

*Your Home and the Law* is authored by the attorneys at JacksonWhite Attorneys at Law and addresses legal issues that arise for renters, homeowners and neighborhoods. **Have a question related to your home or community?** Send your questions to [firm@jacksonwhitelaw.com](mailto:firm@jacksonwhitelaw.com).

**Q: My husband and I have recently decided to divorce and our home is in both our names. Who will be awarded the home? Is there anything I can do to see that I keep the house in the divorce?**

**A:** There are several things to consider when deciding who maintains ownership of the primary residence during and after a divorce. Because it is very difficult to live with a spouse during a contested divorce, either party may petition the court for temporary orders awarding exclusive use and possession of the marital home. As a general rule, but not always, the party who is in the best position to maintain the home after the divorce will usually be given temporary use status during the divorce. If there are minor children involved, the parent who is given temporary primary custody of the children will usually, but again, not always, remain in the house with the children. Make sure that if you are maintaining ownership of the property that you have sufficient means to keep up with the mortgage and other expenses. The house will not pay your bills.

Also, if you want to keep the home after the divorce it might not be in your best interest to voluntarily move from the home during the divorce, even if you think the move will be temporary or last only until divorce proceedings are over. This move might show the court that you are able to maintain a separate residence. It also may show the court that you chose to move away and not take responsibility for the property.

This article is provided for informational purposes only and is not intended to replace individual legal advice.

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