



Top Ten Divorce Myths

The Myth: Pennsylvania does not award alimony.

The Truth: Pennsylvania law provides alimony to a financially dependent spouse based upon her or his reasonable needs, the payor's ability to pay and consideration of 17 factors, including the length of marriage, and the earning disparity between the parties.

The Myth: Individually titled assets such as pensions are not divided in a divorce.

The Truth: Marital property subject to division in divorce consists of any assets, regardless of title, that either party acquired from the date of marriage to the date of final separation, with the exception of assets owned before marriage, received from a third party or from an inheritance.

The Myth: Marital property is divided equally (50/50) between spouses.

The Truth: Pennsylvania divides marital property (and debts) equitably, not necessarily equally, based upon 11 factors, such as the earnings and health of the parties.

The Myth: A seven-year relationship constitutes a common law marriage.

The Truth: A common law marriage requires the exchange of words of present intent to be married, such as "I take you to be my wife/husband." Pennsylvania abolished common law marriage effective January 25, 2005. Any alleged common law marriage entered into after that date is void.

The Myth: Adultery by one spouse will result in a larger economic award to the other spouse.

The Truth: Adultery is not a factor for the division of marital assets. Adultery is only one of 17 factors for an award of alimony and is not always given as high degree of consideration as other economic factors.

The Myth: Mothers have an advantage in custody cases.

The Truth: Pennsylvania custody law is gender neutral. Sixteen factors are considered in awarding custody including the child's bond to each parent and each person's parenting capacity.

The Myth: A shared physical custody arrangement means that neither parent pays child support.

The Truth: Under a shared (50/50) physical custody arrangement, the higher-earning parent has to pay child support to the other parent.

The Myth: Second or subsequent marriages have a better chance of success based upon lessons learned from the first or prior marriage.

The Truth: The latest divorce statistics reflect that more than 40 percent of first marriages end in divorce and increase to 60 percent for second marriages and 73 percent for third marriages.

The Myth: The parties must appear in court to get divorced.

The Truth: Many divorce cases settle without the parties ever entering the courthouse.

The Myth: If one parent fails to pay child support then the other parent can withhold custody.

The Truth: Failure to pay child support is not a legitimate basis to withhold custody and such conduct is frowned upon by the courts.

If you have any questions about these laws, please contact partner:

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