

## **New Jersey Property Division FAQ's**

### **1. How does property get divided in divorce?**

New Jersey is an "equitable distribution state". This means that in a divorce in New Jersey, property acquired during the marriage needs to be divided equitably (i.e., fairly), either by voluntary agreement of the parties or by order of the trial judge.

### **2. In fairly dividing property, does the Court care if only one of the spouses worked during the marriage?**

Unless shown otherwise, the Court will presume that both husband and wife made a substantial financial or non-financial contribution to the acquisition of income and property while the parties were married to each other. That is to say, in a traditional case, where the wife "works" at home by raising the children, shopping for food, cleaning the house, and doing all the other things that are required to be a homemaker, the Court will normally presume that the wife's contribution, although non-financial, was equal to that of the husband.

### **3. In New Jersey, what specific factors must a Court consider in making a decision as to how property should be divided?**

New Jersey law states that in making an "equitable" distribution of marital property, the Court shall consider the following factors:

- a. The duration of the marriage;
- b. The age of the parties;
- c. The physical health of the parties;
- d. The emotional health of the parties;
- e. The income brought to the marriage by each party;
- f. The property brought to the marriage by each party;
- g. The standard of living established during the marriage;
- h. Any written agreement made by the parties before or during the marriage concerning an arrangement of property distribution;
- i. The economic circumstances of each party at the time the division of property becomes effective;
- j. The income of each party;

- k. The earning capacity of each party, including:
  - l. educational background,
  - m. Training
  - n. Employment skills
  - o. Work experience
  - p. Length of absence from the job market
  - q. Custodial responsibilities for children
  - r. The time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage;
  - s. The contribution by each party to the education, training or earning power of the other;
  - t. The contribution of each party to the acquisition, dissipation, preservation, depreciation or appreciation in the amount or value of the marital property,
  - u. The contribution of a party as a homemaker;
  - v. The tax consequences of the proposed distribution to each party;
  - w. The present value of the property;
  - x. The need of a parent who has physical custody of a child to own or occupy the marital residence and to use or own the household effects;
  - y. The debts and liabilities of the parties;
  - z. The need for creation, now or in the future, of a trust fund to secure reasonably foreseeable medical or educational costs for a spouse or children; and
  - aa. Any other factors which the Court may deem relevant.

**4. If my case goes to trial, and if I disagree with the Judge's determination regarding equitable distribution of property, do I have any rights?**

Yes. In every case, the Court is required to make specific findings of fact on the evidence relative to all issues pertaining to asset eligibility or ineligibility, asset valuation, and equitable distribution, including the factors listed above. If you feel

that the judge either didn't consider a specific factor that is important, or misapplied a factor to the facts of your case, and you might consider filing an appeal to the Appellate Division.

Our law firm handles a significant number of divorce cases. Please feel free to [contact us](#) if we may be of service to you.

**This article is not intended to be viewed as legal advice. Every case is different, and the reader should be advised to contact an attorney for complete legal advice on a given issue.**

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