

There Is No "Legal Separation" in New Jersey

Many people contact our firm because they are considering separating from their spouse and they want to know about how to obtain a "Legal Separation". We tell them that there is no such thing in the State of New Jersey as a "Legal Separation"; they can simply move out tonight if they wish to (of course, they cannot simply abandon their responsibilities, both financial and otherwise, for a spouse and children.)

The fact of the matter is that unlike some other states, New Jersey does not have a formal law authorizing Legal Separation.

Other states, such as California, do offer a formal Legal Separation as an option for couples wishing to stop living as husband and wife. For example, a Legal Separation in California is for couples not wishing to get divorced but who want to live apart and decide on money, property, and parenting issues. In a California Legal Separation case, a person can ask the judge for orders like child support, spousal support, custody and visitation, or any other orders a person can get with a divorce case.

Here in New Jersey, though, if people simply separate there is no Judge to ask for assistance because there is no concept of Legal Separation.

This may be a meaningless distinction though, because in New Jersey it is possible to negotiate all issues of support, children, and property distribution, and have an agreement reached with your spouse that has been drawn up into a formal "Marital Settlement Agreement", or "Interspousal Agreement", or "Property Settlement Agreement" without ever obtaining a divorce.

One can also file a Complaint with the Superior Court of New Jersey seeking child custody, child support, alimony (or all three) without also filing for divorce.

It is also possible to obtain a Divorce from Bed and Board in New Jersey, which is a formal legal court order that resolves issues of child support, alimony, property distribution, etc. without granting a formal divorce to the parties. Some people find this more acceptable than a traditional divorce for religious reasons and other practical reasons.

The decision to separate or divorce is a serious one. Notwithstanding the fact that there is no concept of "Legal Separation" here in New Jersey, there are still difficult issues of child support, alimony, property distribution, debts, insurance, and many other issues that need to be worked out. Our office is available to help.

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