separate property, the spouse claiming assets as separate property has the burden to prove it. Proving it can get complicated and may require a process known as tracing, where the flow of money is "traced" over time.

Division of marital property can get complicated real quick especially in high asset divorces. When the divorce involves assets like small businesses, retirement accounts, and trust funds, the insight from experienced lawyers like Tanis and McGonegal can make a significant difference in the process and outcome.

What Happens to Debt when a Couple Divorces?

Like assets, debt in Colorado divorces is distributed equitably as opposed to equally. So, any debt the couple may have – like car loans, mortgages, credit cards, or medical bills – will be divided based on what's considered fair given the facts and circumstances.

How Does a Colorado Court Deem What's Fair in the Equitable Distribution of Assets and Debt?

According to Colo. Rev. Stat. § 14-10-113(1), the courts will "divide the marital property, without regard to marital misconduct," according to certain factors, like:

- Each spouse's contribution to the acquisition of marital property, including a spouse's contribution as homemaker

- The value of the property set apart to each spouse

- Each spouses economic circumstances at the time the division of property is to become effective

The family home as an award to one spouse with whom any children will reside for the majority of the time

Any increase or decrease in the value of separate property during the marriage

Any depletion of separate property for marital purposes

Courts will also consider things like the length of marriage and the age and health of each spouse. Judge's have a lot of discretion, especially given that a specific algorithm or calculator does not exist (like it does in child support) to determine equitable distribution of marital property.

How is Alimony Determined?

According to Colo. Rev. Stat. § 14-10-114, alimony is referred to as spousal maintenance. Unless the parties come to an agreement on spousal maintenance, the court will decide if it is appropriate and, if so, for how long and how much. A formula is used when the spouses have been married for at least three years (36 months minimum) and their combined incomes are not greater than \$240,000 per year (\$20,000 per month).

This formula sets the amount of maintenance equal to 40 percent of the higher income party's monthly adjusted gross income minus 50 percent of the lower income party's monthly adjusted gross income. For example, if the adjusted gross income of the higher earning party is \$10,000 per month and the gross income of the lower earning party is \$5,000, then the court will subtract \$2,500 (50 percent of \$5,000) from \$4,000 (40 percent of \$10,000) and award spousal maintenance in the amount of \$1,500 per month.

Attorneys Tanis and McGonegal stress that if awarded, spousal maintenance may not last forever. The statute determines duration of spousal maintenance based on the length of the marriage, but only for marriages lasting between three and 20 years. For marriages longer than 20 years, the court can decide if maintenance will last for the statute equivalent of 20 years or award maintenance for an indefinite amount of time. Given the age of the payor, the duration of maintenance may be shorter if, for instance, retirement age is looming.

One important note, this formula does not apply if combined incomes total more than \$240,000 per year. Again, this is a situation where the insight of experienced divorce lawyers can make a significant difference in the process and outcome.

How is Child Custody Determined?

Child custody can be a contentious factor in any divorce with children. If a couple fails to agree on decision-making and parenting time, the decision will be left for the court. In these situations, the best interests of the child are considered, which includes:

The wishes of the child's parents

The wishes of the child if they are sufficiently mature to express reasoned and independent preferences

The interaction and interrelationship of the child with their parents, siblings, and any other person who may significantly affect the child's best interests

The child's adjustment to their home, school, and community

The mental and physical health of all individuals involved with the exception that a disability alone will not be a basis to deny or restrict parenting time

The ability of the parties to encourage the sharing of love, affection, and contact between the child and the other party except when a party is protecting a child from witnessing or experiencing domestic violence

Whether the past pattern of involvement of the parties with the child reflects a system of values, time commitment, and mutual support

The physical proximity of the parties to each other as this relates to the practical considerations of parenting time

The ability of each party to place the needs of the child ahead of their own needs

This list of factors can seem daunting, but attorneys Tanis and McGonegal confirm that parenting plans can be creative. There are ways to negotiate and compromise. Agreeing to a parenting plan is typically better for the parties than arguing over it before a judge. There are some cases, however, where this may be necessary, especially where domestic violence, emotional abuse, financial abuse, or neglect have been present in the relationship.

