

Main Issues Involved in a Divorce in Alabama

For a divorce to be settled out of court, generally all of the main issues must be settled between the parties, either directly or through their attorneys. If you and your spouse have already resolved all relevant issues, you may be interested in seeking an [uncontested divorce](#). If you need help sorting through the issues in your divorce and want to avoid litigation, [divorce mediation](#) may help you resolve the issues privately and maintain control over the ultimate outcome of your divorce.

Parties who are unable to settle the issues involved in their divorce will generally be scheduled for a trial and will appear before a judge in Alabama to present their case. After hearing the facts and evidence presented, the Court will make the final decision on issues the parties are not able to resolve.

Issues Related to Minor Children (under 19)

Child Custody- Child custody determines where the children will live (physical custody) as well as who will have the right to make major decisions in the children's lives (legal custody). In most cases, the parties will share joint legal custody and one parent will have primary physical custody. If the parties are unable to reach an agreement regarding custody, the Court will use a "best interests of the child" standard to make a decision on the issue.

Child Support- [Child support](#) is generally paid by the non-custodial parent to the parent awarded primary physical custody of the children. The amount is determined by the Alabama Child Support Guidelines and is generally not negotiable by the parties. The guidelines are mandatory and are strictly followed except in certain rare situations where they are not appropriate. The guidelines follow a formula that considers the income of both parents, the number of minor children, any child support or alimony already being paid by either parent, and any costs paid for health insurance and work-related child care.

Visitation- Most families use the "Standard Visitation" schedule. Under this schedule, the non-custodial parent will have access to the children every other weekend from 6:00pm on Friday until 6:00pm on Sunday, four weeks during the summer, part of their Christmas break, and rotating Thanksgiving and Spring Break holidays. In some cases, the Court may permit variations on this schedule by agreement of the parties, but if the issue is left to the Court to determine, they generally use the standard schedule.

Division of Marital Property

In general, property acquired by either spouse during the marriage is considered part of the marital estate and is subject to division during the divorce. This usually, but not always, excludes separate property that was owned by either party before the marriage, or property that was given to either spouse in their individual name by gift or inheritance during the marriage.

The Court will generally approve and enforce any agreement made by the parties as long as it is not clearly inequitable (unfair). If you and your spouse are not able to reach an agreement on

property division, Alabama courts use an “equitable distribution” standard to determine how property should be divided. This means that if your case goes to trial, your property will be divided in a way that the judge determines is fair, but not necessarily equal.

Division of Debt

Like property, debt acquired during the marriage is subject to equitable division. The parties may reach an agreement regarding how debt will be divided between them, or the judge will divide the debt in a way he or she thinks is fair based on all the circumstances. One party may be ordered to repay debt acquired jointly, and in some cases, they may be required to repay debt acquired in their spouse’s individual name.

Spousal Support/Alimony

Spousal support, or alimony, is payment made from one spouse to the other for the continued support of the receiving spouse after the divorce. It is considered separate from any child support that may have been awarded, and it can be payable in a lump sum (alimony in gross) or in monthly payments (periodic alimony).

There are no standard formulas used to determine when alimony is awarded or what amount is appropriate. The parties may agree to an amount and time period over which it is paid, or they may agree to waive alimony altogether. If they are not able to reach a mutual agreement regarding spousal support, the judge will consider the individual facts involved in the case and use his or her discretion in determining whether to award alimony and how much to award.

For more information, see <http://www.mobilealabamadivorce.com>.