

How to Help the Judge Rule in Your Favor

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Massachusetts General Laws, Chapter 208, Section 34 sets forth 21 different parameters for which the Probate and Family Court will divide the property and determine spousal support as it relates to your impending divorce.

Each factor is viewed independently and the Court uses its equitable power to divide your marital estate fairly – not necessarily equally – based on its findings relating to those parameters listed below.

Here's how you can help both your lawyer and the judge: Take one or two pages of paper and lay out the specific history of your marriage as it relates to each of those 21 points below. Once you do this, it will assist your legal team in properly assisting you.

1. Length of the Marriage

A. Chronological History of the marriage from the date you met to the date of separation.

1. Set forth the high and low points of the marriage indicating dates, times and locations to the best of your ability.

Examples:

1. Daily activities and weekend events
2. Vacation with or without the family
3. Child bearing – set forth each experience
4. Relationship with relatives and in-laws
5. Effect of each partner's employment on the marriage

B. Complete history of wife from childhood to present

1. Family background
2. Her education to present
3. Employment history to present

C. Complete history of husband from childhood to present

1. Family background

2. His education to present
3. Employment history to present

D. History of the children

1. Names and addresses
2. Dates and places of birth
3. Background of each leading up to present: education, health, relationship with both parents

2. Conduct of the parties during marriage.

A. Treatment toward each other

B. Physical abuse – Oral/Verbal (assaults)

1. Describe any incidents with dates and places
2. Physical violence
3. Any witnesses present – names and addresses
4. Any police reports or written document to support the same

C. Absenteeism from home: reasons (social, business, extra-curricular)

3. Age of the Parties

A. Dates of birth of both parties

B. Place of birth

4. Health of the Parties

A. Give complete medical history of yourself

B. Give complete medical history of your spouse

C. For both spouses: List names and addresses of all hospitals, sanitariums, nursing homes or other attended institutions

D. Updated medical records on past, present and future problems concerning yourself

5. Station (status) of the Parties

- A. Country clubs
- B. Organizations
- C. Standards of living (Class)
- D. Memberships

6. Occupation of the Parties

A. Wife

1. Duties – present/future
2. Employer(s) – list addresses and periods of employment
3. Job Descriptions

B. Husband

1. Duties – present/future
2. Employer(s) – list addresses and periods of employment
3. Job Descriptions

7. and 8. Amount and Sources of Income of the Parties

A. List all sources of both parties

Examples:

1. Job
2. Stocks
3. Bonds
4. Mutual funds
5. Bank accounts
6. Trust funds
7. Real estate
8. Pensions or Profit sharing
9. Life insurance
10. Other Income

9. Vocational Skills of the Parties

A. List for both parties

10. Employability of the Parties

- A. Ability to work
- B. History of seeking employment

11. Estate of the Parties

- A. List all assets –
 - 1. Real estate: Location, copies of deeds, book, page #s, etc.
 - 2. Personal property
 - a. Furniture – list by room
 - b. Bank accounts and certificates of deposit (CDs)
 - c. Stock holdings (shares), names and amounts
 - d. Mutual funds
 - e. Life insurance (name of companies, amounts, premiums, type of coverage, etc.)
 - f. Trusts
 - g. Motor vehicles and all other vehicles
 - h. Jewelry

12. Liabilities of the Parties

- A. List all mortgages
 - 1. Names and addresses of banks
 - 2. Amount(s) owed
 - 3. Amount of payments
- B. List all outstanding amounts owed for any debt

Example: Banks, credit unions

- 1. Names and addresses of creditors
- 2. Reason for debt
- 3. Who incurred debt
- 4. Who signed for the debt (note or credit card?)
- 5. Who has possession of property related to debt
- 6. Original amount of debt
- 7. Present balance
- 8. Weekly payments

Tip: Add up total of indebtedness in chronological order of such loans

13. Needs of the Parties
 - A. Standard of living
14. Opportunity of the parties to acquire future capital assets.
 - A. Wife
 - B. Husband
15. Opportunity of the parties to acquire future income.
16. Contribution of the parties in the acquisition of their estate.
 - A. What did the wife contribute
 - B. What did the husband contribute
 - C. What did the wife's family or children contribute
 - D. What did the husband's family or children contribute
17. Contribution of the parties in the preservation of their estate.
 - A. Who handled the monies
 - B. Who established the standard of living
 - C. Which spouse did the economizing or saving
18. Contribution of the parties in the appreciation of the value of their estate.
 - A. Which party maintained the property
 - B. Which party maintained bank books, stock, life insurance and reinvested interest or dividends
19. Contribution of the parties as homemakers to the family unit.
 - A. Which spouse is responsible for keeping the family together
 - B. Describe the process used to maintain the family love and respect, relative to the health, education and welfare of the children (if any)
 - C. Describe what each spouse contributed to this process – in detail

20. Present and future needs of dependent children of the marriage.

Please set forth a list of costs that you are claiming as they relate to:

A. The children's present financial needs.
Example: clothing, school activities/education, medical attention, and other special needs

B. The children's future needs. *Example:* health, education

21. Opportunity of the parties to acquire health insurance or other health coverage through an employer or organization.

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