How is Child Support Determined?

According to Col. Rev. Stat. § 14-10-115, each parent has a duty of support. This section of the code sets out child support guidelines. The two most important considerations for child support are

The income of each party; and

The number of children.

Other considerations factored into the calculus include:

Who pays health insurance and the cost of the same

Child care costs, including tax breaks for the same

Adjustments for extraordinary conditions, especially medical conditions

Determining child support can get tricky, but the law has tried to simplify it a bit by providing a schedule for basic child support obligation. This schedule is a starting point, and other factors will be taken into consideration, including those listed above.

How are Adopted Children Treated in a Divorce in Colorado?

An adopted child is treated the same way a biological child is treated in Colorado divorces. Thus, if a parent tries to say they did not want to adopt the child as a way to get out of paying child support, that argument will be futile.

How Much Does a Colorado Divorce Cost?

A petition for dissolution of a marriage in Colorado is \$230.00. If there are children, the fee to file a petition for allocation of parental rights is \$225.00. Filing an answer to a divorce petition is \$116.00. Motions to modify, amend, or alter decrees or orders are \$105.00. All of these court fees are subject to change in accordance with the law.

Attorney fees are in addition to court fees. The idea of paying an attorney for something a divorcing couple can do on their own is an idea deterring many people from hiring divorce attorneys, even in cases where they would have benefitted. In simple cases, where the couple divorcing mutually agree on the terms and conditions of the divorce and there are minimal assets, no children, and no abusive situations, then divorcing pro se is likely not a problem.

In any other case, it is advisable to have a divorce attorney. At a minimum, attorneys Tanis and McGonegal say, a divorce attorney can at least review a divorce agreement to ensure it is fair. They want people to remember a divorce and its outcome can impact them and their children for many years to come. So it is worthwhile to ensure the divorce is fair, and any division of assets or award of spousal support, child support, and parenting time is also fair and just under the circumstances and according to the law.

Further, some attorneys charge by the hour while others offer a fixed rate. The rates will impact the total cost, too, but here, it is important to bear in mind the experience and insight that can be obtained in exchange for the rate.

In the end, divorces cost. The final decision may depend on whether the divorcing party is more worried about the short-term costs than the long-term costs, and the difference can be steep and unexpected. Speaking to an attorney like the divorce lawyers at Tani McGonegal Family Law may help a party understand what is at stake and what is best.

About [Tanis McGonegal Family Law](#)

Tanis McGonegal Family Law partners Leonard D. Tanis and Michael McGonegal specialize in helping clients facing difficult divorce matters. Their approach is unique from other divorce law firms because they listen and take the time to guide families through all of their options with the family's best interests at heart and in mind at all times.

Tanis McGonegal Family Law's experienced attorneys genuinely understand the northwest Denver area and the issues faced by families in those communities. They help dozens of local families with the unique challenges facing today's modern family, such as child tax credits and

other tax considerations in divorce, child custody rights, grandparents' rights, LGBTQ+ family law issues, and other key factors that should be considered in ending a marriage.

Based in Broomfield and serving Northwest Denver including Boulder, Erie, Longmont, Louisville, Northglenn, Westminster, and the rest of Denver, Tanis McGonegal Family Law is one of the highest-rated divorce law firms in Colorado. Tanis McGonegal Family Law assists clients with family law matters, child custody issues, adoption, high asset cases, property division, high conflict cases, civil protective orders, domestic violence, Colorado common law marriage, and post-divorce issues. They also are experienced Child Support lawyers. In addition, the firm offers preparation of prenuptial and postnuptial agreements.

If you are considering divorce or you need representation in a divorce, contact Tanis McGonegal Family Law today for a free case evaluation or call (303) 465-4605 to schedule an appointment.

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