

What criteria do the courts use when dividing property in a divorce?

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Do Wisconsin courts split property 50/50 in every divorce?

No. While Wisconsin law strongly favors a 50/50 split, the law allows the court to distribute marital property unequally based on things such as:

- The length of the marriage
- The property each spouse brought into the marriage
- Age, as well as the physical and emotional health of the spouses
- Each spouse's contributions to the marriage, including the value of homemaking and child care services, and the contribution by one party to the education, training or increased earning power of the other
- Each spouse's earning capacity (based on education, skills, job history, child care responsibilities, length of absence from the job market, and local employment opportunities)
- The benefit of giving the family home to the parent with whom the children will be living the majority of the time
- Maintenance payments that may be ordered by the court
- Economic circumstances of each spouse, such as pension and retirement benefits and assets of those involved not subject to be split by the court (non-marital property)
- Prenuptial or postnuptial agreements
- Tax consequences

How long do you have to be married to get half of everything in Wisconsin?

Wisconsin law has a presumption that each spouse gets the same share of property when they divorce (i.e., half of everything). But in reality, the length of the marriage

can impact how the property is divided. The longer the marriage, the more likely that each spouse will get half of the property. On the other hand, if you get divorced after a very short time, a judge might just give each spouse back the property they brought into the marriage, even if that isn't a 50/50 split. However, there isn't a specific number of years of marriage after which the property division will always be 50/50. The actual property division can be quite different depending on the facts of a particular situation.

What if my spouse had an affair or treated me badly? Will the judge award me more of our property in the divorce?

No, marital misconduct doesn't influence how judges divide property. Wisconsin follows a no-fault divorce system, which means the reasons behind the divorce don't impact the actual divorce process. But, there are a couple of exceptions. One is 'marital waste,' where a spouse proves the other misused marital assets, like spending money on gambling or drugs. Another is fraud. In Wisconsin, courts can punish spouses for hiding assets during a divorce. If this happens, they could award the entire asset to the other spouse.

Can my divorcing spouse and I decide how to divide our property rather than the court?

The two people getting divorced can agree on how to split their assets. If the agreement is fair, the court generally approves it. But if they can't agree on something, or if the court finds the agreement to be too unfair to one party or the other, the court will make a decision on how the property should be divided.

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