

Marital Dissolution in Minnesota Overview of Legal Issues

Presented by:

Anne Byrne, Esq.

Byrne Law Office, LLC.

952-943-3909

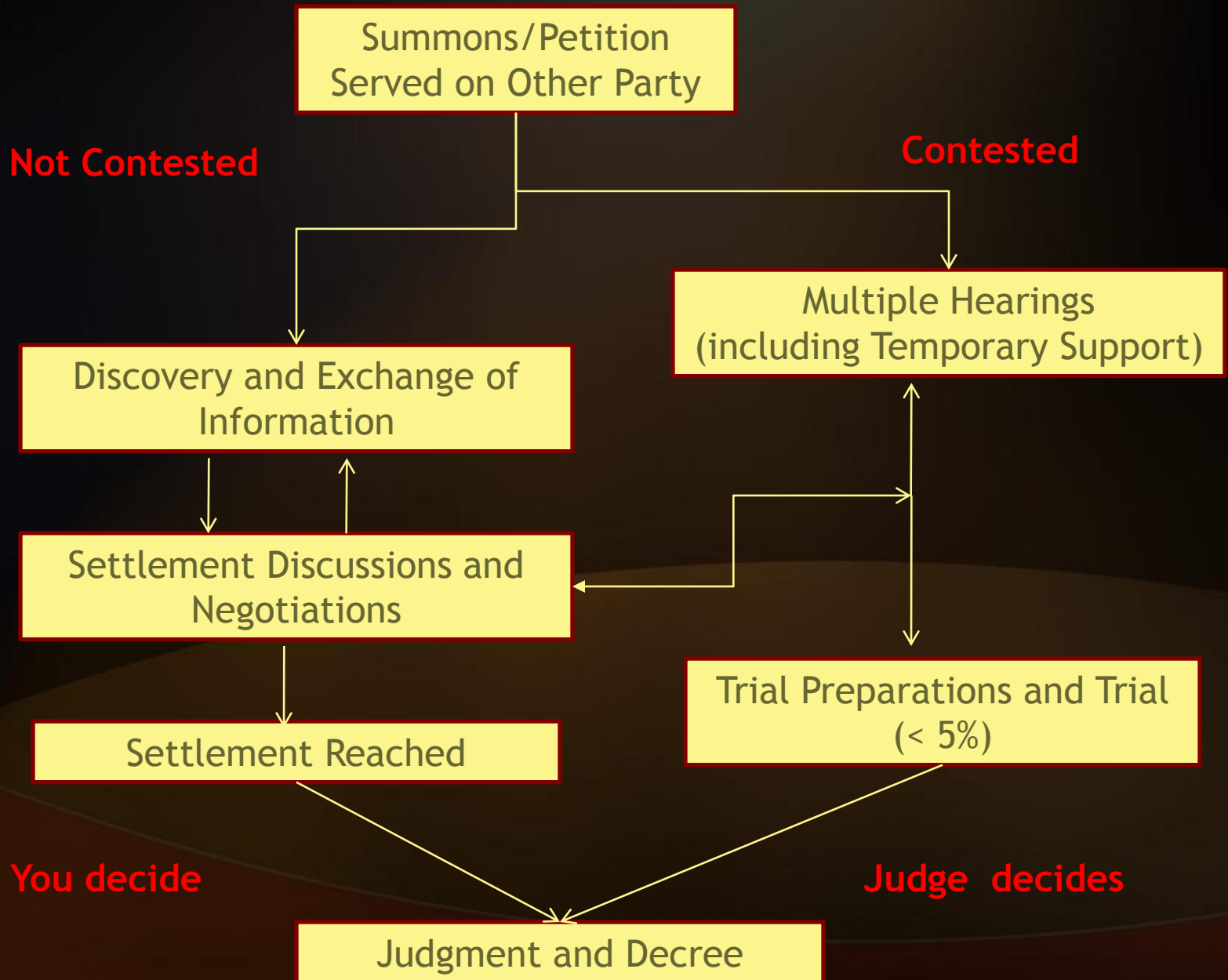
www.ByrneLawOffice.com

abyrne@byrnelawoffice.com

Overview

- The Divorce Process
- Key issues:
 - Child Custody and Child Support
 - Division of Marital Property
 - Spousal Maintenance
- Costs and Timeframe
- Preparations and Protecting Yourself
- Questions and Answers

