

Family Law Overview

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Most people know to talk to a marriage counselor when they are having problems in their marriage, and a divorce attorney when they've decided to file for divorce. However, Divorce is only one component of family law, and not all family law attorneys handle all aspects of family law in their practice. Some attorneys handle divorce and paternity matters, while others prefer to handle custody cases or adoptions. Other family law attorneys focus on juvenile matters, or abuse and neglect cases. Some divorce attorneys only handle uncontested divorces, while others handle all types of divorce.

Just as there are different types of family law attorneys, there are also different types of divorce. Most people are familiar with the "War of the Roses" style divorce where everything is a knockdown, drag out fight. However, divorce doesn't have to be that way.

Collaborative Divorce is a relatively new type of divorce in Michigan, dating back to 2004. In this process, the married couple and two collaborative law trained attorneys resolve all issues concerning property, debts, alimony, child support, and custody, and then file the paperwork with the Court to finalize the divorce. These cases don't require a Judge's decision to resolve disputes, because all issues have been addressed and resolved amicably between the parties and their attorneys. A collaborative trained financial advisor (to help with financial issues) and mental health professional (called a divorce coach, to help with custody or parenting time issues) can be brought into the process, as needed. The final decree signed by the Court in a traditional divorce and a collaborative divorce is called a Judgment of Divorce. Some couples choose this type of divorce to reduce the animosity that the traditional litigated divorce can cause. Others choose Collaborative Divorce to keep the details of their divorce settlement agreement private, typically in high asset cases.

A Legal Separation, or Separate Maintenance Action as they are known in Michigan, is a way for a married couple to stay married yet live separately. Division of assets and debts, payment of alimony and/or child support, and issues of custody and parenting time are addressed in the final Judgment, much like in a divorce action. Some couples choose this option for religious reasons. Or if one of them is elderly and/or in poor health, it might make sense to stay married to preserve the insurance as a married couple. Whereas, the maximum

period the non employee spouse can be covered on her spouse’s health insurance under COBRA is 3 years from the entry of the Judgment of Divorce.

An **annulment** is a legal action that declares the marriage void ab initio (from the beginning), and treats it as though it never happened. These cases are rare because they have to allege and prove fraud or duress by one of the parties to induce the other party into marriage, and the petition for annulment must be filed before the parties consummate the marriage. There are additional grounds for annulment, as stated in the **Michigan Compiled Laws**.

Pre-nuptial agreements (known as ante-nuptial agreements in Michigan) are marriage contracts entered into prior to marriage. They are valid if entered into knowingly, willingly, and with adequate and separate counsel for each party. These agreements address how assets would be divided in the event of a divorce. These are fairly common in second (or subsequent) marriages, especially if there are children involved from prior relationships.

Pre-nuptial agreements are also common when substantial assets belong to one or both of the parties getting married. Some couples enter into post-nuptial agreements, for the same reasons, soon after the marriage to preserve assets in the event of a divorce.

Fees vary for these various agreements and processes and it is advisable to work with a family law attorney who is very familiar with the process you are seeking.

Lori T. Williams is a 22 year attorney based in Birmingham, MI. She owns a legal referral and legal consulting business called Your Legal Resource, PLLC. She assists individuals and small businesses in need of legal advice or representation by connecting them with the right legal specialist for their situation. Prior to creating Your Legal Resource, Lori was a family law attorney specializing in divorce for 14 years. In addition to her legal referral service, she also provides consulting services for attorneys and other professional service providers to help them generate more business through effective branding, marketing, networking, and by creating strategic partnerships. For more information, visit **www.bestlegalresource.com**.