

# Guide to Equitable Division

MERIWETHER & THARP<sup>LLC</sup>  
— THE ATLANTA DIVORCE TEAM —



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Each individual person's case has unique facts and circumstances. Therefore, the information provided in Meriwether & Tharp, LLC's Guide to Equitable Division is general information and is not a substitute for legal advice from an attorney. The information contained in this Guide does not constitute legal advice nor is it intended to be legal advice. If you have a need for legal advice, please consult with an attorney.

# What is Equitable Division?

Equitable division is the process of dividing assets and debts accumulated during the marriage between two spouses getting a divorce.



In Georgia, each spouse is entitled to a fair share of all [marital property](#) acquired during the marriage upon divorce.

Unlike community property states like California, Arizona or Idaho, *marital property in Georgia is not necessarily divided equally between the spouses but is divided equitably or fairly as determined by a judge, jury, or by the agreement of the spouses.*

EQUITABLE



EQUAL



# Marital Property



## Marital Property Defined

Marital property is essentially property acquired by the parties during the marriage. Only marital property is subject to equitable division.

## Marital Property Includes

Checking and savings accounts, investments, pensions, IRA and 401k, military retirement, house, vehicles, furniture, etc..



Any asset acquired during the marriage by either party is considered marital. This is true even if it was earned by only one spouse.

# Separate Property

Separate property is property acquired before the marriage or even during the marriage under certain circumstances such as by gift or inheritance.

Separate property is not subject to equitable division. Instead, it remains the separate property of that person after a divorce.



Practice Pointer

## Separate Property Could Become Marital!

Property could lose its status as separate property in a variety of ways. For example, if a party mixes separate property funds with marital funds, it MAY become marital in nature.

It is best to raise concerns about separate property to your attorney early in your case.

# Dividing Marital Property

The parties may decide to come to an agreement on how marital property should be divided. If the parties cannot agree as to how their marital property will be divided, the Court will decide how to divide their marital property by looking at various factors such as:

## INTENT

The purpose and intent of the parties regarding the ownership of each property item.

## CONTRIBUTION

The contribution of each party to the acquisition and maintenance of each marital property item.

## SEPARATE PROPERTY

The separate property of each party.



## CONDUCT

The conduct of the parties during the marriage ranging from adultery to alcohol and drug abuse.

## FAMILY UNIT

The service contributed by each spouse to the family unit.

## LENGTH OF MARRIAGE

# Dividing the House

For many people, the house will be the [largest asset](#) at issue during the divorce. As discussed above, the house could be considered marital property and subject to equitable division or it could be considered separate property and not subject to equitable division.

Typically, there are three options regarding how the home will be divided:

## Selling the Home

The profit from the sale may either be divided between the spouses or given entirely to one spouse as a form of property settlement or spousal support.

## Keeping Home for Fixed Time

One spouse keeps the home for a fixed period of time. This route is normally taken by couples who still have minor children and who wish for the children to grow up in the marital home.

## Keeping Home Indefinitely

Yet another option is for one spouse to keep the marital home and buy out the other spouse's share.

Typically the spouse retaining the home will refinance the mortgage into her/his name only.



## Why Meriwether & Tharp?

For more information about equitable division please visit the “Equitable Division” section of our website at: <http://mtlawoffice.com/the-mt-difference>.

If you decide that you need a family law attorney, it can be difficult to tell most law firms and attorneys apart. Meriwether & Tharp, LLC is a full service family law only law firm and was established in 1998 by partners Patrick “Leh” Meriwether and Robert L. Tharp. As one of the largest family law only firms in Georgia, Meriwether & Tharp, LLC has the resources and experience to provide clients with close, personal attention and individualized legal services. We make clients our first priority and we strive to build long-term client relationships. For more information about Meriwether & Tharp please visit the “Why Meriwether & Tharp” section of our website at: <http://mtlawoffice.com/the-mt-difference>.

Here is a word about our philosophy and what makes Meriwether & Tharp different from other law firms.

### Philosophy

Divorce hurts. We know that obtaining a divorce or going through other family law issues is an emotionally and physically draining process that can put a strain on your day to day life. But divorce doesn't have to be nasty. Our experienced attorneys and staff demystify the divorce process and strive to get you the best possible result in a timely manner while keeping costs down. We provide you with information in an easy to understand manner and let you take control. Although no lawyer can completely remove the emotional sting of a divorce, we will be there to help you every step of the way. Let us take care of your family law issues. You take care of your life.

While we hope this Guide to Georgia Divorce was informative, we know that you probably still have questions, so let us give you some answers. Call (678) 879-9000 now for a free telephone consultation with one of our experienced family law attorneys. For more information, don't forget to visit our website at [www.mtlawoffice.com](http://www.mtlawoffice.com) and our check out our blog at <http://mtlawoffice.com/blog/>.

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