Legal Path to Divorce



Child Custody: Your child's best interests

- **Legal Custody**
 - **Key decisions regarding your children**
 - Medical Care
 - Education
 - Religion
 - **Usually shared**
- **Physical Custody**
 - **Day to day living**
 - **Can be joint or sole**
 - **Label less important than it used to be**

Parenting Schedule/Parenting Plan

- **Details about your child's schedule**
 - **Regular**
 - **Holidays**
 - **Vacations**

- **Agreements about other decisions**
 - **Communication**
 - **Sharing information**
 - **Children's activities**
 - **Transportation**

Parenting during Divorce

- **NEVER put your children in the middle**
 - **ALWAYS** make parenting arrangements with the other parent (never through the children)
 - Do no disparage the other parent to your children or others important to them
 - Do not ask your children to give you information about the other parent
- **Establish a workable way to communicate**
 - Provide contact information
 - Encourage contact between child and other parent
- **Honor your parenting arrangements**
 - Facilitate transportation between homes
 - Establish a routine
- **Separate custody and child support**

What Happens if you can't agree?

Custody Factors (weight may vary based on child's age):

- 1) Wishes of the child's parents.
- 2) Reasonable preference of the child (depending on child's age).
- 3) Child's primary caretaker.
- 4) Intimacy of the relationship between each parent and the child.
- 5) Interaction and interrelationship of the child with the parents, siblings, and other persons who significantly affect the child.
- 6) Child's adjustment to home, school, and community.
- 7) Length of time child has lived in a stable, satisfactory environment.
- 8) Permanence of the existing or proposed custodial home.
- 9) Mental and physical health of all individuals involved.
- 10) Disposition to give the child love, guidance and to continue educating the child in the child's culture and religion or creed, if any.
- 11) Child's cultural background.
- 12) Effect on the child if any domestic abuse has occurred.
- 13) The disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child

Financial Support for your Child

- **Three primary parts**
 - **Basic Child Support**
 - **Child Care Support**
 - **Medical/Dental Support**

- **Since 2007, based on “PICS”
(Parental Income for Child Support)**
 - **Physical custody label less important**
 - **Income of both parents is considered**
 - **Each parent pays their respective share of the combined PICS**

Division of Marital Property

- **What is marital property?**
 - **Property (assets and debts) accumulated during the marriage**
 - **Does not matter how titled or who earned the income or incurred the debt**
- **Exceptions**
 - **Gifts**
 - **Inheritance**
 - **Premarital property that can be traced**
 - **Excluded by valid antenuptial agreement**

How to Divide Marital Property

- **Standard = Equitable Division**
 - **May or may not be exactly equal**

- **Complicating issues**
 - **Joint debt**
 - **Tracing of non-marital property**
 - **Family-owned businesses**
 - **Different tax status and treatment**

Proposed Division of Marital Property

<u>Asset or Debt</u>	<u>Value</u>	<u>Wife</u>	<u>Husband</u>
<u>Homestead</u>			
Home	\$150,000		
Mortgage	-\$50,000	\$100,000	
<u>Bank Accounts</u>			
Checking: Nominal/keep own		X	X
<u>Automobiles</u>			
Vehicle #1	\$20,000		
Loan	-\$12,000		\$8,000
Vehicle #2	\$8,000	\$8,000	
<u>Investments/Retirement Accounts</u>			
W's IRA	\$40,000	\$40,000	
Joint Investment Acct	\$8,000	\$4,000	\$4,000
H's 401(k)	\$40,000		
(H's Non-marital)	-\$10,000		\$30,000
<u>Other Debts</u>			
H's Capital One	-\$5,000		-\$5,000
Jnt Wells Fargo CC	-\$10,000	-\$10,000	
<u>Personal Property</u>			
Net Marital	\$179,000	\$142,000	\$37,000
Equalizer Payment		-\$52,500	\$52,500
Final Property Distribution		\$89,500	\$89,500

