



Property Distribution and Divorce in Massachusetts

The equitable distribution of property, including debts, is an important element of a divorce case. In a Massachusetts divorce, the division of property must be fair, but that does not necessarily translate into equal. This is an important distinction to remember, as some clients mistakenly believe that Massachusetts is a “50/50” state and that each party automatically gets one-half of the assets and liabilities.

Equitable property division upon divorce is addressed in Massachusetts General Laws c. 208, § 34. This statute lists a number of factors that either must be or may be considered by the court when assigning the marital estate. The factors include the length of the marriage, conduct of the parties during the marriage, age, health, occupation, amount and sources of income, station (or lifestyle), vocational skills, employability, debts, the opportunities for each spouse to acquire future assets and income, and the needs of the parties.

Stephen F. McDonough, Esq.
The Divorce Collaborative LLC

77 Main Street
Medway, MA 02053
T: (508) 533-3300
F: (508) 507-3610
steve@divorcecollaborative.com
<http://www.divorcecollaborative.com/>

Additionally, the court may consider the contribution of each of the parties to the acquisition, preservation, and or appreciation in value of their respective estates and the contributions of each of the parties as a homemaker to the family unit. The key to remember is that the court's have broad discretion in this area.

Before any property can be split, the marital estate must first be identified. Massachusetts takes a very broad view of what assets are divisible in divorce. The statute allows the court to award either the husband or the wife "all or any part of the estate of the other." Thus, the property subject to division is not limited to only property obtained during the marriage, but includes all property, no matter how it was acquired. Basically, everything is on the table, including real estate, personal property, retirement benefits, legal and equitable interests in property (for example stock options), and gifted and inherited assets. An exception to this rule is that anticipated social security benefits may not be included as part of the marital estate nor may they be divided.

While some parts of a divorce case such as alimony or child support, may be subject to modification in the future, property division is a one-time event. Especially in marriages of longer length with substantial assets, the property distribution can play a major role in someone's quality of life post-divorce.

Contact our [divorce attorney](#) serving Medway and Boston, Massachusetts.

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