Spousal Maintenance

- **Threshold showing**
 - Lack property awarded to provide for reasonable needs
 - Unable to provide for self support
- **Other factors**
 - Resources of both parties
 - Need for education and training
 - Standard of living during marriage
 - Length of marriage
 - Age, health, and work history
 - Ability to pay

Cost and Length of Time

- **Primary Factors**

- Complexity of issues
- Contentious parties or attorneys

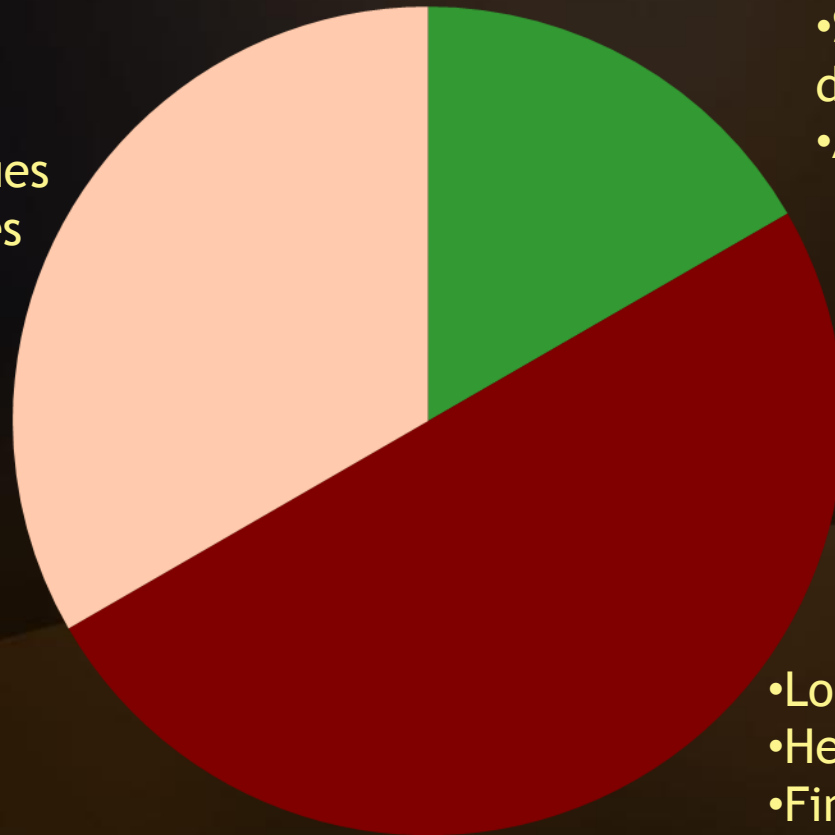
- **Other Factors**

- Length of marriage
- Children or no children
- Discrepancies in income and job history
- Size of marital estate
- Assets that are difficult to value

Comparisons

- Short marriage
- Few children's issues
- Cooperative parties

- Complex financial issues
- Spousal maintenance disagreements
- Adverse parenting styles



- Longer term marriage
- Hearings required
- Financial support issues

■ \$7,500 or more ■ \$2,500-\$7,500 ■ \$1,000-\$2,500

Preparations/Protecting Yourself

- **Custody and Parenting Time**
 - Consider the factors
 - Overnights matter
 - NEVER put your children in the middle
- **Financial Issues**
 - Know your assets and debts
 - Assess ability to support yourself and your children
 - Identify or gather funds for living costs

Conclusion

- **Questions and Answers**
- **Contact Information**

Anne Byrne

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